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UCCC MATERIAL
FOR YOUR INFORMATION

RE: Timely Payoff Quotes

Dear Mr. :

You asked about the obligations of a supervised lender to provide timely payoff quotes. Assuming the loan to be paid off is a consumer loan subject to the Colorado Uniform Consumer Credit Code ("UCCC"),¹ the failure by a lender to provide a timely payoff quote violates the UCCC.

The UCCC provides debtors with the right to prepay a consumer credit obligation at any time without a prepayment penalty. Sections 5-2-209 & 5-3-209, C.R.S. A lender's failure to provide a payoff quote or failure to accept a payoff by another financial institution on behalf of the debtor has the effect of prohibiting a debtor from prepaying the loan or credit obligation. In addition, any unnecessary delay caused by the lender's refusal to provide the quote or accept payment may be considered a prepayment penalty since the debtor's account accrues interest during that time.

The UCCC also requires a lender or creditor to provide a written payment history statement for the prior twelve month period including "... the total amount unpaid as of the end of the period covered by the statement." Section 5-5-110(2), C.R.S. The payment history need only be provided upon written request by the debtor. A lender cannot charge a fee for the first two payment histories per year. A \$10 charge may be imposed for subsequent payment histories.

¹ A consumer loan is one made primarily for personal, family, or household purposes payable in more than four installments or subject to a loan finance charge (interest). Sections 5-1-301(12) & 5-3-104, C.R.S. Real estate secured loans subject to the UCCC include second and other junior lien mortgage loans, home equity loans, and "free and clear" firsts not made for purposes of acquiring a dwelling or refinancing a first mortgage to acquire a dwelling. Traditional first mortgage residential acquisition loans and refinancings of these loans are generally not subject to the UCCC with the exception of certain disclosure and debtor's remedies provisions. Section 5-3-105, C.R.S. Consequently, the information contained in this letter does *not* apply to these first mortgage residential acquisition and refinance loans.

Based on these two provisions, it is my opinion that a debtor is entitled to a timely payoff quote from a lender or creditor subject to the UCCC. The lender or creditor may require that the request be in writing and signed by the debtor although the debtor may request that the quote be provided to another party. Refusal or unreasonable delay in providing this information constitutes a prohibited prepayment penalty. While the original lender or creditor may resolicit the debtor to refinance the transaction, this may not be used to unnecessarily delay providing a payoff quote or payment history. The UCCC does not define what length of time might be considered "timely." I would assume that on average this information can be provided within three business days after receipt or sooner. To prove receipt, debtors may wish to mail the payoff request with a return receipt or use a similar delivery method.

I am forwarding a copy of this letter and yours to the supervised lender you referenced. While I assume a payoff quote has now been provided, the lender may wish to respond to you directly.

Sincerely,



LAURA E. UDIS
Administrator
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