

HOUSE BILL NO. HB0139

Predatory lending.

Sponsored by: Representative(s) Pedersen

A BILL

for

1 AN ACT relating to consumer credit; providing additional
 2 limitations on lending of credit to servicemembers and
 3 their dependents; providing for disclosures; limiting
 4 interest rates; providing penalties; and providing for an
 5 effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 13-10-113 is created to read:

10

11 **13-10-113. Limitations on terms of consumer credit**
 12 **extended to servicemembers and dependents.**

13

14 (a) A creditor who extends consumer credit to a
 15 covered member of the armed forces or a dependent of such a
 16 member shall not require the member or dependent to pay

1 interest with respect to the extension of such credit,
2 except as:

3

4 (i) Agreed to under the terms of the credit
5 agreement or promissory note;

6

7 (ii) Authorized by applicable state or federal
8 law; and

9

10 (iii) Not specifically prohibited by this
11 section.

12

13 (b) A creditor described in subsection (a) of this
14 section may not impose an annual percentage rate of
15 interest greater than thirty-six percent (36%) with respect
16 to the consumer credit extended to a covered member or a
17 dependent of a covered member.

18

19 (c) With respect to any extension of consumer credit,
20 including any consumer credit originated or extended
21 through the internet to a covered member or a dependent of
22 a covered member, a creditor shall provide to the member or
23 dependent the following information orally and in writing
24 before the issuance of the credit:

1

2 (i) A statement of the annual percentage rate of
3 interest applicable to the extension of credit;

4

5 (ii) Any disclosures required under the Truth in
6 Lending Act, 15 U.S.C. 1601 et seq.; and

7

8 (iii) A clear description of the payment
9 obligations of the member or dependent, as applicable.

10

11 (d) The disclosures required in subsection (c) of
12 this section shall be presented in accordance with terms
13 prescribed by the regulations issued by the board of
14 governors of the federal reserve system to implement the
15 Truth in Lending Act, 15 U.S.C. 1601 et seq.

16

17 (e) It shall be unlawful for any creditor to extend
18 consumer credit to a covered member or a dependent of such
19 a member with respect to which:

20

21 (i) The creditor rolls over, renews, repays,
22 refinances or consolidates any consumer credit extended to
23 the borrower by the same creditor with the proceeds of

1 other credit extended to the same covered member or a
2 dependent;

3

4 (ii) The borrower is required to waive the
5 borrower's right to legal recourse under any otherwise
6 applicable provision of state or federal law, including any
7 provision of the federal Servicemembers Civil Relief Act;

8

9 (iii) The creditor requires the borrower to
10 submit to arbitration or imposes onerous legal notice
11 provisions in the case of a dispute;

12

13 (iv) The creditor demands unreasonable notice
14 from the borrower as a condition for legal action;

15

16 (v) The creditor uses a check or other method of
17 access to a deposit, savings or other financial account
18 maintained by the borrower, or the title of a vehicle as
19 security for the obligation;

20

21 (vi) The creditor requires as a condition for
22 the extension of credit that the borrower establish an
23 allotment to repay an obligation; or

24

1 (vii) The borrower is prohibited from prepaying
2 the loan or is charged a penalty or fee for prepaying all
3 or part of the loan.

4
5 (f) A creditor who knowingly violates this section is
6 guilty of a misdemeanor punishable by imprisonment for not
7 more than six (6) months, a fine of not more than seven
8 hundred fifty dollars (\$750.00), or both.

9
10 (g) Any credit agreement, promissory note or other
11 contract prohibited under this section is void from the
12 inception of such contract.

13
14 (h) As used in this section:

15
16 (i) "Annual percentage rate" has the same
17 meaning as in section 107 of the Truth and Lending Act, 15
18 U.S.C. 1606, as implemented by regulations of the Board of
19 Governors of the Federal Reserve System. For purposes of
20 this section, such term includes all fees and charges,
21 including charges and fees for single premium credit
22 insurance and other ancillary products sold in connection
23 with the credit transaction, and such fees and charges

1 shall be included in the calculation of the annual
2 percentage rate;

3

4 (ii) "Consumer credit" has the meaning provided
5 for such term in regulations prescribed under this section,
6 except that such term does not include a residential
7 mortgage or a loan procured in the course of purchasing a
8 car or other personal property, when that loan is offered
9 for the express purpose of financing the purchase and is
10 secured by the car or personal property procured;

11

12 (iii) "Covered member" means a member of the
13 armed forces who is:

14

15 (A) On active duty under a call or order
16 that does not specify a period of thirty (30) days or less;
17 or

18

19 (B) On active guard and reserve duty.

20

21 (iv) "Creditor" means a person:

22

23 (A) Who:

24

1 (I) Is engaged in the business of
2 extending consumer credit; and

3

4 (II) Meets such additional criteria as
5 are specified for such purpose in regulations prescribed
6 under this section; or

7

8 (B) Who is an assignee of a person
9 described in subparagraph (A) of this paragraph with
10 respect to any consumer credit extended.

11

12 (v) "Dependent," with respect to a covered
13 member, means:

14

15 (A) The member's spouse;

16

17 (B) The member's child as defined in 38
18 U.S.C. 101(4); or

19

20 (C) An individual for whom the member
21 provided more than one-half (1/2) of the individual's
22 support for one hundred eighty (180) days immediately
23 preceding an extension of consumer credit covered by this
24 section.

1

2 (vi) "Interest" includes all cost elements
3 associated with the extension of credit, including fees,
4 service charges, renewal charges, credit insurance
5 premiums, any ancillary product sold with any extension of
6 credit to a servicemember or the servicemember's dependent,
7 as applicable, and any other charge or premium with respect
8 to the extension of consumer credit.

9

10 **Section 2.** This act is effective July 1, 2009.

11

12

(END)