

## Chapter 162-40 WAC CREDIT TRANSACTIONS

Last Update: 12/21/99

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### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 162-40-020 Coordination with federal law. [Order 25, § 162-40-020, filed 4/23/76.] Repealed by Order 34, filed 6/30/77. Later promulgation, see WAC 162-40-021.
- 162-40-030 General rule. [Order 25, § 162-40-030, filed 4/23/76.] Repealed by Order 34, filed 6/30/77. Later promulgation, see WAC 162-40-051.
- 162-40-031 (202.1(d)) Commission review of forms, practices and procedures. [Order 34, § 162-40-031, filed 6/30/77.] Repealed by WSR 00-01-177, filed 12/21/99, effective 1/21/00. Statutory Authority: RCW 49.60.120(3).
- 162-40-040 Definitions. [Order 25, § 162-40-040, filed 4/23/76.] Repealed by Order 34, filed 6/30/77. Later promulgation, see WAC 162-40-041.
- 162-40-050 Discouraging applications. [Order 25, § 162-40-050, filed 4/23/76.] Repealed by Order 34, filed 6/30/77. Later promulgation, see WAC 162-40-061.
- 162-40-051 (202.4) General rule prohibiting discrimination. [Order 34, § 162-40-051, filed 6/30/77.] Repealed by WSR 00-01-177, filed 12/21/99, effective 1/21/00. Statutory Authority: RCW 49.60.120(3).
- 162-40-060 Separate accounts. [Order 25, § 162-40-060, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.
- 162-40-061 (202.5(a)) Discouraging applications. [Order 34, § 162-40-061, filed 6/30/77.] Repealed by WSR 00-01-177, filed 12/21/99, effective 1/21/00. Statutory Authority: RCW 49.60.120(3).
- 162-40-070 Inquiries as to marital status. [Order 24, § 162-40-070, filed 2/20/76.] Repealed by Order 34, filed 6/30/77. Later promulgation, see WAC 162-40-101.
- 162-40-071 (202.5 (b)(1)) General rule concerning requests for information. [Order 34, § 162-40-071, filed 6/30/77.] Repealed by WSR 00-01-177, filed 12/21/99, effective 1/21/00. Statutory Authority: RCW 49.60.120(3).
- 162-40-080 Inquiries as to race, creed, color, national origin, or sex. [Order 24, § 162-40-080, filed 2/20/76.] Repealed by Order 34, filed 6/30/77.
- 162-40-081 (202.5(b)) Request for designation of membership in certain protected classes. [Order 34, § 162-40-081, filed 6/30/77.] Repealed by WSR 00-01-177, filed 12/21/99, effective 1/21/00. Statutory Authority: RCW 49.60.120(3).
- 162-40-090 Designation of title and other sex specific terms. [Order 24, § 162-40-090, filed 2/20/76.] Repealed by Order 34, filed 6/30/77.
- 162-40-091 (202.5(d)) Other information a creditor may not request. [Order 34, § 162-40-091, filed 6/30/77.] Repealed by WSR 00-01-177, filed 12/21/99, effective 1/21/00. Statutory Authority: RCW 49.60.120(3).
- 162-40-100 Designation of name. [Order 24, § 162-40-100, filed 2/20/76.] Repealed by Order 34, filed 6/30/77. Later promulgation, see WAC 162-40-091.
- 162-40-101 (202.5(c)) Information about a spouse or former spouse. [Order 34, § 162-40-101, filed 6/30/77.] Repealed by WSR 00-01-177, filed 12/21/99, effective 1/21/00. Statutory Authority: RCW 49.60.120(3).
- 162-40-110 Receipt of child support, alimony, or maintenance payment. [Order 24, § 162-40-110, filed 2/20/76.] Repealed by Order 34, filed 6/30/77. Later promulgation, see WAC 162-40-091.
- 162-40-111 (202.5(e)) Application forms: Special state requirements. [Order 34, § 162-40-111, filed 6/30/77.] Repealed by WSR 00-01-177, filed 12/21/99, effective 1/21/00. Statutory Authority: RCW 49.60.120(3).

162-40-120 Designation of spouse's name. [Order 24, § 162-40-120, filed 2/20/76.] Repealed by Order 34, filed 6/30/77. Later promulgation, see WAC 162-40-101.

162-40-121 (202.6(a)) General rule concerning use of information. [Order 34, § 162-40-121, filed 6/30/77.] Repealed by WSR 00-01-177, filed 12/21/99, effective 1/21/00. Statutory Authority: RCW 49.60.120(3).

162-40-130 Designation of previous names of applicant. [Order 24, § 162-40-130, filed 2/20/76.] Repealed by Order 34, filed 6/30/77.

162-40-131 (202.6(b)) Specific rules concerning use of information. [Order 34, § 162-40-131, filed 6/30/77.] Repealed by WSR 00-01-177, filed 12/21/99, effective 1/21/00. Statutory Authority: RCW 49.60.120(3).

162-40-135 Commission review of forms and procedures. [Order 24, § 162-40-135, filed 2/20/76.] Repealed by Order 34, filed 6/30/77.

162-40-140 Application of community property law. [Order 25, § 162-40-140, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

162-40-141 (202.7 (a), (b)) Opening accounts. [Order 34, § 162-40-141, filed 6/30/77.] Repealed by WSR 00-01-177, filed 12/21/99, effective 1/21/00. Statutory Authority: RCW 49.60.120(3).

162-40-150 Information about a spouse or former spouse. [Order 25, § 162-40-150, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

162-40-151 (202.7(c)) Action concerning existing open end accounts. [Order 34, § 162-40-151, filed 6/30/77.] Repealed by WSR 00-01-177, filed 12/21/99, effective 1/21/00. Statutory Authority: RCW 49.60.120(3).

162-40-160 Alimony, child support and maintenance obligations. [Order 25, § 162-40-160, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

162-40-161 (202.7(d)) Signature of spouse or other person. [Order 34, § 162-40-161, filed 6/30/77.] Repealed by WSR 00-01-177, filed 12/21/99, effective 1/21/00. Statutory Authority: RCW 49.60.120(3).

162-40-170 Income from alimony, child support and maintenance. [Order 25, § 162-40-170, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

162-40-180 Discounting income. [Order 25, § 162-40-180, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

162-40-190 Credit scoring. [Order 25, § 162-40-190, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

162-40-200 Telephone listing in applicant's name. [Order 25, § 162-40-200, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

162-40-210 Continued ability to repay. [Order 25, § 162-40-210, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

162-40-220 Change of name or marital status. [Order 25, § 162-40-220, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

162-40-230 Credit history. [Order 25, § 162-40-230, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

162-40-240 Use and retention of prohibited information. [Order 25, § 162-40-240, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

162-40-241 (202.3) Special treatment for certain classes of transactions. [Order 34, § 162-40-241, filed 6/30/77.] Repealed by WSR 00-01-177, filed 12/21/99, effective 1/21/00. Statutory Authority: RCW 49.60.120(3).

162-40-250 Notification of action taken and reasons for denial. [Order 25, § 162-40-250, filed 4/23/76; Order 24, § 162-40-250, filed 2/20/76.] Repealed by Order 34, filed 6/30/77.

162-40-260 Accounts established on or after 1 June 1977. [Order 29, § 162-40-260, filed 10/29/76; Order 28, § 162-40-260, filed 5/21/76.] Repealed by Order 34, filed 6/30/77.

162-40-270 Accounts established prior to 1 June 1977. [Order 29, § 162-40-270, filed 10/29/76; Order 28, § 162-40-270, filed 5/21/76.] Repealed by Order 34, filed 6/30/77.

162-40-280 General. [Order 25, § 162-40-280, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

162-40-290 Signature of spouse. [Order 25, § 162-40-290, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

162-40-300 Secured credit. [Order 25, § 162-40-300, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

162-40-310 Prohibited information. [Order 25, § 162-40-310, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

162-40-320 Establishing credit files. [Order 25, § 162-40-320, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

162-40-330 Name on credit report. [Order 25, § 162-40-330, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

162-40-340 Public record information. [Order 28, § 162-40-340, filed 5/21/76.] Repealed by Order 34, filed 6/30/77.

162-40-350 Community credit files. [Order 25, § 162-40-350, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

162-40-360 Transfer of joint account information. [Order 25, § 162-40-360, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

162-40-370 Preservation of records. [Order 25, § 162-40-370, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

162-40-380 Exemptions from certain procedural requirements. [Order 25, § 162-40-380, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

162-40-390 Effective date. [Order 25, § 162-40-390, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

162-40-400 Remedies. [Order 25, § 162-40-400, filed 4/23/76.] Repealed by Order 34, filed 6/30/77.

**WAC 162-40-010 Scope of chapter.** This chapter carries out the policies and practices of the commission in connection with the law against discrimination covering credit transactions. The principal statutes involved are RCW 49.60.175, 49.60.176, and 49.60.222 (1)(j).

[Statutory Authority: RCW 49.60.120(3). WSR 00-01-177, § 162-40-010, filed 12/21/99, effective 1/21/00; Order 25, § 162-40-010, filed 4/23/76.]

**WAC 162-40-021 Coordination with federal law.** (1) It is the policy of the commission to coordinate its enforcement of the Washington state law against discrimination with enforcement of the federal Equal Credit Opportunity Act, Pub. L. 93-495, as amended, and Regulation B Equal Credit Opportunity 12 C.F.R. 202, to the maximum extent possible without diminishing the impact of the state law where the statutes differ. Federal law alters, affects or preempts only those regulations contained in this chapter which are inconsistent with federal law, and then only to the extent of the inconsistency.

(2) Differences between state and federal regulations. The state of Washington is a community property state; therefore, regulations governing community property may define the differences between the federal and state regulations.

[Statutory Authority: RCW 49.60.120(3). WSR 00-01-177, § 162-40-021, filed 12/21/99, effective 1/21/00; Order 34, § 162-40-021, filed 6/30/77.]

**WAC 162-40-041 Definitions.** For purposes of this regulation, unless the context indicates otherwise, the following definitions apply:

(1) "Account" means an extension of credit. When employed in relation to an account, the word "use" refers only to open end credit.

(2) "Adverse action."

(a) The term means:

(i) A refusal to grant credit in substantially the amount or on substantially the terms requested in an application unless the creditor makes a counteroffer (to grant credit in a different amount or on other terms) and the applicant uses or expressly accepts the credit offered;

(ii) A termination of an account or an unfavorable change in the terms of an account that does not affect all or a substantial portion of a class of a creditor's accounts; or

(iii) A refusal to increase the amount of credit available to an applicant who has made an application for an increase in accordance with procedures established by the creditor.

(b) The term does not include:

(i) A change in the terms of an account expressly agreed to by an applicant;

(ii) Any action or forbearance relating to an account taken in connection with inactivity, default, or delinquency as to that account;

(iii) A refusal or failure to authorize an account transaction at a point of sale or loan, except when the refusal is a termination or an unfavorable change in the terms of an account that does not affect all or a substantial portion of a class of the creditor's accounts, or when the refusal is a denial of an application for an increase in the amount of credit available under the account;

(iv) A refusal to extend credit because applicable law prohibits the creditor from extending the credit requested; or

(v) A refusal to extend credit because the creditor does not offer the type of credit or credit plan requested.

(3) "Applicant" means any person who requests or who has received an extension of credit from a creditor, and includes any person who is or may be contractually liable regarding an extension of credit other than a guarantor, surety, endorser, or similar party.

(4) "Application" means an oral or written request for an extension of credit that is made in accordance with procedures established by a creditor for the type of credit requested. The term does not include the use of an account or line of credit to obtain an amount of credit that is within a previously established credit limit. A "completed application" means an application in connection with which a creditor has received all the information that the creditor regularly obtains and considers in evaluating applications for the amount and type of credit requested (including, but not limited to, credit reports, any additional information requested from the applicant, and any approvals or reports by governmental agencies or other persons that are necessary to guarantee, insure, or provide security for the credit or collateral). The creditor shall exercise reasonable diligence in obtaining such information.

(5) "Community property" means community property as defined in RCW 26.16.030 Community property defined—Management and control.

(6) "Consumer credit" means credit extended to a person primarily for personal, family, or household purposes.

(7) "Consumer reporting agency" means any person which for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purposes of furnishing reports on consumers to third parties.

(8) "Contractually liable" means expressly obligated to repay all debts arising on an account by reason of an agreement to that effect.

(9) "Credit" means the right granted by a creditor to an applicant to defer payment of a debt, incur debt and defer its payment, or purchase property or services and defer payment therefor.

(10) "Credit card" means any card, plate, coupon book, or other single credit device that may be used from time to time to obtain money, property, or services on credit.

(11) "Creditor" means a person who, in the ordinary course of business, regularly participates in the decision of whether or not to extend credit. The term includes the creditor's assignee, transferee, or subrogee who so participates. The term also includes a person who, in the ordinary course of business, regularly refers applicants or prospective applicants to creditors, or selects or offers to select creditors to whom requests for credit may be made. A person is not a creditor regarding any violation committed by another creditor unless the person knew or had reasonable notice of the act, policy, or practice that constituted a violation before becoming involved in the

credit transaction. The term does not include a person whose only participation in a credit transaction is to honor a credit card.

(12) "Credit transaction" is defined in RCW 49.60.040.

(13) "Extend credit and extension of credit" mean the granting of credit in any form, including, but not limited to, credit granted in addition to any existing credit or credit limit; credit granted pursuant to an open end credit plan; the refinancing or other renewal of credit, including the issuance of a new credit card in place of an expiring credit card or in substitution for an existing credit card; the consolidation of two or more obligations; or the continuance of existing credit without any special effort to collect at or after maturity.

(14) "Good faith" means honesty in fact in the conduct or transaction.

(15) "Inadvertent error" means a mechanical, electronic, or clerical error that a creditor demonstrates was not intentional and occurred notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(16) "Marital status" is defined in RCW 49.60.040(7).

(17) "Open end credit" means credit extended under a plan in which a creditor may permit an applicant to make purchases or obtain loans from time to time directly from the creditor or indirectly by use of a credit card, check, or other device. The term does not include negotiated advances under an open end real estate mortgage or letter of credit.

(18) "Person" is defined in RCW 49.60.040.

(19) "Separate property" is defined in RCW 26.16.010 and 26.16.020.

[Statutory Authority: RCW 49.60.120(3). WSR 00-01-177, § 162-40-041, filed 12/21/99, effective 1/21/00; Order 34, § 162-40-041, filed 6/30/77.]

## **RULES CONCERNING APPLICATIONS**

**WAC 162-40-055 Rules concerning applications.** Rules concerning applications comply with Regulation B Equal Credit Opportunity 12 C.F.R. 202, Section 202.5, except where community property law is governed by the state of Washington at chapter 26.16 RCW, Husband and wife—Rights and liabilities—Community property.

[Statutory Authority: RCW 49.60.120(3). WSR 00-01-177, § 162-40-055, filed 12/21/99, effective 1/21/00.]

## **RULES CONCERNING EVALUATION OF APPLICATIONS**

**WAC 162-40-065 Rules concerning evaluation of applications.** Rules concerning evaluation of applications comply with Regulation B Equal Credit Opportunity 12 C.F.R. 202, Section 202.6, except where community property law is governed by the state of Washington at chapter 26.16 RCW, Husband and wife—Rights and liabilities—Community property.

[Statutory Authority: RCW 49.60.120(3). WSR 00-01-177, § 162-40-065, filed 12/21/99, effective 1/21/00.]

#### **RULES CONCERNING EXTENSION OF CREDIT**

**WAC 162-40-075 Rules concerning extensions of credit.** Rules concerning extensions of credit comply with Regulation B Equal Credit Opportunity 12 C.F.R. 202, Section 202.7, except where community property law is governed by the state of Washington at chapter 26.16 RCW, Husband and wife—Rights and liabilities—Community property.

[Statutory Authority: RCW 49.60.120(3). WSR 00-01-177, § 162-40-075, filed 12/21/99, effective 1/21/00.]

**WAC 162-40-171 Notifications.** Rules concerning notifications comply with Regulation B Equal Credit Opportunity 12 C.F.R. 202, Section 202.9, except where community property law is governed by the state of Washington at chapter 26.16 RCW, Husband and wife—Rights and liabilities—Community property.

[Statutory Authority: RCW 49.60.120(3). WSR 00-01-177, § 162-40-171, filed 12/21/99, effective 1/21/00; Order 34, § 162-40-171, filed 6/30/77.]

**WAC 162-40-181 Furnishing of credit information.** Rules concerning furnishing of Credit Information comply with Regulation B Equal Credit Opportunity 12 C.F.R. 202, Section 202.10, except where community property law is governed by the state of Washington at chapter 26.16 RCW, Husband and wife—Rights and liabilities—Community property.

[Statutory Authority: RCW 49.60.120(3). WSR 00-01-177, § 162-40-181, filed 12/21/99, effective 1/21/00; Order 34, § 162-40-181, filed 6/30/77.]

#### **CONSUMER REPORTING AGENCIES**

**WAC 162-40-191 General rule.** A consumer reporting agency shall not report to a creditor any information relating to an applicant's race, creed, color, national origin, sex, or the presence of any sensory, mental, or physical disability or that the applicant uses a trained dog guide or service animal because of a disability.

[Statutory Authority: RCW 49.60.120(3). WSR 00-01-177, § 162-40-191, filed 12/21/99, effective 1/21/00; Order 34, § 162-40-191, filed 6/30/77.]

**WAC 162-40-201 Rules concerning credit files.** (1) Establishing credit files. A consumer reporting agency shall not refuse to establish a credit file for any person in any name under which an applicant may open or maintain an account. This file may be referenced with the file of the applicant's spouse.

(2) Name on credit report. A consumer reporting agency shall issue credit reports in the name in which the request for the report was received. A credit report may include the name of the spouse or former spouse, if available.

(3) Public record information. If a consumer reporting agency places public record information in credit files and such information contains the names of both spouses, such information shall be referenced so that it is accessible in the name of each spouse.

(a) If a consumer reporting agency places public record information concerning a decree of separation or dissolution of marriage in credit files, it shall place such information in the individual credit file of each spouse.

(4) Community credit files. A consumer reporting agency may reference the credit files of married persons by listing in a spouse's file that the information is contained in the other spouse's file, provided the information is accessible by use of each spouse's name.

(5) Transfer of joint account information. A consumer reporting agency shall, upon request, transfer information from joint credit files to an individual credit file regardless of the name in which the information was originally reported.

[Statutory Authority: RCW 49.60.120(3). WSR 00-01-177, § 162-40-201, filed 12/21/99, effective 1/21/00; Order 34, § 162-40-201, filed 6/30/77.]

## GENERAL PROVISIONS

**WAC 162-40-211 Record retention.** Rules concerning record retention conform to Regulation B Equal Credit Opportunity 12 C.F.R. 202, Section 202.12, except where community property law is governed by the state of Washington at chapter 26.16 RCW, Husband and wife—Rights and liabilities—Community property.

[Statutory Authority: RCW 49.60.120(3). WSR 00-01-177, § 162-40-211, filed 12/21/99, effective 1/21/00; Order 34, § 162-40-210 (codified as WAC 162-40-211), filed 6/30/77.]

**WAC 162-40-221 Rules of construction.** Any violation of the provisions of this chapter shall constitute an unfair practice within the meaning of RCW 49.60.175, 49.60.176, and/or 49.60.222 (1) (j).

[Statutory Authority: RCW 49.60.120(3). WSR 00-01-177, § 162-40-221, filed 12/21/99, effective 1/21/00; Order 34, § 162-40-221, filed 6/30/77.]

## EXEMPTIONS

### **WAC 162-40-231 Exemption for special purpose credit program.**

Any credit program that qualifies as a special purpose credit program under the provisions of 12 C.F.R. § 202.8 is exempt from these regulations to the extent these regulations are inconsistent with the provisions of 12 C.F.R. § 202.8.

[Statutory Authority: RCW 49.60.120(3). WSR 00-01-177, § 162-40-231, filed 12/21/99, effective 1/21/00; Order 34, § 162-40-231, filed 6/30/77.]

**WAC 162-40-251 Remedies.** An administrative law judge may order, or the commission's staff may propose upon a finding of reasonable cause to believe a violation of chapter 49.60 RCW has occurred, or in prefinding settlement efforts, remedies, including but not limited to:

- (1) Requiring the creditor to establish in writing nondiscriminatory criteria for the granting of credit.
- (2) Requiring the creditor or consumer reporting agency to conduct training sessions of its employees and agents in order to insure that the employees and agents are aware of their responsibilities and liabilities under the Washington state law against discrimination RCW 49.60.240, 49.60.250, and 49.60.225 and Regulation B of the Equal Credit Opportunity Act, Section 202.14.
- (3) Requiring the creditor to pay actual or special damages to aggrieved parties.
- (4) Requiring the creditor to submit to the commission proof that it has ceased said discriminatory practices and implemented a policy of nondiscrimination.
- (5) Requiring that the creditor conduct remedial advertising.
- (6) Requiring the creditor to offer credit to the aggrieved parties.
- (7) Requiring the creditor or consumer reporting agency to revise the structure and content of its files to eliminate discrimination and to remove all references to the complaint from the complainant's file.
- (8) Requiring the posting of a notice in view of applicants for credit stating that it is an unfair practice for any person furnishing credit to deny or terminate such credit or to adversely affect an individual's credit standing because of such individual's race, creed, color, sex, national origin, or marital status.
- (9) Requiring the distribution of these regulations to each of its employees and agents who determine, influence, or effectuate the creditor's policies and practices.

[Statutory Authority: RCW 49.60.120(3). WSR 00-01-177, § 162-40-251, filed 12/21/99, effective 1/21/00; Order 34, § 162-40-251, filed 6/30/77.]