

**DEPARTMENT OF LAW**

**Administrator – Uniform Consumer Credit Code**

**PERMISSIBLE ADDITIONAL CHARGES**

**4 CCR 902-1**

**Rule 8. Guaranteed Automobile Protection**

(n) This rule shall remain in effect and apply to consumer credit sales and consumer loan transactions entered into before January 1, 2024.

DEPARTMENT OF LAW

Administrator – Uniform Consumer Credit Code

RECORDS TO BE MAINTAINED BY CREDITORS RULES

4 CCR 902-1

Rule 10. Records to be Maintained by Creditors

(a) Definitions

1. The term “log” shall mean a separate, unique record of an activity organized in an orderly fashion, typically chronologically. It should include, as applicable, names of consumers, account numbers, activity information, and other pertinent information as required by this rule for that activity. A log is not a collection of documents.

~~(a)~~(b) Examples of Documents to Maintain. ~~(a)~~—A creditor must maintain and make available records for compliance examinations and investigations that enable the Administrator to determine that the creditor is in compliance with the Colorado Uniform Consumer Credit Code (“UCCC”). A creditor may maintain records in hard copy or electronic format but must make the records in the format maintained reasonably available to the Administrator. The Administrator provides the following examples of documents creditors should maintain. This is not an exhaustive list, and creditors should maintain all documents required to demonstrate compliance with the UCCC. The creditor shall make this information reasonably available to the Administrator. If the creditor does not maintain information that is reasonably available to the Administrator, it violates C.R.S. § 5-2-304(1) and § 5-3-109, as applicable. These records include, but are not limited to, the following as applicable:

1. Advertising and solicitation material.
2. Credit applications and any other documents obtained by a creditor or required by law verifying the financial information contained in the application, approvals, and denials.
3. Disclosures required by the UCCC, including the Deferred Deposit Loan Act, and the federal Truth in Lending and Truth in Leasing Acts, and any regulations thereunder.
4. Promissory notes, loan agreements, lease agreements, retail installment sales contracts, invoices, purchase orders, and buyer’s orders.
5. Co-signer notices.
6. Rescission notices.
7. Payment and account history documents including application of each payment (including payment attempts and returns) to principal and, if applicable, interest, prepayment, payment in full, delinquency fees, deferral fees, fees for the return or dishonor of checks or other instruments tendered as payment, credits and refunds, court costs, attorneys fees, and ledger

transaction codes. The payment history should also provide the remaining balance after each transaction. The payment and account history should show the date(s) funds were disbursed, the date(s) consumers received funds, if different, and the dates of all other transactions affecting the balance. In addition, these records include origination/acquisition and monthly maintenance fees for loans made under the Deferred Deposit Loan Act; and acquisition and monthly installment account handling charges for loans made under § 5-2-214, C.R.S.

8. Delinquency fee and deferral notices.
9. Change in terms notices.
10. Right to cure, default, and repossession of collateral notices.
11. Collection attempts. These activities should be documented in a record log. The record log should list the activities in chronological order, and document the time, date, and substance of the activities. The creditor must document all collection activity in the record log, including, but is not limited to, collection letters, e-mails, in office conversations, phone calls, right to cure notices, and textation including records of the time, date, and substance of telephone calls. If the creditor records calls, the call recordings must be retained.
12. Insurance authorizations, policies, premiums, and certificates.
13. Authorization for benefits permitted as additional charges by UCCC rule.
14. Receipts for cash payments.
15. Release of security interests, termination of financing statements, and payment in full notices.
16. Credit reports, appraisals, title policies, and other records of closing costs on real estate secured transactions legally permitted to be excluded from the finance charge.
17. For deferred deposit/payday loans, a consumer log including the consumer's name, date of all loans made to the consumer for the prior four years, amount financed, dollar amount of each of the three charges contracted for under section 5-3.1-105, C.R.S. (origination or acquisition fee earned as of the date of the loan, interest, and monthly maintenance fees), loan term, date of final payment, method of payment (e.g., consumer's check deposited or cashed; payment electronically debited from consumer's bank account; consumer redeems check or debit authorization with cash; loan renewed), for renewals the amount of any loan proceeds given to the consumer directly and/or paid to others on the consumer's behalf, and if applicable, the dates the lender offered written payment plans and the dates payment plans were established.
18. For deferred deposit/payday loans, daily activity logs, check and cash disbursement registers, and bank records including bank statements and deposit slips reflecting disbursements of loan proceeds and payments on deferred deposit/payday loans.

19. For deferred deposit/payday loans, records of postings of charges, notices on assignment or sale of instruments, and compliance with renewal limitations and payment plan requirements.

20. For loans made under section 5-2-214, "Alternative charges for loans not exceeding one thousand dollars:"

~~20.~~

(a) For each consumer, a consumer log including the consumer's name, date of all loans made to the consumer for the prior four years, date of actual final payment, amount financed, dollar amount of contractual acquisition charge, total dollar amount of contractual monthly installment account handling charge, loan term, method of payment (e.g., paid by consumer, refinanced, or consolidated), the dollar amount of any refunds paid to the consumer upon prepayment, and for refinances and consolidations the amount of any loan proceeds given to the consumer directly and/or paid to others on the consumer's behalf.

(b) Daily activity logs of all loans made, refinanced, or consolidated, including the consumer's name, whether the consumer is new, a former customer, or a current customer; check and cash disbursement registers; and bank records including bank statements and deposit slips reflecting disbursements of loan proceeds and loan payments.

21. Creditors must maintain a record log listing in chronological order all loans and credit extensions to consumers.

22. Creditors must maintain daily activity logs, check and cash disbursement registers, and bank records including bank statements and deposit slips reflecting disbursements of loan proceeds and payments.

~~24.~~23. For guaranteed asset protection agreements ("GAP") under C.R.S. § 5-9.3-101, creditors must maintain and/or make reasonably available to the Administrator any GAP agreements with consumers; agreements with GAP administrators related to GAP; correspondence with consumers related to GAP; correspondence with GAP administrators; and records of GAP fees received, refunds paid, benefits paid and any deductions to the benefit.

## **DEPARTMENT OF LAW**

### **Administrator – Uniform Consumer Credit Code**

#### **CONSUMER LEGAL FUNDING TRANSACTIONS RULES**

##### **4 CCR 902-1**

###### **Rule 19. Legal Funding Deferral Charges for Consumer Legal Funding Transactions**

A Legal Funding Deferral Charge for a Consumer Legal Funding Transaction imposed by a creditor pursuant to this rule shall be contracted for and may only be received if the creditor complies fully with this rule. Failure to comply with all provisions of this rule shall mean that the Legal Funding Deferral Charge is not permitted under the UCCC, and the Legal Funding Deferral Charge is not a permitted deferral charge pursuant to C.R.S. § 5-1-301(20)(b) and C.R.S. § 5-2-204(6).

###### **(a) Definitions.**

1. "Advertise" means the attempt by publication, dissemination, solicitation, or circulation, visual, oral, or written, to induce directly or indirectly any person to enter into any Consumer Legal Funding Transaction.
2. "Associated Legal Claim" means a bona fide civil claim or cause of action the potential proceeds of which are the subject of a Consumer Legal Funding Transaction.
3. "Consumer Legal Funding Transaction" means a nonrecourse consumer credit transaction as defined in C.R.S. § 5-1-301(12) contracted for in a written agreement between the creditor and consumer structured as an interest-bearing loan with monthly periodic payments that the creditor must collect from the potential proceeds, if any, resulting from the settlement or judgment of the consumer's Associated Legal Claim.
4. "Deferral" means the deferral of any periodic payment to a single installment owed at the end of the loan term if the consumer does not pay on the originally scheduled due date.
5. "Legal Funding Deferral Charge" means a charge for a Deferral that a creditor may assess to a consumer with a Consumer Legal Funding Transaction in accordance with this rule.
6. "Total Cost of Credit" means the original finance charge, any additional finance charge resulting from the Deferral(s), and the Legal Funding Deferral Charge(s).

###### **(b) Scope.**

1. This rule applies to creditors who enter into Consumer Legal Funding Transactions with consumers and charge consumers the Legal Funding Deferral Charge(s).

###### **(c) Process.**

1. Creditors may allow consumers to voluntarily elect to make the Deferral(s) of periodic payments such that a Consumer Legal Funding Transaction has no periodic payments on or before the commencement date of the Consumer Legal Funding Transaction in exchange for a Legal Funding Deferral Charge. The creditor must obtain an acknowledgement from the consumer that the consumer has elected to make the Deferral.
2. If a consumer elects to make the Deferral(s), in addition to the disclosures required under C.R.S. § 5-3-101 reflecting the original cost of the credit for the Consumer Legal Funding Transaction structured with periodic payments, the creditor must make, at the time of the election, the following separate disclosure reflecting the additional costs resulting from the Deferral(s) ("Additional Disclosure"). The Additional Disclosure must state the amount financed, the APR corresponding to the finance charge, the Total Cost of Credit, the total of payments, and the payment schedule reflecting a single installment owed at the end of the loan term. The Total Cost of Credit must be itemized listing the original finance charge, any additional finance charge resulting from the Deferral(s), and the total of the Legal Funding Deferral Charge(s), and also disclosed as a lump sum.
3. The consumer must acknowledge receipt of the Additional Disclosure.

**(d) Legal Funding Deferral Charge**

1. For Consumer Legal Funding Transactions, if contracted for by the consumer, creditors may charge the consumer Legal Funding Deferral Charge(s). The Legal Funding Deferral Charge shall only be earned after a Deferral when a periodic payment is not paid by the consumer on the originally scheduled due date. The Legal Funding Deferral Charge is not earned at the time of election.
2. The creditor may charge a Legal Funding Deferral Charge equal to \$15.
3. The Legal Funding Deferral Charge may only be repaid from the potential proceeds, if any, resulting from the settlement or judgment of the consumer's Associated Legal Claim.
4. Creditors may not charge interest on the Legal Funding Deferral Charge(s).

**(e) Refinance.**

1. If the term of the Consumer Legal Funding Transaction reaches maturity and the Associated Legal Claim has not concluded, the creditor shall offer the consumer the option to refinance the Consumer Legal Funding Transaction. If the consumer elects to refinance, the creditor must fully comply with this rule, including by issuing a new Additional Disclosure.

**(f) Prepayment.**

1. The consumer may prepay the Consumer Legal Funding Transaction, in full or in part, either from the proceeds of the Associated Legal Claim or otherwise, at any time without penalty.

**(g) Prohibited Acts.**

1. A creditor that enters into a Consumer Legal Funding Transaction with a consumer shall not:
  - i. pay or offer to pay a commission, referral fee, rebate, or other form of consideration to any attorney, law firm, medical provider, chiropractor, or physical therapist or to any employee thereof, in exchange for referring a consumer to the creditor;
  - ii. accept a commission, referral fee, rebate, or other form of consideration from any attorney, law firm, medical provider, chiropractor, or physical therapist or to any employee thereof;
  - iii. advertise materially false or misleading information regarding the company's products or services;
  - iv. (A) except as provided in subsection (g)(1)(iv)(B) of this section, refer a consumer or a potential consumer to a specific attorney, law firm, medical provider, chiropractor, physical therapist in furtherance of a Consumer Legal Funding Transaction. (B) if a consumer needs legal representation, a creditor may refer the consumer to a local or state bar association referral service.
  - v. fail to supply a copy of the executed contract for the Consumer Legal Funding Transaction to the consumer's attorney for the Associated Legal Claim, the potential proceeds of which are the subject of the Consumer Legal Funding Transaction.
  - vi. (A) except as provided in subsection (g)(1)(vi)(B) of this section, knowingly provide a Consumer Legal Funding Transaction to a consumer who has previously assigned or sold to another creditor a portion of the consumer's right to proceeds from the Associated Legal Claim without first reimbursing the other creditor for its entire funded amount and the Legal Funding Deferral Charge(s), unless another amount is agreed to in writing by the creditors. (B) multiple creditors may be parties to a Consumer Legal Funding Transaction if the consumer and the consumer's attorney consent to the arrangement in writing.
  - vii. make or influence any decisions by the court or by the parties with respect to a pending Associated Legal Claim or any settlement or resolution of an Associated Legal Claim;
  - viii. pay or offer to pay for court costs, filing fees, attorneys' fees, or other court costs related to the litigation, settlement, or resolution of the Associated Legal Claim using fund from the Consumer Legal Funding Transaction;
  - ix. report a consumer to a credit reporting agency if insufficient funds remain from the net proceeds from the Associated Legal Claim to repay the creditor; or
  - x. collect any prepaid finance charges;
  - xi. charge any fees in addition to the Legal Funding Deferral Charge(s), including but not limited to late fees or insufficient funds fees.

**COLORADO DEPARTMENT OF LAW**  
**Administrator – Uniform Consumer Credit Code**  
**Statement of Basis, Specific Statutory Authority, and Purpose**

**4 CCR 902-1**

In the 2023 legislative session, the Colorado General Assembly passed House Bill 23-1181 (“Act”). The Act codifies and updates GAP agreement rules previously regulated under 4 CCR 902-1:8 (“Rule 8”). The Act takes effect January 1, 2024. The purpose of this rulemaking is to clarify that Rule 8 applies to consumer credit sales and consumer loan transactions entered into before January 1, 2024. This rulemaking is statutorily authorized under C.R.S. §§ 5-2-202(1)(d) and 5-6-104(1)(e).



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**Statement of Basis, Specific Statutory Authority, and Purpose**

**4 CCR 902-1**

Under the Uniform Consumer Credit Code (“UCCC”), creditors and licensees have certain recordkeeping obligations:

**(1) Every licensee shall maintain records in conformity with this code, rules adopted thereunder, and generally accepted accounting principles and practices in a manner that will enable the administrator to determine whether the licensee is complying with the provisions of this code. The record-keeping system of a licensee shall be sufficient if the licensee makes the required information reasonably available.**

C.R.S. § 5-2-304(1).

**Every creditor shall maintain records in conformity with this code, rules adopted thereunder, and generally accepted accounting principles and practices in a manner that will establish that the creditor is complying with the provisions of this code. The record-keeping system of a creditor shall be sufficient if the creditor makes the required information reasonably available.**

C.R.S. § 5-3-109.

These recordkeeping obligations are integral to the Administrator’s ability to conduct examinations and investigations of creditors:

**(1) The administrator shall examine periodically, at intervals the administrator deems appropriate, the loans, business, and records of every licensee. In addition, for the purpose of discovering violations of this code or securing information lawfully required, the administrator or, in lieu thereof, the official or agency to whose supervision the organization is subject pursuant to section 5-6-105, may at any time investigate the loans, business, and records of any supervised lender or any supervised financial organization. For these purposes the administrator shall have free and reasonable access to the offices, places of business, and records of the lender.**

C.R.S. § 5-2-305(1) (emphasis added); *see also* C.R.S. § 5-6-106.

The Administrator has previously passed regulations concerning recordkeeping obligations under 4 CCR 902-1:10 (“Rule 10”). The purpose of this rulemaking is to adopt amendments that update and clarify Rule 10 to improve compliance across industry with the UCCC. This rulemaking is statutorily authorized under C.R.S. §§ 5-2-304(1), 5-3-109, and 5-6-104(1)(e).

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**Statement of Basis, Specific Statutory Authority, and Purpose**

**4 CCR 902-1**

In the 2023 legislative session, the Colorado General Assembly passed House Bill 23-1162, which added subsection (6) to C.R.S. § 5-2-204 concerning **Deferral Charges**. The provision authorizes the Administrator to adopt rules to regulate consumer legal funding transactions. The specific statutory authority for these rules is contained at C.R.S. §§ 5-2-204(6) and 5-6-104(1)(e). C.R.S. § 5-2-204(6) provides:

**Concerning the regulation of consumer legal funding transactions, and in connection therewith, authorizing the Administrator of the “Uniform Consumer Credit Code” to adopt rules regulating creditor-imposed charges for certain consumer credit transactions that are secured by a consumer’s potential proceeds from a settlement or judgment obtained in an associated legal claim.**

The purpose of this rulemaking is to establish regulations under the Uniform Consumer Credit Code for certain creditor-imposed deferral charges for consumer legal funding transactions pursuant to C.R.S. § 5-2-204.

The proposed rule adopts the same fee structure as C.R.S. § 5-2-203(1)(a). The deferral fees authorized by the proposed rule are analogous to delinquency fees authorized by C.R.S. § 5-2-203(1)(a). As in C.R.S. § 5-2-203(1)(a), the consumer has a periodic payment schedule, but is delinquent and fails to make payments as scheduled, deferring the payments to the end of the term.

The deferral fees authorized by these proposed rules promulgated under C.R.S. § 5-2-204(6) are not analogous to those authorized by C.R.S. § 5-2-204(1). C.R.S. § 5-2-204(1) applies to “precomputed” loans. When a creditor makes a precomputed loan it calculates the finance charge at the outset of the loan, and divides the finance charge between periodic payments. If the creditor defers a periodic payment on a precomputed loan, it does not earn the portion of the finance charge scheduled for that payment. C.R.S. § 5-2-204(1) permits the creditor to charge a deferral fee in that amount so the creditor can earn the same amount in finance charges by the end of the loan term that it would have had it not deferred the payment and extended the loan. Under these the proposed rules promulgated under C.R.S. § 5-2-204(6), the transaction is an interest-bearing loan. If an interest-bearing loan is deferred, then the consumer will not make its periodic payment and the balance on the loan will remain the same with interest continuing to accrue on that unpaid balance.

In sum, the deferral fees authorized by the proposed rule under C.R.S. § 5-2-204(6) are most analogous to delinquency fees authorized by C.R.S. § 5-2-203(1)(a).