

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

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.

HOUSE
Amended 2nd Reading
April 16, 2024

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, COLLECTION AGENCY, OR DEBT PURCHASER DOES
5 NOT COMPLY WITH THE REQUIREMENTS OF SECTION 5-16-111;

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

13 **SECTION 2.** In Colorado Revised Statutes, 5-16-111, **add** (1.5)
14 as follows:

15 **5-16-111. Legal actions by collection agencies.** (1.5) A DEBT
16 COLLECTOR OR COLLECTION AGENCY THAT IS NOT A CREDITOR OR DEBT
17 BUYER SHALL NOT BE THE NAMED PLAINTIFF IN A LEGAL ACTION ON A
18 DEBT AGAINST A CONSUMER UNLESS THE DEBT COLLECTOR OR
19 COLLECTION AGENCY:

20 (a) ENSURES THAT THE NAME OF THE PLAINTIFF IN THE CASE
21 CAPTION IS LISTED AS THE NAME OF THE ORIGINAL CREDITOR OR ASSIGNOR
22 AND THE NAME OF THE DEBT COLLECTOR OR COLLECTION AGENCY, IN
23 THAT ORDER;

24 (b) HAS A COMPLETE AND EFFECTIVE ASSIGNMENT, INCLUDING
25 COMPLETE SETTLEMENT AUTHORITY AND AUTHORITY TO RESOLVE THE
26 LITIGATION; AND

27 (c) ENSURES, IF THERE ARE MULTIPLE ORIGINAL CREDITORS OR

1 ASSIGNORS IN A LEGAL ACTION, THAT EACH IS LISTED IN THE CASE CAPTION
2 AS A SEPARATE PLAINTIFF ACCORDING TO SUBSECTION (1.5)(a) OF THIS
3 SECTION AND THAT THEIR INCLUSION IN THE ACTION COMPLIES WITH THE
4 RULES OF PERMISSIVE JOINDER PURSUANT TO COLORADO RULES OF CIVIL
5 PROCEDURE. JOINDER OF ACTIONS SUA SPONTE BY A COURT DOES NOT
6 VIOLATE THIS SUBSECTION (1.5).

7 SECTION 3. In Colorado Revised Statutes, 5-19-110, add (3),
8 (4), (5), (6), and (7) as follows:

9 5-19-110. Powers of administrator of the uniform consumer
10 credit code and district attorney - subpoenas - hearings - notification
11 - cease-and-desist orders - definitions. (3) (a) CREDIT SERVICES
12 ORGANIZATIONS SHALL FILE A NOTIFICATION WITH, AND PAY THE FEE
13 PRESCRIBED IN SUBSECTION (4) OF THIS SECTION TO, THE ADMINISTRATOR
14 WITHIN THIRTY DAYS AFTER COMMENCING BUSINESS IN THIS STATE AND,
15 THEREAFTER, ON OR BEFORE JULY 1 OF EACH YEAR. THE NOTIFICATION
16 MUST STATE:

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

18 (II) THE NAME IN WHICH BUSINESS IS TRANSACTED, IF THE NAME
19 IS DIFFERENT FROM THE NAME PROVIDED PURSUANT TO SUBSECTION
20 (3)(a)(I) OF THIS SECTION;

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

23 (IV) OTHER INFORMATION THE ADMINISTRATOR MAY REQUIRE.

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

27 (4) A PERSON REQUIRED TO FILE THE NOTIFICATION DESCRIBED IN

1 SUBSECTION (3) OF THIS SECTION SHALL PAY TO THE ADMINISTRATOR A
2 NONREFUNDABLE ANNUAL NOTIFICATION FEE. THE ADMINISTRATOR MAY
3 EXAMINE THE TRANSACTIONS, BUSINESS, AND RECORDS OF A PERSON THAT
4 FILES A NOTIFICATION WITHOUT ISSUANCE OF A SUBPOENA.

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

7 (6) (a) AFTER NOTICE AND HEARING, THE ADMINISTRATOR MAY
8 ORDER A PERSON TO CEASE AND DESIST FROM ENGAGING IN VIOLATIONS
9 OF THIS CODE OR ANY RULE OR ORDER LAWFULLY MADE PURSUANT TO
10 THIS PART 1. THE ORDER ISSUED BY THE ADMINISTRATOR MAY REQUIRE
11 THE PERSON TO PAY TO A BUYER A REFUND OF UNLAWFUL CHARGES UNDER
12 THIS PART 1 CHARGED TO THE BUYER AND TO PAY AN ADMINISTRATIVE
13 PENALTY OF UP TO ONE THOUSAND FIVE HUNDRED DOLLARS PER
14 VIOLATION.

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

18 (c) A RESPONDENT AGGRIEVED BY AN ORDER OF THE
19 ADMINISTRATOR MAY SEEK JUDICIAL REVIEW OF THE ORDER IN THE
20 COLORADO COURT OF APPEALS. THE ADMINISTRATOR MAY OBTAIN A
21 COURT ORDER FOR ENFORCEMENT OF THE ADMINISTRATOR'S ORDER IN
22 DISTRICT COURT UNDER SECTION 24-4-106. ALL PROCEEDINGS UNDER THIS
23 SECTION ARE GOVERNED BY SECTIONS 24-4-105 AND 24-4-106.

24 (7) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
25 REQUIRES:

26 (a) "ADMINISTRATOR" MEANS THE ADMINISTRATOR OF THE
27 UNIFORM CONSUMER CREDIT CODE.

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

3 **SECTION 4.** In Colorado Revised Statutes, 5-19-217, **amend**
4 (b)(3)(A) and (c)(3) as follows:

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

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

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

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

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

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

19 (B) Creditors that the provider expects to participate in the plan
20 but not grant concessions; AND

21 (C) Creditors that the provider expects not to participate in the
22 plan. ~~and~~

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

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

26 **5-19-218. Communication by electronic or other means -**
27 **definitions.** (b) A provider may satisfy the requirements of section

1 5-19-217, 5-19-219, or 5-19-227 by means of the internet or other
2 electronic means if the provider obtains a consumer's consent AT THE
3 TIME OF SATISFYING THE REQUIREMENTS OF SECTION 5-19-217, 5-19-219,
4 OR 5-19-227 in the manner provided by section 101 (c)(1) of the federal
5 act.

6 **SECTION 6.** In Colorado Revised Statutes, 5-19-223, **amend**
7 (d)(2)(A)(iii); **repeal** (d)(4) and (e); and **add** (d)(2)(C) as follows:

8 **5-19-223. Fees and other charges - rules.** (d) The following
9 rules apply:

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

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

15 (iii) ~~The fee or consideration either: Bears the same proportional~~
16 ~~relationship to the total fee for settling the terms of the entire debt balance~~
17 ~~as the individual debt amount bears to the entire debt amount, in which~~
18 ~~case the individual debt amount and the entire debt amount are those~~
19 ~~owed at the time the debt was enrolled in the service; or is a percentage~~
20 ~~of the amount saved as a result of the settlement. The percentage charged~~
21 ~~cannot change from one individual debt to another. The amount saved is~~
22 ~~the difference between the amount owed at the time the debt was enrolled~~
23 ~~in the plan and the amount actually paid to satisfy the debt~~ THE FEE OR
24 OTHER CHARGE COMPLIES WITH RULES THAT THE ADMINISTRATOR ADOPTS
25 PURSUANT TO SUBSECTION (d)(2)(C) OF THIS SECTION.

26 (C) THE ADMINISTRATOR SHALL ADOPT RULES REGARDING THE FEE
27 OR CHARGE AUTHORIZED PURSUANT TO SUBSECTION (d)(2)(A)(iii) OF THIS

1 SECTION BY MARCH 1, 2025.

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

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

13 **SECTION 7.** In Colorado Revised Statutes, 6-1-105, **add**
14 (1)(eeee) as follows:

15 **6-1-105. Unfair or deceptive trade practices - definitions.**

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

18 (eee) (I) IF THE PERSON IS A CREDITOR THAT IS OWED A
19 CONSUMER DEBT, SEEKS OR SUPPORTS A WARRANT OR OTHERWISE
20 PROMOTES THE ARREST OR DETAINMENT OF A CONSUMER, INCLUDING ON
21 MOTIONS RELATED TO DISCOVERY OR CONTEMPT OF COURT, IN ANY LEGAL
22 ACTION AGAINST THE CONSUMER IN CONNECTION WITH AN ACTION TO
23 COLLECT OR ATTEMPT TO COLLECT THE DEBT; EXCEPT THAT NOTHING IN
24 THIS SUBSECTION (1)(eeee) LIMITS OR AFFECTS THE POWER OF A COURT TO
25 ISSUE AN ORDER OR A WARRANT.

26 (II) AS USED IN THIS SUBSECTION (1)(eee), "CREDITOR" MEANS A
27 PERSON TO WHICH A CONSUMER DEBT IS OWED AT THE TIME OF CHARGE

1 OFF OR, IF THE DEBT WAS NOT CHARGED OFF, AT THE TIME OF DEFAULT.

2 **SECTION 8. Act subject to petition - effective date.** (1) Except
3 as specified in subsection (2) of this section, this act takes effect at 12:01
4 a.m. on the day following the expiration of the ninety-day period after
5 final adjournment of the general assembly; except that, if a referendum
6 petition is filed pursuant to section 1 (3) of article V of the state
7 constitution against this act or an item, section, or part of this act within
8 such period, then the act, item, section, or part will not take effect unless
9 approved by the people at the general election to be held in November
10 2024 and, in such case, will take effect on the date of the official
11 declaration of the vote thereon by the governor.

12 (2) Section 5-19-223 (d)(2)(A)(iii), (d)(4), and (e), Colorado
13 Revised Statutes, as amended in section 6 of this act, takes effect March
14 1, 2025.