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CIVIL CODE - CIV

DIVISION 3. OBLIGATIONS [1427 - 3273.69] (*Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.*)

PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS [1738 - 3273.69] (*Part 4 enacted 1872.*)

TITLE 2. CREDIT SALES [1801 - 1812.35] (*Title 2 added by Stats. 1959, Ch. 201.*)

CHAPTER 2. Credit Transactions Regarding Women [1812.30 - 1812.35] (*Chapter 2 added by Stats. 1973, Ch. 999.*)

1812.30. (a) No person, regardless of marital status, shall be denied credit in his or her own name if the earnings and other property over which he or she has management and control are such that a person of the opposite sex managing and controlling the same amount of earnings and other property would receive credit.

(b) No person, regardless of marital status, managing and controlling earnings and other property shall be offered credit on terms less favorable than those offered to a person of the opposite sex seeking the same type of credit and managing and controlling the same amount of earnings and other property.

(c) No unmarried person shall be denied credit if his or her earnings and other property are such that a married person managing and controlling the same amount of earnings and other property would receive credit.

(d) No unmarried person shall be offered credit on terms less favorable than those offered to a married person managing and controlling the same amount of earnings and other property.

(e) For accounts established after January 1, 1977 or for accounts in existence on January 1, 1977 where information on that account is received after January 1, 1977, a credit reporting agency which in its normal course of business receives information on joint credit accounts identifying the persons responsible for such accounts, or receives information which reflects the participation of both spouses, shall: (1) at the time such information is received file such information separately under the names of each person or spouse, or file such information in another manner which would enable either person or spouse to automatically gain access to the credit history without having in any way to list or refer to the name of the other person, and (2) provide access to all information about the account in the name of each person or spouse.

(f) For all accounts established prior to January 1, 1977, a credit reporting agency shall at any time upon the written or personal request of a person who is or has been married, verify the contractual liability, liability by operation of law, or authorized use by such person, of joint credit accounts appearing in the file of the person's spouse or former spouse, and, if applicable, shall file such information separately and thereafter continue to do so under the names of each person responsible for the joint account or in another manner which would enable either person responsible for the joint account to automatically gain access to the credit history without having in any way to list or refer to the name of the other person.

(g) For the purposes of this chapter "credit" means obtainment of money, property, labor, or services on a deferred-payment basis.

(h) For the purposes of this chapter, earnings shall include, but not be limited to, spousal, family, and child support payments, pensions, social security, disability or survivorship benefits. Spousal, family, and child support payments shall be considered in the same manner as earnings from salary, wages, or other sources where the payments are received pursuant to a written agreement or court decree to the extent that the reliability of such payments is established. The factors which a creditor may consider in evaluating the reliability of such payments are the length of time payments have been received; the regularity of receipt; and whether full or partial payments have been made.

(i) Nothing in this chapter shall be construed to prohibit a person from: (1) utilizing an evaluation of the reliability of earnings provided that such an evaluation is applied to persons without regard to their sex or marital status; or (2) inquiring into and utilizing an evaluation of the obligations for which community property is liable pursuant to the Family Code for the sole purpose of determining the creditor's rights and remedies with respect to the particular extension of credit, provided that such is done with respect to all applicants without regard to their sex; or (3) utilizing any other relevant factors or methods in determining whether to extend credit to an applicant provided that such factors or methods are applicable to all applicants without regard to their sex or marital status. For the purpose of this subdivision, the fact that an applicant is of childbearing age is not a relevant factor.

(j) Credit applications for the obtainment of money, goods, labor, or services shall clearly specify that the applicant, if married, may apply for a separate account.

(Amended by Stats. 1992, Ch. 163, Sec. 11. Effective January 1, 1993. Operative January 1, 1994, by Sec. 161 of Ch. 163.)

1812.31. (a) Whoever violates Section 1812.30 shall be liable to the aggrieved person in an amount equal to the sum of any actual damages sustained by such person acting either in an individual capacity or as a representative of a class.

(b) Whoever violates Section 1812.30 shall be liable to the aggrieved person for punitive damages in an amount not greater than ten thousand dollars (\$10,000), as determined by the court, in addition to any actual damages provided in subdivision (a); provided, however, that in pursuing the recovery allowed under this subdivision, the aggrieved person may proceed only in an individual capacity and not as a representative of a class.

(c) Notwithstanding subdivision (b), whoever violates Section 1812.30 may be liable for punitive damages in the case of a class action in such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery in such action shall not exceed the lesser of one hundred thousand dollars (\$100,000) or one percent (1%) of the net worth of the creditor. In determining the amount of the award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of violations, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's violation was intentional.

(Amended by Stats. 1975, Ch. 332.)

1812.32. Any person, corporation, firm, partnership, joint stock company, or any other association or organization which violates or proposes to violate this chapter may be enjoined by any court of competent jurisdiction. Actions for injunction under this section may be prosecuted by the Attorney General or any district attorney, county counsel, city attorney, or city prosecutor in this state in the name of the people of the State of California or by any person denied credit or offered credit in violation of Section 1812.30.

(Added by Stats. 1975, Ch. 332.)

1812.33. (a) Any person who intentionally violates any injunction issued pursuant to this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each day that such person violates the injunction.

(b) The civil penalty prescribed by this section shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction. An action brought pursuant to this section to recover such civil penalties shall take special precedence over all civil matters on the calendar of the court except those matters to which equal precedence on the calendar is granted by law.

(c) If such an action is brought by the Attorney General, one-half of the penalty collected pursuant to this section shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel, the entire amount of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county in which the judgment was entered and one-half to the city.

(Added by Stats. 1975, Ch. 332.)

1812.34. Any person denied credit or offered credit in violation of Section 1812.30 who brings an action pursuant to Section 1812.31 or 1812.32 of this code may petition the court for award of costs and reasonable attorney's fees which the court shall award if the action is successful.

(Added by Stats. 1975, Ch. 332.)

1812.35. Any action commenced pursuant to Section 1812.31 shall be commenced within two years from the date on which the person is denied credit or is offered credit in violation of Section 1812.30.

(Added by Stats. 1975, Ch. 332.)