

REFERENCE TITLE: **consumer credit lending; military members**

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

HB 2458

Introduced by
Representatives Butler: Andrade

AN ACT

**AMENDING TITLE 6, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 18;
RELATING TO CONSUMER CREDIT.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 6, Arizona Revised Statutes, is amended by adding
3 chapter 18, to read:

4 CHAPTER 18

5 TERMS OF CONSUMER CREDIT EXTENDED TO MILITARY MEMBERS AND DEPENDENTS

6 ARTICLE 1. GENERAL PROVISIONS

7 6-1801. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "ANNUAL PERCENTAGE RATE" HAS THE SAME MEANING AS PRESCRIBED IN
10 SECTION 107 OF THE TRUTH IN LENDING ACT (15 UNITED STATES CODE SECTION
11 1606) AND INCLUDES ALL FEES AND CHARGES AS DESCRIBED IN 32 CODE OF FEDERAL
12 REGULATIONS SECTION 232.4(c), INCLUDING FEES AND CHARGES FOR SINGLE
13 PREMIUM CREDIT INSURANCE AND OTHER ANCILLARY PRODUCTS SOLD IN CONNECTION
14 WITH THE CREDIT TRANSACTION.

15 2. "CONSUMER CREDIT":

16 (a) MEANS CREDIT THAT IS OFFERED OR EXTENDED TO A COVERED BORROWER
17 PRIMARILY FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES AND THAT IS EITHER
18 SUBJECT TO A FINANCE CHARGE OR PAYABLE BY A WRITTEN AGREEMENT IN MORE THAN
19 FOUR INSTALLMENTS.

20 (b) DOES NOT INCLUDE:

21 (i) A RESIDENTIAL MORTGAGE THAT IS ANY CREDIT TRANSACTION AND THAT
22 IS SECURED BY AN INTEREST IN A DWELLING, INCLUDING A TRANSACTION TO
23 FINANCE THE PURCHASE OR INITIAL CONSTRUCTION OF THE DWELLING, ANY
24 REFINANCE TRANSACTION, HOME EQUITY LOAN OR LINE OF CREDIT OR REVERSE
25 MORTGAGE.

26 (ii) A LOAN PROCURED IN THE COURSE OF PURCHASING A MOTOR VEHICLE OR
27 OTHER PERSONAL PROPERTY IF THAT LOAN IS OFFERED FOR THE EXPRESS PURPOSE OF
28 FINANCING THE PURCHASE AND IS SECURED BY THE MOTOR VEHICLE OR PERSONAL
29 PROPERTY PROCURED.

30 (iii) ANY CREDIT TRANSACTION THAT IS AN EXEMPT TRANSACTION FOR THE
31 PURPOSES OF THE TRUTH IN LENDING ACT (15 UNITED STATES CODE SECTIONS 1601
32 THROUGH 1667f), OTHER THAN A TRANSACTION EXEMPT UNDER 12 CODE OF FEDERAL
33 REGULATIONS SECTION 1026.29, OR OTHERWISE IS NOT SUBJECT TO DISCLOSURE
34 REQUIREMENTS OF THE TRUTH IN LENDING ACT (15 UNITED STATES CODE
35 SECTIONS 1601 THROUGH 1667f).

36 (iv) ANY CREDIT TRANSACTION OR ACCOUNT FOR CREDIT FOR WHICH A
37 CREDITOR DETERMINES THAT A CONSUMER IS NOT A COVERED BORROWER BY USING A
38 METHOD AND BY COMPLYING WITH THE RECORDKEEPING REQUIREMENTS PURSUANT TO
39 32 CODE OF FEDERAL REGULATIONS SECTION 232.5(b).

40 3. "COVERED BORROWER" MEANS A CONSUMER WHO AT THE TIME THE CONSUMER
41 BECOMES OBLIGATED ON A CONSUMER CREDIT TRANSACTION OR ESTABLISHES AN
42 ACCOUNT FOR CONSUMER CREDIT, IS A COVERED MEMBER OR A DEPENDENT OF A
43 COVERED MEMBER.

- 1 4. "COVERED MEMBER" OR "MEMBER" MEANS EITHER:
2 (a) A MEMBER OF THE ARMED FORCES WHO IS ON EITHER OF THE FOLLOWING:
3 (i) ACTIVE DUTY UNDER A CALL OR ORDER THAT IS FOR MORE THAN THIRTY
4 DAYS.
5 (ii) ACTIVE GUARD AND RESERVE DUTY.
6 (b) A VETERAN WHO WAS DISCHARGED FROM THE ARMED FORCES WITHIN THE
7 PRIOR TWELVE MONTHS.
- 8 5. "CREDITOR" MEANS A PERSON WHO IS EITHER OF THE FOLLOWING:
9 (a) ENGAGED IN THE BUSINESS OF EXTENDING CONSUMER CREDIT.
10 (b) AN ASSIGNEE OF A PERSON DESCRIBED IN SUBDIVISION (a) OF THIS
11 PARAGRAPH WITH RESPECT TO ANY CONSUMER CREDIT EXTENDED.
- 12 6. "DEPENDENT", WITH RESPECT TO A COVERED MEMBER, MEANS:
13 (a) THE SPOUSE.
14 (b) THE WIDOW WHO IS NOT REMARRIED.
15 (c) THE WIDOWER WHO IS NOT REMARRIED.
16 (d) A CHILD WHO IS ANY OF THE FOLLOWING:
17 (i) UNDER TWENTY-ONE YEARS OF AGE.
18 (ii) UNDER TWENTY-THREE YEARS OF AGE, IS ENROLLED IN A FULL-TIME
19 COURSE OF STUDY AT AN INSTITUTION OF HIGHER LEARNING APPROVED BY THE
20 SUPERINTENDENT AND IS, OR WAS AT THE TIME OF THE MEMBER'S OR FORMER
21 MEMBER'S DEATH, DEPENDENT ON THE MEMBER OR FORMER MEMBER FOR OVER ONE-HALF
22 OF THE CHILD'S SUPPORT.
23 (iii) INCAPABLE OF SELF-SUPPORT BECAUSE OF A MENTAL OR PHYSICAL
24 INCAPACITY THAT OCCURS WHILE A DEPENDENT OF A MEMBER OR FORMER MEMBER
25 UNDER ITEM (i) OR (ii) OF THIS SUBDIVISION AND IS, OR WAS AT THE TIME OF
26 THE MEMBER'S OR FORMER MEMBER'S DEATH, DEPENDENT ON THE MEMBER OR FORMER
27 MEMBER FOR OVER ONE-HALF OF THE CHILD'S SUPPORT.
28 (e) A PARENT OR PARENT-IN-LAW WHO IS, OR WAS AT THE TIME OF THE
29 MEMBER'S OR FORMER MEMBER'S DEATH, IN FACT DEPENDENT ON THE MEMBER OR
30 FORMER MEMBER FOR OVER ONE-HALF OF THE PARENT OR PARENT-IN-LAW'S SUPPORT
31 AND RESIDING IN THE MEMBER'S OR FORMER MEMBER'S HOUSEHOLD.
32 (f) THE FORMER SPOUSE WHO IS NOT MARRIED OF A MEMBER OR FORMER
33 MEMBER AND WHO MEETS BOTH OF THE FOLLOWING:
34 (i) ON THE DATE OF THE FINAL DECREE OF THE DIVORCE, DISSOLUTION OR
35 ANNULMENT, HAD BEEN MARRIED TO THE MEMBER OR FORMER MEMBER FOR A PERIOD OF
36 AT LEAST TWENTY YEARS, DURING WHICH PERIOD THE MEMBER OR FORMER MEMBER
37 PERFORMED AT LEAST TWENTY YEARS OF SERVICE THAT IS CREDITABLE IN
38 DETERMINING THAT MEMBER'S OR FORMER MEMBER'S ELIGIBILITY FOR RETIRED OR
39 RETAINER PAY OR EQUIVALENT PAY.
40 (ii) DOES NOT HAVE MEDICAL COVERAGE UNDER AN EMPLOYER-SPONSORED
41 HEALTH PLAN.
42 (g) A PERSON WHO MEETS BOTH OF THE FOLLOWING:
43 (i) IS THE FORMER SPOUSE WHO IS NOT MARRIED OF A MEMBER OR FORMER
44 MEMBER AND WHO PERFORMED AT LEAST TWENTY YEARS OF SERVICE THAT IS
45 CREDITABLE IN DETERMINING THE MEMBER OR FORMER MEMBER'S ELIGIBILITY FOR

1 RETIRED OR RETAINER PAY OR EQUIVALENT PAY, AND ON THE DATE OF THE FINAL
2 DECREE OF THE DIVORCE, DISSOLUTION OR ANNULMENT BEFORE APRIL 1, 1985, HAD
3 BEEN MARRIED TO THE MEMBER OR FORMER MEMBER FOR A PERIOD OF AT LEAST
4 TWENTY YEARS, AT LEAST FIFTEEN BUT LESS THAN TWENTY OF WHICH, WERE DURING
5 THE PERIOD THAT THE MEMBER OR FORMER MEMBER PERFORMED SERVICE THAT IS
6 CREDITABLE IN DETERMINING THE MEMBER OR FORMER MEMBER'S ELIGIBILITY FOR
7 RETIRED OR RETAINER PAY OR EQUIPMENT PAY.

8 (ii) DOES NOT HAVE MEDICAL COVERAGE UNDER AN EMPLOYER-SPONSORED
9 HEALTH PLAN.

10 (h) A PERSON WHO WOULD QUALIFY AS A DEPENDENT UNDER SUBDIVISION (g)
11 OF THIS PARAGRAPH BUT FOR THE FACT THAT THE DATE OF THE FINAL DECREE OF
12 THE DIVORCE, DISSOLUTION OR ANNULMENT OF THE PERSON IS ON OR AFTER
13 APRIL 1, 1985. THE PERSON IS NOT A DEPENDENT AFTER THE END OF THE
14 ONE-YEAR PERIOD BEGINNING ON THE DATE OF THAT FINAL DECREE.

15 (i) AN UNMARRIED PERSON WHO MEETS ALL OF THE FOLLOWING:

16 (i) IS PLACED IN THE LEGAL CUSTODY OF THE MEMBER OR FORMER MEMBER
17 AS A RESULT OF AN ORDER OF A COURT OF COMPETENT JURISDICTION IN THE UNITED
18 STATES OR A POSSESSION OF THE UNITED STATES FOR A PERIOD OF AT LEAST
19 TWELVE CONSECUTIVE MONTHS.

20 (ii) IS UNDER TWENTY-THREE YEARS OF AGE AND IS ENROLLED IN A
21 FULL-TIME COURSE OF STUDY AT AN INSTITUTION OF HIGHER LEARNING APPROVED BY
22 THE SUPERINTENDENT, IS UNDER TWENTY-ONE YEARS OF AGE OR IS INCAPABLE OF
23 SELF-SUPPORT BECAUSE OF A MENTAL OR PHYSICAL INCAPACITY THAT OCCURRED
24 WHILE THE PERSON WAS CONSIDERED A DEPENDENT OF THE MEMBER OR FORMER MEMBER
25 UNDER THIS SUBDIVISION.

26 (iii) IS DEPENDENT ON THE MEMBER OR FORMER MEMBER FOR OVER ONE-HALF
27 OF THE PERSON'S SUPPORT.

28 (iv) RESIDES WITH THE MEMBER OR FORMER MEMBER UNLESS SEPARATED BY
29 THE NECESSITY OF MILITARY SERVICE OR TO RECEIVE INSTITUTIONAL CARE AS A
30 RESULT OF A DISABILITY OR INCAPACITATION OR UNDER OTHER CIRCUMSTANCES AS
31 THE SUPERINTENDENT PRESCRIBES BY RULE.

32 (v) IS NOT A DEPENDENT OF A MEMBER OR A FORMER MEMBER UNDER ANY
33 OTHER SUBDIVISION OF THIS PARAGRAPH.

34 7. "INTEREST" INCLUDES ALL COSTS ASSOCIATED WITH THE EXTENSION OF
35 CREDIT, INCLUDING FEES, SERVICE CHARGES, RENEWAL CHARGES, CREDIT INSURANCE
36 PREMIUMS, ANY ANCILLARY PRODUCT SOLD WITH ANY EXTENSION OF CREDIT TO A
37 COVERED MEMBER OR THE COVERED MEMBER'S DEPENDENT, AS APPLICABLE, AND ANY
38 OTHER CHARGE OR PREMIUM WITH RESPECT TO THE EXTENSION OF CONSUMER CREDIT.

39 6-1802. Interest

40 A CREDITOR WHO EXTENDS CONSUMER CREDIT TO A COVERED MEMBER OR A
41 DEPENDENT OF THE COVERED MEMBER MAY NOT REQUIRE THE MEMBER OR DEPENDENT TO
42 PAY INTEREST WITH RESPECT TO THE EXTENSION OF THE CREDIT, EXCEPT AS AGREED
43 TO UNDER THE TERMS OF THE CREDIT AGREEMENT OR PROMISSORY NOTE, AS
44 AUTHORIZED BY APPLICABLE STATE OR FEDERAL LAW AND AS NOT SPECIFICALLY
45 PROHIBITED BY THIS CHAPTER.

1 6-1803. Annual percentage rate

2 A CREDITOR MAY NOT IMPOSE AN ANNUAL PERCENTAGE RATE OF INTEREST
3 GREATER THAN THIRTY-SIX PERCENT WITH RESPECT TO THE CONSUMER CREDIT
4 EXTENDED TO A COVERED MEMBER OR A DEPENDENT OF A COVERED MEMBER.

5 6-1804. Mandatory loan disclosures

6 A. FOR ANY EXTENSION OF CONSUMER CREDIT, INCLUDING ANY CONSUMER
7 CREDIT ORIGINATED OR EXTENDED THROUGH THE INTERNET, TO A COVERED MEMBER OR
8 A DEPENDENT OF A COVERED MEMBER, A CREDITOR SHALL PROVIDE TO THE MEMBER OR
9 DEPENDENT THE FOLLOWING INFORMATION VERBALLY AND IN WRITING BEFORE THE
10 ISSUANCE OF THE CREDIT:

11 1. A STATEMENT OF THE ANNUAL PERCENTAGE RATE OF INTEREST APPLICABLE
12 TO THE EXTENSION OF CREDIT.

13 2. ANY DISCLOSURES REQUIRED UNDER THE TRUTH IN LENDING ACT (15
14 UNITED STATES CODE SECTIONS 1601 THROUGH 1667f).

15 3. A CLEAR DESCRIPTION OF THE PAYMENT OBLIGATIONS OF THE MEMBER OR
16 DEPENDENT, AS APPLICABLE.

17 B. A CREDITOR SHALL PROVIDE TO THE COVERED BORROWER THE DISCLOSURES
18 PRESCRIBED BY SUBSECTION A OF THIS SECTION BEFORE OR AT THE TIME THE
19 COVERED BORROWER BECOMES OBLIGATED ON THE TRANSACTION OR ESTABLISHES AN
20 ACCOUNT FOR THE CONSUMER CREDIT. THE INFORMATION DESCRIBED IN SUBSECTION
21 A OF THIS SECTION IS NOT REQUIRED TO BE PROVIDED TO A COVERED BORROWER
22 MORE THAN ONCE FOR THE TRANSACTION OR THE ACCOUNT ESTABLISHED FOR CONSUMER
23 CREDIT WITH RESPECT TO THAT COVERED BORROWER. IF A TRANSACTION INVOLVES
24 MORE THAN ONE CREDITOR, ONLY ONE OF THOSE CREDITORS MUST PROVIDE THE
25 DISCLOSURES. THE CREDITORS MAY AGREE AMONG THEMSELVES WHICH CREDITOR WILL
26 PROVIDE THE INFORMATION.

27 C. A CREDITOR MAY SATISFY THE REQUIREMENT OF SUBSECTION A,
28 PARAGRAPH 1 OF THIS SECTION BY DESCRIBING THE CHARGES THE CREDITOR MAY
29 IMPOSE PURSUANT TO THIS CHAPTER AND SUBJECT TO THE TERMS AND CONDITIONS OF
30 THE AGREEMENT, RELATING TO THE CONSUMER CREDIT TO CALCULATE THE ANNUAL
31 PERCENTAGE RATE. A CREDITOR DOES NOT HAVE TO DESCRIBE THE ANNUAL
32 PERCENTAGE RATE AS A NUMERICAL VALUE OR THE TOTAL DOLLAR AMOUNT OF ALL
33 CHARGES IN THE ANNUAL PERCENTAGE RATE THAT APPLY TO THE EXTENSION OF
34 CONSUMER CREDIT.

35 D. A CREDITOR MAY INCLUDE A STATEMENT OF THE ANNUAL PERCENTAGE RATE
36 APPLICABLE TO THE CONSUMER CREDIT IN THE AGREEMENT WITH THE COVERED
37 BORROWER INVOLVING THE CONSUMER CREDIT TRANSACTION. A CREDITOR DOES NOT
38 HAVE TO INCLUDE A STATEMENT OF THE ANNUAL PERCENTAGE RATE APPLICABLE TO AN
39 EXTENSION OF CONSUMER CREDIT IN ANY ADVERTISEMENT RELATING TO THE CONSUMER
40 CREDIT.

1 E. A STATEMENT SUBSTANTIALLY SIMILAR TO THE FOLLOWING STATEMENT MAY
2 BE USED FOR THE PURPOSE OF SUBSECTION A, PARAGRAPH 1 OF THIS SECTION:
3 FEDERAL AND STATE LAW PROVIDES IMPORTANT PROTECTIONS TO MEMBERS
4 OF THE ARMED FORCES AND THEIR DEPENDENTS RELATING TO EXTENSIONS
5 OF CONSUMER CREDIT. IN GENERAL, THE COST OF CONSUMER CREDIT TO
6 A MEMBER OF THE ARMED FORCES AND HIS OR HER DEPENDENT MAY NOT
7 EXCEED AN ANNUAL PERCENTAGE RATE OF THIRTY-SIX PERCENT. THIS
8 RATE MUST INCLUDE, AS APPLICABLE TO THE CREDIT TRANSACTION OR
9 ACCOUNT, THE COSTS ASSOCIATED WITH CREDIT INSURANCE PREMIUMS,
10 FEES FOR ANCILLARY PRODUCTS SOLD IN CONNECTION WITH THE CREDIT
11 TRANSACTION, ANY APPLICATION FEE CHARGED (OTHER THAN CERTAIN
12 APPLICATION FEES FOR SPECIFIED CREDIT TRANSACTIONS OR ACCOUNTS)
13 AND ANY PARTICIPATION FEE CHARGED (OTHER THAN CERTAIN
14 PARTICIPATION FEES FOR A CREDIT CARD ACCOUNT).

15 F. THE CREDITOR SHALL PROVIDE THE INFORMATION REQUIRED BY
16 SUBSECTION A OF THIS SECTION:

17 1. IN WRITING IN A FORM THAT THE COVERED BORROWER CAN KEEP.

18 2. VERBALLY. A CREDITOR MAY SATISFY THIS REQUIREMENT BY PROVIDING
19 THE INFORMATION TO THE COVERED BORROWER IN PERSON OR BY USING A TOLL-FREE
20 TELEPHONE NUMBER TO DELIVER THE VERBAL DISCLOSURES TO A COVERED BORROWER
21 WHEN THE COVERED BORROWER CONTACTS THE CREDITOR FOR THIS PURPOSE. IF
22 APPLICABLE, THE TOLL-FREE TELEPHONE NUMBER MUST BE INCLUDED ON EITHER:

23 (a) A FORM THAT THE CREDITOR DIRECTS THE COVERED BORROWER TO USE TO
24 APPLY FOR THE TRANSACTION OR ACCOUNT INVOLVING CONSUMER CREDIT.

25 (b) A WRITTEN DISCLOSURE THAT THE CREDITOR PROVIDES TO THE COVERED
26 BORROWER PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION.

27 G. THE REFINANCING OR RENEWAL OF CONSUMER CREDIT REQUIRES NEW
28 DISCLOSURES UNDER THIS SECTION ONLY WHEN THE TRANSACTION FOR THAT CREDIT
29 WOULD BE CONSIDERED A NEW TRANSACTION THAT REQUIRES DISCLOSURES UNDER THE
30 TRUTH IN LENDING ACT (15 UNITED STATES CODE SECTIONS 1601 THROUGH 1667f).

31 6-1805. Preemption

32 A. EXCEPT AS PROVIDED IN SECTION 6-1807, SUBSECTION B, THIS CHAPTER
33 PREEMPTS ANY STATE LAW, INCLUDING ANY STATE USURY LAW, TO THE EXTENT THAT
34 THE LAW IS INCONSISTENT WITH THIS CHAPTER, EXCEPT THAT THIS CHAPTER DOES
35 NOT PREEMPT ANY LAW THAT PROVIDES ADDITIONAL PROTECTION TO A COVERED
36 MEMBER OR THE COVERED MEMBER'S DEPENDENT.

37 B. CREDITORS MAY NOT CHARGE COVERED MEMBERS AND THEIR DEPENDENTS
38 ANNUAL PERCENTAGE RATES OF INTEREST FOR ANY CONSUMER CREDIT OR LOANS
39 HIGHER THAN THE LEGAL LIMIT FOR RESIDENTS OF THIS STATE.

40 C. THIS CHAPTER DOES NOT ALLOW THE VIOLATION OR WAIVER OF ANY STATE
41 CONSUMER LENDING PROTECTIONS COVERING CONSUMER CREDIT FOR THE BENEFIT OF
42 RESIDENTS OF THIS STATE ON THE BASIS OF THE NONRESIDENT OR MILITARY STATUS
43 OF A COVERED MEMBER OR DEPENDENT OF THAT COVERED MEMBER, REGARDLESS OF THE
44 COVERED MEMBER'S OR DEPENDENT'S DOMICILE OR PERMANENT HOME OF RECORD.

1 6-1806. Limitations

2 A CREDITOR THAT EXTENDS CONSUMER CREDIT TO A COVERED MEMBER OR A
3 DEPENDENT OF THAT MEMBER MAY NOT DO ANY OF THE FOLLOWING:

4 1. ROLL OVER, RENEW, REPAY, REFINANCE OR CONSOLIDATE ANY CONSUMER
5 CREDIT EXTENDED TO THE COVERED BORROWER BY THE SAME CREDITOR WITH THE
6 PROCEEDS OF OTHER CREDIT EXTENDED TO THE SAME COVERED MEMBER OR A
7 DEPENDENT.

8 2. REQUIRE THE COVERED BORROWER TO WAIVE THE COVERED BORROWER'S
9 RIGHT TO LEGAL RECOURSE UNDER ANY OTHERWISE APPLICABLE PROVISION OF STATE
10 OR FEDERAL LAW.

11 3. REQUIRE THE COVERED BORROWER TO SUBMIT TO ARBITRATION OR IMPOSE
12 ONEROUS LEGAL NOTICE PROVISIONS IN THE CASE OF A DISPUTE.

13 4. DEMAND UNREASONABLE NOTICE FROM THE COVERED BORROWER AS A
14 CONDITION FOR LEGAL ACTION.

15 5. USE A CHECK OR OTHER METHOD OF ACCESS TO A DEPOSIT, SAVINGS OR
16 OTHER FINANCIAL ACCOUNT MAINTAINED BY THE COVERED BORROWER OR THE TITLE OF
17 A MOTOR VEHICLE AS SECURITY FOR THE OBLIGATION.

18 6. REQUIRE AS A CONDITION FOR THE EXTENSION OF CREDIT THAT THE
19 COVERED BORROWER ESTABLISH AN ALLOTMENT TO REPAY AN OBLIGATION.

20 7. PROHIBIT THE COVERED BORROWER FROM PREPAYING THE LOAN OR CHARGE
21 A COVERED BORROWER A PENALTY OR FEE FOR PREPAYING ALL OR PART OF THE LOAN.

22 6-1807. Violation; classification; remedies; damages;
23 limitation

24 A. A CREDITOR WHO KNOWINGLY VIOLATES THIS CHAPTER IS GUILTY OF A
25 CLASS 1 MISDEMEANOR.

26 B. THE REMEDIES AND RIGHTS PROVIDED UNDER THIS CHAPTER ARE IN
27 ADDITION TO AND DO NOT PRECLUDE ANY REMEDY OTHERWISE AVAILABLE UNDER LAW
28 TO THE PERSON CLAIMING RELIEF UNDER THIS CHAPTER, INCLUDING ANY AWARD FOR
29 CONSEQUENTIAL AND PUNITIVE DAMAGES.

30 C. ANY CREDIT AGREEMENT, PROMISSORY NOTE OR OTHER CONTRACT
31 PROHIBITED UNDER THIS CHAPTER IS VOID FROM THE INCEPTION OF THE CONTRACT.

32 D. NOTWITHSTANDING ANY OTHER LAW, AN AGREEMENT TO ARBITRATE ANY
33 DISPUTE INVOLVING THE EXTENSION OF CONSUMER CREDIT IS NOT ENFORCEABLE
34 AGAINST ANY COVERED MEMBER OR DEPENDENT OF THAT MEMBER, OR ANY PERSON WHO
35 WAS A COVERED MEMBER OR DEPENDENT OF THAT MEMBER WHEN THE AGREEMENT WAS
36 MADE.

37 E. A PERSON WHO VIOLATES THIS CHAPTER WITH RESPECT TO ANY PERSON IS
38 CIVILLY LIABLE TO THAT PERSON FOR ALL OF THE FOLLOWING:

39 1. ANY ACTUAL DAMAGE SUSTAINED AS A RESULT, BUT NOT LESS THAN \$500
40 FOR EACH VIOLATION.

41 2. APPROPRIATE PUNITIVE DAMAGES.

42 3. APPROPRIATE EQUITABLE OR DECLARATORY RELIEF.

43 4. ANY OTHER RELIEF PROVIDED BY LAW.

1 F. IN ANY SUCCESSFUL ACTION TO ENFORCE THE CIVIL LIABILITY
2 DESCRIBED IN SUBSECTION E OF THIS SECTION, THE PERSON WHO VIOLATES THIS
3 CHAPTER IS ALSO LIABLE FOR THE COSTS OF THE ACTION, TOGETHER WITH
4 REASONABLE ATTORNEY FEES AS DETERMINED BY THE COURT.

5 G. IN ANY SUCCESSFUL ACTION BY A DEFENDANT UNDER THIS SECTION, IF
6 THE COURT FINDS THE ACTION WAS BROUGHT IN BAD FAITH AND FOR THE PURPOSE OF
7 HARASSMENT, THE PLAINTIFF IS LIABLE FOR THE ATTORNEY FEES OF THE DEFENDANT
8 AS DETERMINED BY THE COURT TO BE REASONABLE IN RELATION TO THE WORK
9 EXPENDED AND COSTS INCURRED.

10 H. A PERSON IS NOT CIVILLY LIABLE UNDER THIS SECTION IF THE PERSON
11 SHOWS BY A PREPONDERANCE OF THE EVIDENCE THAT THE VIOLATION WAS NOT
12 INTENTIONAL AND RESULTED FROM A BONA FIDE ERROR NOTWITHSTANDING THE
13 MAINTENANCE OF PROCEDURES REASONABLY ADAPTED TO AVOID THE ERROR. BONA
14 FIDE ERRORS INCLUDE CLERICAL, CALCULATION, COMPUTER MALFUNCTION,
15 PROGRAMMING AND PRINTING ERRORS, EXCEPT THAT AN ERROR OF LEGAL JUDGMENT
16 WITH RESPECT TO A PERSON'S OBLIGATIONS UNDER THIS CHAPTER IS NOT A BONA
17 FIDE ERROR.

18 I. AN ACTION FOR CIVIL LIABILITY UNDER THIS SECTION MAY BE BROUGHT
19 NOT LATER THAN THE EARLIER OF:

20 1. TWO YEARS AFTER THE DATE OF DISCOVERY BY THE PLAINTIFF OF THE
21 VIOLATION THAT IS THE BASIS FOR THE LIABILITY.

22 2. FIVE YEARS AFTER THE DATE ON WHICH THE VIOLATION THAT IS THE
23 BASIS FOR THE LIABILITY OCCURS.

24 6-1808. Rulemaking

25 THE SUPERINTENDENT SHALL ADOPT RULES NECESSARY TO ENFORCE THIS
26 CHAPTER.