

14 GCA UNIFORM CONSUMER CREDIT CODE
CH. 5 REMEDIES AND PENALTIES

**CHAPTER 5
REMEDIES AND PENALTIES**

- Article 1. Limitations on Creditors' Remedies.
- Article 2. Debtors' Remedies.
- Article 3. Criminal Penalties.

**ARTICLE 1
LIMITATIONS ON CREDITORS' REMEDIES**

- § 5101. Short Title.
- § 5102. Scope.
- § 5103. Restrictions on Deficiency Judgments in Consumer Credit Sales.
- § 5104. No Garnishment Before Judgment.
- § 5105. Limitation on Garnishment of Unpaid Earnings.
- § 5106. Unconscionability.

§ 5101. Short Title.

This Chapter shall be known and may be cited as *Uniform Consumer Credit Code-Remedies and Penalties*.

§ 5102. Scope.

This Article applies to actions or other proceedings to enforce rights under this Code arising out of consumer credit sales, consumer leases and consumer loans which are payable in installments.

SOURCE: Amended by P.L. 16-73.

§ 5103. Restrictions on Deficiency Judgments in Consumer Credit Sales.

(1) With respect to a consumer credit sale of goods or services, if the amount financed is One Thousand Dollars (\$1,000.00), or less, and the seller or his transferee repossesses or voluntarily accepts surrender of collateral on default:

(a) the seller or his transferee is not obligated to resell the collateral; and

(b) the buyer is not personally liable to the seller or his transferee for the unpaid balance of the debt. The buyer may be liable in damages to the seller or his transferee if the buyer has

14 GCA UNIFORM CONSUMER CREDIT CODE
CH. 5 REMEDIES AND PENALTIES

wrongfully damaged the collateral or if, after default and demand, the buyer has wrongfully failed to make the collateral available to the seller or his transferee.

(2) If a seller or his transferee elects bring an action against the buyer for a debt arising from a consumer credit sale of goods or services, when under this Section he would not be entitled to a deficiency judgment if he repossessed the collateral, and obtains judgment:

(a) he may not repossess the collateral; and

(b) the collateral is not subject to levy or sale on execution or similar proceedings pursuant to the judgment.

(3) The amount of One Thousand Dollars (\$1,000.00) in Subsection (1) is subject to change pursuant to the provisions on adjustment of dollar amounts (§ 1106).

§ 5104. No Garnishment Before Judgment.

Prior to entry of judgment in an action against the debtor for debt arising from a consumer credit sale, a consumer lease or a consumer loan, the creditor may not attach unpaid earnings of the debtor by garnishment or like proceedings.

§ 5105. Limitation on Garnishment of Unpaid Earnings.

(1) A creditor may not enforce payment of a judgment arising out of a consumer credit sale, a consumer lease or a consumer loan by garnishment or like proceedings directed to a person other than the debtor to recover unpaid earnings of the debtor, except earnings of the debtor earned from all sources in excess of One Hundred Dollars (\$100.00) in any calendar week, in the case of a debtor with dependents and Sixty-Five Dollars (\$65.00) in any calendar week, in the case of a debtor without dependents. For the purposes of this Section a person whose earnings in any calendar week are in excess of Sixty-five Dollars (\$65.00) is not a dependent. For the purpose of determining a debtor's weekly earnings, any amounts paid or payable to another creditor pursuant to previous garnishment or like proceedings directed to a person other than the debtor, or irrevocable assignment of earnings, is not included in the amount earned.

(2) This Section does not (a) subject either the levying officer or the person to whom garnishment proceedings are directed to any liability if earnings of the debtor are paid to the creditor in violation of this Section,

14 GCA UNIFORM CONSUMER CREDIT CODE
CH. 5 REMEDIES AND PENALTIES

or (b) apply to proceedings directed to the debtor in aid of execution of a judgment.

(3) The amounts of One Hundred Dollars (\$100.00) and Sixty-Five Dollars (\$65.00) in Subsection (1) are subject to change pursuant to the provisions on adjustment of dollar amounts (§ 1106).

§ 5106. Unconscionability.

(1) With respect to a consumer credit sale, consumer lease or consumer loan, if the court as a matter of law finds the agreement or any clause of the agreement to have been unconscionable at the time it was made the court may refuse to enforce the agreement, or it may enforce the remainder of the contract without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result.

(2) When it is claimed or appears to the court that the agreement or any clause thereof may be unconscionable, the parties shall be afforded a reasonable opportunity to present evidence as to its commercial setting, purpose and effect to aid the court in making the determination.

(3) For the purposes of this Section, a charge or practice expressly permitted by this Title is not of itself unconscionable.

ARTICLE 2
DEBTORS' REMEDIES

§ 5201. Effect of Violations on Rights of Parties.

§ 5202. [Repealed]

§ 5201. Effect of Violations on Rights of Parties.

(1) Except as otherwise provided, no violation of this Title shall impair rights on a debt.

(2) The debtor is not obligated to pay a charge in excess of that allowed by this Title, and if he has paid an excess charge, he has a right to a refund. A refund may be made by reducing the debtor's obligation by the amount of the excess charge. If the debtor has paid to the creditor an amount in excess of the lawful obligation under the agreement, the debtor may recover the excess amount from the person who made the

14 GCA UNIFORM CONSUMER CREDIT CODE
CH. 5 REMEDIES AND PENALTIES

excess charge or from the person to whom the excess charge was paid.

(3) If the debtor is entitled to a refund and a person liable to the debtor refuses, within a reasonable time after demand, to make a refund, the debtor may recover from that person a penalty in an amount determined by a court not in excess of the greater of either ten (10) times the amount of the excess charge, or the amount of the credit service or loan finance charge. If the creditor has made an excess charge in deliberate violation of or in reckless disregard for this Title, the penalty may be recovered even though the creditor has refunded the excess charge. No action pursuant to this Subsection may be brought in this Territory more than three (3) years after the time the excess charge was made or more than one (1) year after the due date of the last scheduled payment of the agreement pursuant to which the charge was made, whichever is later. No penalty pursuant to this Subsection may be recovered if a court has ordered a similar penalty in a civil action by the Administrator (§ 6113).

(4) If the creditor has violated the provisions of this Title applying to referral sales (§ 2411) or limitations on the schedule of payments or loan term for regulated loans (§ 3513), the debtor is not obligated to pay the credit service or loan finance charge. If he has paid any part of this charge he has a right to recover the payment from the person violating this Title or from a transferee of that person's rights to whom debt is then owing. No action pursuant to this Subsection may be brought in this Territory more than one (1) year after the due date of the last scheduled payment of the agreement pursuant to which the charge was paid.

(5) If the creditor has violated the provisions of this Title applying to authority to make regulated loans (§ 3502), the loan is void and the debtor is not obligated to pay either the principal or loan finance charge. If he has paid any part of the principal or of the loan finance charge, he has a right to recover the payment from the person violating this Title or from a transferee of that person's rights to whom debt is then owing. No action pursuant to this Subsection may be brought in this Territory more than one (1) year after the due date of the last scheduled payment of the agreement pursuant to which the charge was paid.

(6) If the creditor establishes by a preponderance of evidence that a violation is unintentional or the result of a bona fide error:

(a) no liability to pay a penalty shall be imposed under

14 GCA UNIFORM CONSUMER CREDIT CODE
CH. 5 REMEDIES AND PENALTIES

Subsection (3);

(b) no liability shall be imposed under Subsection (4); and

(c) no liability shall be imposed under Subsection (5) and the validity of the loan shall not be affected.

(7) In any case in which it is found that a creditor is liable for a violation of this Title, the court may award reasonable attorneys' fees incurred by the debtor.

§ 5202. Effect of Violations of Disclosure Provisions.

[Repealed by P.L. 16-73.]

ARTICLE 3
CRIMINAL PENALTIES

§ 5301. Wilful Violations.

§ 5302. [Repealed]

§ 5301. Wilful Violations.

(1) An authorized lender who wilfully makes charges in excess of those permitted by the provisions of the Chapter on Loans (Chapter 3) applying to regulated loans (Article 5), is guilty of a misdemeanor and upon conviction shall be subject to punishment by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by imprisonment not exceeding one (1) year, or by both fine and imprisonment.

(2) A person, other than a supervised financial organization, who wilfully engages in the business of making regulated loans without a license in violation of the provisions of this Title applying to authority to make regulated loans (§ 3502), is guilty of a misdemeanor and upon conviction shall be subject to punishment by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by imprisonment not exceeding one (1) year, or by both fine and imprisonment.

(3) A person who wilfully engages in the business of making consumer credit sales, consumer leases or consumer loans payable in installments, or of taking assignments of obligations arising from these sales, leases or loans, without complying with the provisions of this Title concerning notification (§ 6202), is guilty of a misdemeanor and upon

14 GCA UNIFORM CONSUMER CREDIT CODE
CH. 5 REMEDIES AND PENALTIES

conviction shall be subject to punishment by fine not exceeding One Hundred Dollars (\$100.00).

SOURCE: Amended by P.L. 13-187.

§ 5302. Disclosure Violations.

[Repealed by P.L. 16-73]
