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M E M O R A N D U M

TO: Licensed Deferred Deposit Lenders

FROM: Laura E. Udis, Administrator
Uniform Consumer Credit Code
(303) 866-4494
E-mail: uccc@state.co.us

RE: Payday Loans to Service Members

On October 1, 2007, the Department of Defense published a final rule governing the terms of certain consumer credit extensions to active duty service members and their dependents (“covered borrowers”). The rule applies to lenders making “payday loans,” “auto title loans” and “tax refund anticipation loans” that meet specific parameters, and their assignees. The purpose of this memorandum is to ensure that licensed deferred deposit lenders are aware of and comply with these new federal requirements.¹ Listed below are some of highlights of the rule.

The rule:

- Caps interest at no more than 36% “military annual percentage rate (MAPR).” The 36% limitation must include all fees and charges, including renewal charges and fees for credit-related products such as single premium credit insurance;² and
- Requires that certain oral and written loan disclosures be provided before the loan is made. Written disclosures must include the MAPR, the APR required by the federal Truth in Lending Act, and disclose the availability of military-provided financial assistance and free financial counseling and legal advice.

(over)

¹ Automobile title loans are subject to the finance charge limitations of UCCC section 5-2-201, C.R.S. Tax refund anticipation loans are typically made by state-chartered or national banks.

² The Colorado Deferred Deposit Loan Act does not permit the sale of additional products with a deferred deposit loan.

The rule establishes:

- The language of the consumer disclosures;
- The MAPR calculation method;
- The maximum amount and types of fees that may be charged; and
- Means to identify covered borrowers, including a model borrower identification statement and a website lenders may access to check an applicant's military status.

The rule prohibits:³

- mandatory arbitration clauses;
- waiver of legal rights;
- unreasonable notice requirements as a condition for legal action;
- payment by allotment; and
- prepayment penalties.

The rule further limits or restricts:

- rollovers and refinancings; and
- using a check or other method of access to a covered borrower's account.

The rule applies to covered loans made on or after October 1, 2007. Lenders making covered transactions are subject to federal criminal and civil penalties if they violate the rule. Consumer loans that violate the rule are void from inception, uncollectible, and are subject to a full refund of any amounts paid.

All Colorado licensed deferred deposit lenders must comply with the rule. Failure to do so may be grounds for administrative discipline against the lender's license or legal action under the Uniform Consumer Credit Code.

A copy of the Department of Defense's press release on the rule is attached. It contains a link to the rule and the website for determining military status. The final rule, entitled "Limitations on Terms of Consumer Credit Extended to Service Members and Dependents" is published at 32 Code of Federal Regulations, Part 232.

[Link to U.S Department of Defense News Release - "New DoD Predatory Lending Regulation Takes Effect"](#)

³ Some of these terms, such as those on waiver of rights and prepayment penalties, are prohibited on all consumer credit transactions covered by the Uniform Consumer Credit Code.