

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-1053.01 Josh Schultz x5486

HOUSE BILL 24-1380

HOUSE SPONSORSHIP

Mabrey,

SENATE SPONSORSHIP

Cutter and Jaquez Lewis,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO INCREASE CONSUMER PROTECTIONS IN
102 TRANSACTIONS WITH DEBT-RELATED SERVICES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill makes the following actions by a debt collector or collection agency that is subject to the "Colorado Fair Debt Collection Practices Act" unfair or deceptive trade practices under the "Colorado Consumer Protection Act" (consumer protection act):

- Taking any legal action on a debt against a consumer if the debt collector or collection agency is the named plaintiff

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

unless the debt collector or collection agency has purchased complete ownership of the debt, without any ownership interest retained by the seller, original creditor, or other third party; and

- Seeking or supporting a warrant or otherwise promoting the arrest or detainment of a consumer, including on motions related to discovery or contempt of court, in any legal action against the consumer in connection with an action to collect or attempt to collect a debt.

A creditor that is owed a consumer debt and seeks or supports a warrant or otherwise promotes the arrest or detainment of a consumer in any legal action against the consumer in connection with an action to collect or attempt to collect the debt commits a deceptive trade practice under the consumer protection act.

The bill requires credit services organizations to file notification with and pay a fee to the administrator of the uniform consumer credit code (administrator) within 30 days after commencing business in Colorado and, thereafter, on or before July 1 of each year.

The administrator may order a person to cease and desist from engaging in violations of the "Colorado Credit Services Organization Act" (CCSOA). An order issued by the administrator may require the person to pay to a buyer a refund of unlawful charges under the CCSOA charged to the buyer and to pay an administrative penalty of up to \$1,500 per violation. A person aggrieved by an order of the administrator may seek judicial review of the order in the Colorado court of appeals.

The bill clarifies that a plan that a debt management services provider prepares for an individual to make regular, periodic payments must meet the definition of "plan" in the "Uniform Debt-Management Services Act".

The bill also clarifies that if a debt management services provider utilizes the internet or other electronic means to meet specific compliance requirements, including disclosures, reporting requirements, and record-keeping requirements, the provider must obtain a consumer's consent at the time of satisfying the requirements.

The bill repeals provisions outlining the fees a debt management services provider may charge and requires the administrator to adopt rules specifying the nature and amount of permitted fees.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 5-16-108, **add** (1)(m)

3 and (1)(n) as follows:

4 **5-16-108. Unfair practices.** (1) A debt collector or collection

1 agency shall not use unfair or unconscionable means to collect or attempt
2 to collect any debt, including, but not limited to, the following conduct:

3 (m) TAKING ANY LEGAL ACTION ON A DEBT AGAINST A CONSUMER
4 IF THE DEBT COLLECTOR OR COLLECTION AGENCY IS THE NAMED PLAINTIFF
5 UNLESS THE DEBT COLLECTOR OR COLLECTION AGENCY HAS PURCHASED
6 COMPLETE OWNERSHIP OF THE DEBT, WITHOUT ANY OWNERSHIP INTEREST
7 RETAINED BY THE SELLER, ORIGINAL CREDITOR, OR OTHER THIRD PARTY;

8 (n) SEEKING OR SUPPORTING A WARRANT OR OTHERWISE
9 PROMOTING THE ARREST OR DETAINMENT OF A CONSUMER, INCLUDING ON
10 MOTIONS RELATED TO DISCOVERY OR CONTEMPT OF COURT, IN ANY LEGAL
11 ACTION AGAINST A CONSUMER IN CONNECTION WITH AN ACTION TO
12 COLLECT OR ATTEMPT TO COLLECT A DEBT; EXCEPT THAT NOTHING IN THIS
13 SUBSECTION (1)(n) LIMITS OR AFFECTS THE POWER OF A COURT TO ISSUE
14 AN ORDER OR A WARRANT.

15 SECTION 2. In Colorado Revised Statutes, 5-19-110, add (3),
16 (4), (5), (6), and (7) as follows:

17 5-19-110. Powers of administrator of the uniform consumer
18 credit code and district attorney - subpoenas - hearings - notification
19 - cease-and-desist orders - definitions. (3) (a) CREDIT SERVICES
20 ORGANIZATIONS SHALL FILE A NOTIFICATION WITH, AND PAY THE FEE
21 PRESCRIBED IN SUBSECTION (4) OF THIS SECTION TO, THE ADMINISTRATOR
22 WITHIN THIRTY DAYS AFTER COMMENCING BUSINESS IN THIS STATE AND,
23 THEREAFTER, ON OR BEFORE JULY 1 OF EACH YEAR. THE NOTIFICATION
24 MUST STATE:

25 (I) THE NAME OF THE CREDIT SERVICES ORGANIZATION;

26 (II) THE NAME IN WHICH BUSINESS IS TRANSACTED, IF THE NAME
27 IS DIFFERENT FROM THE NAME PROVIDED PURSUANT TO SUBSECTION

1 (3)(a)(I) OF THIS SECTION;

2 (III) THE ADDRESS OF THE CREDIT SERVICES ORGANIZATION'S
3 PRINCIPAL OFFICE, WHICH MAY BE OUTSIDE OF THIS STATE; AND

4 (IV) OTHER INFORMATION THE ADMINISTRATOR MAY REQUIRE.

5 (b) IF INFORMATION IN A NOTIFICATION BECOMES INACCURATE
6 AFTER FILING, NO FURTHER NOTIFICATION IS REQUIRED UNTIL THE
7 FOLLOWING YEAR'S NOTIFICATION FILING IS DUE.

8 (4) A PERSON REQUIRED TO FILE THE NOTIFICATION DESCRIBED IN
9 SUBSECTION (3) OF THIS SECTION SHALL PAY TO THE ADMINISTRATOR A
10 NONREFUNDABLE ANNUAL NOTIFICATION FEE. THE ADMINISTRATOR MAY
11 EXAMINE THE TRANSACTIONS, BUSINESS, AND RECORDS OF A PERSON THAT
12 FILES A NOTIFICATION WITHOUT ISSUANCE OF A SUBPOENA.

13 (5) THE STATE TREASURER SHALL CREDIT ALL FEES COLLECTED
14 UNDER THIS PART 1 TO THE CONSUMER CREDIT UNIT CASH FUND.

15 (6) (a) AFTER NOTICE AND HEARING, THE ADMINISTRATOR MAY
16 ORDER A PERSON TO CEASE AND DESIST FROM ENGAGING IN VIOLATIONS
17 OF THIS CODE OR ANY RULE OR ORDER LAWFULLY MADE PURSUANT TO
18 THIS PART 1. THE ORDER ISSUED BY THE ADMINISTRATOR MAY REQUIRE
19 THE PERSON TO PAY TO A BUYER A REFUND OF UNLAWFUL CHARGES UNDER
20 THIS PART 1 CHARGED TO THE BUYER AND TO PAY AN ADMINISTRATIVE
21 PENALTY OF UP TO ONE THOUSAND FIVE HUNDRED DOLLARS PER
22 VIOLATION.

23 (b) THE STATE TREASURER SHALL CREDIT ALL RECEIPTS FROM THE
24 IMPOSITION OF ADMINISTRATIVE PENALTIES UNDER THIS SECTION TO THE
25 CONSUMER CREDIT UNIT CASH FUND.

26 (c) A RESPONDENT AGGRIEVED BY AN ORDER OF THE
27 ADMINISTRATOR MAY SEEK JUDICIAL REVIEW OF THE ORDER IN THE

1 COLORADO COURT OF APPEALS. THE ADMINISTRATOR MAY OBTAIN A
2 COURT ORDER FOR ENFORCEMENT OF THE ADMINISTRATOR'S ORDER IN
3 DISTRICT COURT UNDER SECTION 24-4-106. ALL PROCEEDINGS UNDER THIS
4 SECTION ARE GOVERNED BY SECTIONS 24-4-105 AND 24-4-106.

5 (7) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
6 REQUIRES:

7 (a) "ADMINISTRATOR" MEANS THE ADMINISTRATOR OF THE
8 UNIFORM CONSUMER CREDIT CODE.

9 (b) "CONSUMER CREDIT UNIT CASH FUND" MEANS THE CONSUMER
10 CREDIT UNIT CASH FUND CREATED IN SECTION 5-2-302 (11).

11 **SECTION 3.** In Colorado Revised Statutes, 5-19-217, **amend**
12 (b)(3)(A) and (c)(3) as follows:

13 **5-19-217. Prerequisites for providing debt-management**
14 **services.** (b) A provider may not furnish or contract to furnish
15 debt-management services unless the provider, through the services of a
16 counselor or debt specialist:

17 (3) If the individual is to make regular, periodic payments:

18 (A) Has prepared a plan, AS DEFINED IN SECTION 5-19-202 (13),
19 for the individual;

20 (c) Before an individual assents to an agreement to engage in a
21 plan, a provider shall:

22 (3) With respect to all creditors identified by the individual or
23 otherwise known by the provider to be creditors of the individual, provide
24 the individual with a list of:

25 (A) Creditors that the provider expects to participate in the plan
26 and grant concessions;

27 (B) Creditors that the provider expects to participate in the plan

1 but not grant concessions; AND

2 (C) Creditors that the provider expects not to participate in the
3 plan. and

4 (D) ~~All other creditors.~~

5 **SECTION 4.** In Colorado Revised Statutes, 5-19-218, **amend** (b)
6 as follows:

7 **5-19-218. Communication by electronic or other means -**
8 **definitions.** (b) A provider may satisfy the requirements of section
9 5-19-217, 5-19-219, or 5-19-227 by means of the internet or other
10 electronic means if the provider obtains a consumer's consent AT THE
11 TIME OF SATISFYING THE REQUIREMENTS OF SECTION 5-19-217, 5-19-219,
12 OR 5-19-227 in the manner provided by section 101 (c)(1) of the federal
13 act.

14 **SECTION 5.** In Colorado Revised Statutes, 5-19-223, **amend**
15 (d)(2)(A)(iii); **repeal** (d)(4) and (e); and **add** (d)(2)(C) as follows:

16 **5-19-223. Fees and other charges - rules.** (d) The following
17 rules apply:

18 (2) If an individual assents to a plan that contemplates that
19 creditors or debt collectors will settle debts for less than the principal
20 amount of the debt:

21 (A) A provider may not request or receive payment of any fee or
22 consideration until and unless:

23 (iii) ~~The fee or consideration either: Bears the same proportional~~
24 ~~relationship to the total fee for settling the terms of the entire debt balance~~
25 ~~as the individual debt amount bears to the entire debt amount, in which~~
26 ~~case the individual debt amount and the entire debt amount are those~~
27 ~~owed at the time the debt was enrolled in the service; or is a percentage~~

1 of the amount saved as a result of the settlement. The percentage charged
2 cannot change from one individual debt to another. The amount saved is
3 the difference between the amount owed at the time the debt was enrolled
4 in the plan and the amount actually paid to satisfy the debt THE FEE OR
5 OTHER CHARGE COMPLIES WITH RULES THAT THE ADMINISTRATOR ADOPTS
6 PURSUANT TO SUBSECTION (d)(2)(C) OF THIS SECTION.

7 (C) THE ADMINISTRATOR SHALL ADOPT RULES REGARDING THE FEE
8 OR CHARGE AUTHORIZED PURSUANT TO SUBSECTION (d)(2)(A)(iii) OF THIS
9 SECTION BY MARCH 1, 2025.

10 (4) ~~Except as otherwise provided in section 5-19-228 (d), if an~~
11 ~~individual does not assent to an agreement, a provider may receive for~~
12 ~~educational and counseling services it provides to the individual a fee not~~
13 ~~exceeding one hundred dollars or, with the approval of the administrator,~~
14 ~~a larger fee. The administrator may approve a fee larger than one hundred~~
15 ~~dollars if the nature and extent of the educational and counseling services~~
16 ~~warrant the larger fee.~~

17 (e) ~~If, before the expiration of ninety days after the completion or~~
18 ~~termination of educational or counseling services, an individual assents~~
19 ~~to an agreement, the provider shall refund to the individual any fee paid~~
20 ~~pursuant to subsection (d)(4) of this section.~~

21 **SECTION 6.** In Colorado Revised Statutes, 6-1-105, **add**
22 (1)(eeee) as follows:

23 **6-1-105. Unfair or deceptive trade practices - definitions.**

24 (1) A person engages in a deceptive trade practice when, in the course of
25 the person's business, vocation, or occupation, the person:

26 (eeee) (I) IF THE PERSON IS A CREDITOR THAT IS OWED A
27 CONSUMER DEBT, SEEKS OR SUPPORTS A WARRANT OR OTHERWISE

1 PROMOTES THE ARREST OR DETAINMENT OF A CONSUMER, INCLUDING ON
2 MOTIONS RELATED TO DISCOVERY OR CONTEMPT OF COURT, IN ANY LEGAL
3 ACTION AGAINST THE CONSUMER IN CONNECTION WITH AN ACTION TO
4 COLLECT OR ATTEMPT TO COLLECT THE DEBT; EXCEPT THAT NOTHING IN
5 THIS SUBSECTION (1)(eeee) LIMITS OR AFFECTS THE POWER OF A COURT TO
6 ISSUE AN ORDER OR A WARRANT.

7 (II) AS USED IN THIS SUBSECTION (1)(eeee), "CREDITOR" MEANS A
8 PERSON TO WHICH A CONSUMER DEBT IS OWED AT THE TIME OF CHARGE
9 OFF OR, IF THE DEBT WAS NOT CHARGED OFF, AT THE TIME OF DEFAULT.

10 **SECTION 7. Act subject to petition - effective date.** (1) Except
11 as specified in subsection (2) of this section, this act takes effect at 12:01
12 a.m. on the day following the expiration of the ninety-day period after
13 final adjournment of the general assembly; except that, if a referendum
14 petition is filed pursuant to section 1 (3) of article V of the state
15 constitution against this act or an item, section, or part of this act within
16 such period, then the act, item, section, or part will not take effect unless
17 approved by the people at the general election to be held in November
18 2024 and, in such case, will take effect on the date of the official
19 declaration of the vote thereon by the governor.

20 (2) Section 5-19-223 (d)(2)(A)(iii), (d)(4), and (e), Colorado
21 Revised Statutes, as amended in section 5 of this act, takes effect March
22 1, 2025.