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UNIFORM CONSUMER CREDIT CODE

DEPARTMENT OF LAW

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Administrative Interpretation No. 3.402-7903

A BALLOON PAYMENT CONTAINED IN A LOAN THE PRIMARY SECURITY FOR WHICH IS A FIRST LIEN INTEREST IN LAND USED FOR RESIDENTIAL PURPOSES IS NOT SUBJECT TO THE REFINANCING REQUIREMENT OF SECTION 5-3-402, C.R.S. 1973, AS AMENDED.

A question has arisen concerning a portion of the 1975 amendment to Section 5-3-402, C.R.S. 1973, as amended, concerning a lender's obligation to refinance certain consumer loans containing a balloon payment provision. The 1975 amendment, in part, added an exclusion from the refinancing requirement for a consumer loan which is "primarily secured by an interest in land used for residential purposes and secured by a first deed of trust, mortgage, or similar first lien interest." A question has arisen whether that language added by the General Assembly in 1975 refers to a "loan primarily secured by an interest in land," as defined in Section 5-3-105, C.R.S. 1973, or instead refers to a loan the primary security for which is an interest in land used for residential purposes.

Section 5-3-105, which defines a "loan primarily secured by an interest in land," specifies that such a loan is excluded from the definition of "consumer loan" which is contained in Section 5-3-104, C.R.S. 1973, as amended. Since the balloon payment refinancing requirement contained in Section 5-3-402 applies only to consumer loans, an interpretation of the quoted language of the 1975 amendment to refer to a "loan primarily secured by an interest in land," as that term is defined in Section 5-3-105, would render the 1975 amendment a nullity. Accordingly, the amendment, properly interpreted, refers to a loan the primary security for which is an interest in land used for residential purposes.

By Frederick T. Berhenke
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This is an official interpretation of the Colorado Uniform Consumer Credit Code by the Administrator as contemplated in Section 5-6-104(4), C.R.S. 1973, as amended.