

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

REENGROSSED

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

LLS NO. 20-1277.02 Megan Waples x4348

SENATE BILL 20-211

SENATE SPONSORSHIP

Winter and Gonzales, Danielson, Fenberg, Fields, Hansen, Lee, Moreno, Pettersen,
Rodriguez, Story, Todd

HOUSE SPONSORSHIP

Herod,

Senate Committees
Finance

House Committees

A BILL FOR AN ACT

101 **CONCERNING LIMITATIONS ON CERTAIN DEBT COLLECTION ACTIONS.**

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 establishes a 180-day prohibition on any new extraordinary debt collection actions from the effective date of the bill. An extraordinary collection action is defined as an action in the nature of a garnishment, attachment, levy, or execution to collect or enforce a judgment on a debt as defined under the "Colorado Fair Debt Collection Practices Act" (FDCPA). The use of an extraordinary collection action during the period of the prohibition constitutes an unfair and unconscionable means of collecting a debt under the FDCPA. The

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

SENATE
Amended 3rd Reading
June 8, 2020

SENATE
Amended 2nd Reading
June 6, 2020

administrator of the "Uniform Consumer Credit Code" (administrator) is authorized to issue an order extending the prohibition for up to an additional 180 days if the administrator finds that the extension is necessary to preserve the resources of state and local agencies or to protect the residents of Colorado from economic hardship as a result of the disaster emergency caused by COVID-19.

The bill amends provisions concerning property that is exempt from levy and sale under a writ of attachment or execution as follows:

- ! The value of household goods that are exempt is increased from \$3,000 to \$6,000;
- ! The value of a motor vehicle that is exempt is increased from \$7,500 to \$15,000;
- ! The value of a motor vehicle kept and used by an elderly or disabled debtor that is exempt is increased from \$12,500 to \$20,000; and
- ! An exemption for up to \$7,000 in a depository account in the name of the debtor is added.

In addition, the formulas for determining the amount of earnings subject to garnishment are amended to increase the amount of a debtor's earnings that are exempt.

An attempt to collect amounts in excess of what is permitted under statutes limiting garnishment, attachment, and execution is an unfair or unconscionable debt collection practice for purposes of the FDCPA.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) The COVID-19 epidemic has the potential to cause and has
5 caused economic hardship for Coloradans beyond those directly and
6 intimately affected by the declared disaster emergency. The economic
7 hardships caused, directly or indirectly, by the declared disaster
8 emergency may be made worse by the involuntary disablement of
9 property by extraordinary collection actions such as attachment,
10 garnishment, execution, and levy. Involuntary disablement of property
11 through these extraordinary collection actions contributes to significant
12 numbers of bankruptcies, foreclosures, evictions, and repossessions,

1 which threaten to create and do create further economic harm beyond
2 those directly affected.

3 (b) Existing regulations may not adequately protect consumers in
4 the context of a declared disaster emergency and may not be sufficient to
5 prevent the further economic harm caused by extraordinary collection
6 actions. It is therefore necessary to provide additional protections to
7 Colorado consumers.

8 **SECTION 2.** In Colorado Revised Statutes, **add** 24-33.5-704.3
9 as follows:

10 **24-33.5-704.3. Temporary prohibition on extraordinary**
11 **collection actions - extension - definitions - repeal.** (1) AS USED IN THIS
12 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

13 (a) "DEBT" HAS THE SAME MEANING AS SET FORTH IN SECTION
14 5-16-103 (8). "DEBT" DOES NOT INCLUDE ANY DEBT ARISING OUT OF A
15 PAST OR PRESENT CHILD SUPPORT OBLIGATION.

16 (b) "EXTRAORDINARY COLLECTION ACTION" MEANS ANY ACTION
17 OR PROCEEDING IN THE NATURE OF AN ATTACHMENT, GARNISHMENT,
18 LEVY, OR EXECUTION TO COLLECT OR ENFORCE A JUDGMENT ON A DEBT.

19
20 (2) IN ORDER TO PROTECT COLORADO RESIDENTS DURING THE
21 PUBLIC HEALTH CRISIS CAUSED BY COVID-19, FOR THE TIME PERIOD
22 BEGINNING ON THE EFFECTIVE DATE OF THIS SECTION AND ENDING ON
23 NOVEMBER 1, 2020, A JUDGMENT CREDITOR SHALL NOT INITIATE OR
24 MAINTAIN A NEW EXTRAORDINARY COLLECTION ACTION EXCEPT IN
25 ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION. A COURT
26 OF RECORD SHALL DENY WITHOUT PREJUDICE ANY REQUEST FOR ISSUANCE
27 OF A WRIT OR LEGAL PROCESS TO EFFECT AN EXTRAORDINARY COLLECTION

1 ACTION IF THE COURT FINDS THAT THE ACTION DOES NOT COMPLY WITH
2 THE REQUIREMENTS OF THIS SECTION. DURING THE TIME PERIOD
3 DESCRIBED IN THIS SUBSECTION (2), AND AS IT MAY BE EXTENDED UNDER
4 SUBSECTION (3) OF THIS SECTION, THE USE OF AN EXTRAORDINARY
5 COLLECTION ACTION CONSTITUTES AN UNFAIR AND UNCONSCIONABLE
6 MEANS OF COLLECTING A DEBT UNDER SECTION 5-16-108.

7 (3) THE ADMINISTRATOR OF THE "UNIFORM CONSUMER CREDIT
8 CODE", AS DEFINED IN SECTION 5-16-103 (1), MAY ISSUE AN ORDER
9 EXTENDING THE PROHIBITION SET FORTH IN SUBSECTION (2) OF THIS
10 SECTION THROUGH FEBRUARY 1, 2021, IF THE ADMINISTRATOR FINDS THAT
11 SUCH AN EXTENSION IS NECESSARY TO PRESERVE AND PRIORITIZE THE
12 RESOURCES OF STATE AND LOCAL AGENCIES OR TO PROTECT COLORADO
13 RESIDENTS FROM ECONOMIC HARDSHIP AS A RESULT OF THE DISASTER
14 EMERGENCY CAUSED BY COVID-19.

15 (4) FOR THE DURATION OF THE PERIOD ESTABLISHED IN
16 SUBSECTION (2) OF THIS SECTION, AND AS IT MAY BE EXTENDED UNDER
17 SUBSECTION (3) OF THIS SECTION, PRIOR TO THE EXECUTION OR SERVICE
18 OF A WRIT OR LEGAL PROCESS INTENDED TO EFFECT AN EXTRAORDINARY
19 COLLECTION ACTION, THE JUDGMENT CREDITOR SHALL PROVIDE A
20 WRITTEN NOTICE TO THE JUDGMENT DEBTOR. THE NOTICE MUST BE SENT
21 TO THE JUDGMENT DEBTOR AT LEAST TEN DAYS, BUT NOT MORE THAN
22 SIXTY DAYS, PRIOR TO THE EXECUTION OR SERVICE OF A WRIT OR LEGAL
23 PROCESS INTENDED TO EFFECT THE EXTRAORDINARY COLLECTION ACTION
24 DURING THE DURATION OF THE PERIOD ESTABLISHED IN ACCORDANCE
25 WITH SUBSECTION (2) OF THIS SECTION, AND AS IT MAY BE EXTENDED
26 UNDER SUBSECTION (3) OF THIS SECTION.

27 (5) (a) (I) THE NOTICE REQUIRED BY SUBSECTION (4) OF THIS

1 SECTION MUST BE IN AT LEAST SIXTEEN POINT TYPE FACE, AND MUST
2 INCLUDE THE FOLLOWING:

3 **"YOU HAVE THE RIGHT TO TEMPORARILY SUSPEND THIS**
4 **COLLECTION ACTION IF YOU ARE FACING FINANCIAL**
5 **HARDSHIP DUE TO THE COVID-19 EMERGENCY.**

6 JUDGMENT CREDITOR NAME:

7 JUDGMENT CREDITOR ADDRESS:

8 CASE NUMBER:

9 PHONE:

10 THE ABOVE JUDGMENT CREDITOR INTENDS ON EXECUTING A COLLECTION
11 ACTION AGAINST YOU. IF YOU HAVE EXPERIENCED FINANCIAL HARDSHIP
12 DUE TO THE COVID-19 EMERGENCY, DIRECTLY OR INDIRECTLY, YOU
13 HAVE THE RIGHT TO SUSPEND TEMPORARILY THIS EXTRAORDINARY
14 COLLECTION ACTION. THE SUSPENSION IS EFFECTIVE UNTIL NOVEMBER 1,
15 2020, OR FEBRUARY 1, 2021, IF THE STATE OF COLORADO EXTENDS THE
16 PERIOD OF SUSPENSION.

17 **TO EXERCISE THIS RIGHT, YOU MUST NOTIFY THE JUDGMENT CREDITOR**
18 **THAT YOU ARE EXPERIENCING FINANCIAL HARDSHIP DUE TO THE**
19 **COVID-19 EMERGENCY. YOU CAN PROVIDE THIS NOTICE BY PHONE CALL**
20 **OR BY WRITING TO THE CREDITOR AT THE ADDRESS SHOWN IN THIS NOTICE.**
21 **YOUR NOTIFICATION TO THE JUDGMENT CREDITOR MUST INCLUDE YOUR**
22 **FULL NAME (FIRST AND LAST), THE CASE NUMBER IDENTIFIED ABOVE AND**
23 **AT LEAST ONE (1) ADDITIONAL PIECE OF THE FOLLOWING INFORMATION:**
24 **YOUR DATE OF BIRTH, SOCIAL SECURITY NUMBER, PHYSICAL AND MAILING**

1 ADDRESSES, OR THE JUDGMENT CREDITOR'S INTERNAL ACCOUNT NUMBER
2 OR IDENTIFIER, IF DIFFERENT FROM THE CASE NUMBER DESIGNATED
3 ABOVE. YOU ARE NOT REQUIRED TO PROVIDE DOCUMENTATION TO
4 SUPPORT YOUR REQUEST.

5 NOTE: REQUESTING THE TEMPORARY SUSPENSION OF THIS
6 EXTRAORDINARY DEBT COLLECTION ACTION IS NOT A WAIVER OF THE
7 OBLIGATION TO PAY OR DEBT FORGIVENESS. INTEREST MAY CONTINUE TO
8 ACCRUE ON THE JUDGMENT DEBT EVEN WHILE EXTRAORDINARY
9 COLLECTION ACTIONS ARE SUSPENDED.

10 YOU MAY ENTER INTO A VOLUNTARY REPAYMENT PLAN WITH THE
11 JUDGMENT CREDITOR, BUT YOU ARE NOT REQUIRED TO DO SO."

12 (II) A NOTICE ISSUED BY A BANK TO A JUDGMENT DEBTOR MUST
13 ALSO INCLUDE ALL NECESSARY FEDERAL REGULATORY LANGUAGE.

14 (b) THE NOTICE REQUIREMENTS UNDER THIS SECTION TERMINATE
15 ONCE THE PERIOD PROSCRIBED IN SUBSECTION (2) OF THIS SECTION, AND
16 AS IT MAY BE EXTENDED UNDER SUBSECTION (3) OF THIS SECTION,
17 EXPIRES. THE NOTICE MUST BE SENT TO A JUDGMENT DEBTOR AT THE
18 DEBTOR'S LAST KNOWN ADDRESS TO THE JUDGMENT CREDITOR. AN
19 ADDITIONAL COPY OF THE NOTICE MUST ALSO BE SERVED WITH THE WRIT
20 OF GARNISHMENT. IN THE CASE OF A WRIT OF CONTINUING GARNISHMENT
21 FOR WAGES, THE NOTICE MUST ACCOMPANY THE WRIT SERVED UPON THE
22 GARNISHEE. THE FAILURE OF THE GARNISHEE OR ITS AGENT TO PROVIDE
23 THE NOTICE TO THE JUDGMENT DEBTOR REQUIRED BY THIS SUBSECTION (5)
24 DOES NOT CREATE A CAUSE OF ACTION OR REMEDY AGAINST A JUDGMENT

1 CREDITOR.

2 (6) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022.

3 **SECTION 3.** In Colorado Revised Statutes, 13-54-102, add

4 (1)(w) as follows:

5 **13-54-102. Property exempt - definitions - repeal.** (1) The
6 following property is exempt from levy and sale under writ of attachment
7 or writ of execution:

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9 (w) (I) THROUGH FEBRUARY 1, 2021, UP TO FOUR THOUSAND
10 DOLLARS CUMULATIVE IN A DEPOSITORY ACCOUNT OR ACCOUNTS IN THE
11 NAME OF THE DEBTOR.

12 (II) THIS SUBSECTION (1)(w) IS REPEALED, EFFECTIVE SEPTEMBER
13 1, 2022.

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15 **SECTION 4.** In Colorado Revised Statutes, 5-16-108, **add** (1)(k)
16 as follows:

17 **5-16-108. Unfair practices.** (1) A debt collector or collection
18 agency shall not use unfair or unconscionable means to collect or attempt
19 to collect any debt, including, but not limited to, the following conduct:

20 (k) AN ATTEMPT TO COLLECT AN AMOUNT IN EXCESS OF THE
21 AMOUNTS PERMITTED UNDER SECTION 13-54-102 OR 13-54-104.

22 **SECTION 5. Applicability.** Section 3 of this act applies to writs
23 of garnishment, attachment, or execution ordered on or after the effective
24 date of this act.

25 **SECTION 6. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, or safety.