

The House Committee on Agriculture and Consumer Affairs offers the following substitute to HB 187:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 4 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated,
2 relating to fraud and related practices, so as to authorize for-profit credit repair organizations;
3 to revise the definition of "credit repair organization"; to provide for related matters; to repeal
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 4 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated, relating to fraud
8 and related practices, is amended by revising Code Section 16-9-59, relating to operation of
9 credit repair services organization, as follows:

10 "16-9-59.

11 (a) As used in this Code section, the term:

12 (1) 'Buyer' means any individual who is solicited to purchase or who purchases the
13 services of a credit repair ~~services~~ organization.

14 (2)(A) 'Credit repair ~~services~~ organization' means any person who, with respect to the
15 extension of credit to a buyer by others, sells, provides, or performs, or represents that

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he can or will sell, provide, or perform, in return for the payment of money or other valuable consideration any of the following services:

- (i) Improving a buyer's credit record, history, or rating;
- (ii) Obtaining an extension of credit for a buyer; or
- (iii) Providing advice or assistance to a buyer with regard to either division (i) or (ii) of this subparagraph.

(B) 'Credit repair ~~services~~ organization' does not include:

- (i) Any person authorized to make loans or extensions of credit under the laws of this state or the United States who is subject to regulation and supervision by this state or the United States;
- (ii) Any bank or savings and loan institution whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation;
- (iii) Any nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986;
- (iv) Any person licensed as a real estate broker by this state if the person is acting within the course and scope of that license;
- (v) Any person licensed to practice law in this state if the person renders services within the course and scope of his or her practice as an attorney;
- (vi) Any broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission if the broker-dealer is acting within the course and scope of those regulatory agencies; or
- (vii) Any consumer reporting agency as defined in the federal Fair Credit Reporting Act (15 U.S.C. 1681-1681t).

(C) 'Credit repair organization' also does not include any credit repair organization, as defined by 15 U.S.C. Section 1679a, that complies with the following consumer protections:

(i) Obtains a bond in the amount of \$100,000.00, which shall be filed with the Office of the Attorney General pursuant to rules and regulations promulgated by such department and shall remain in place for at least one year after the credit repair organization has ceased all activities in this state, and which shall be used to cover administrative fines or civil damages suffered by any buyer or through any enforcement action;

(ii) Provides:

(I) A written contract to the buyer setting out the services such credit repair organization provides and the amount that will be due each month for such services;

(II) An information statement informing the buyer of the buyer's right to challenge and dispute items on a credit report on the buyer's own; stating that the credit repair organization will only challenge or dispute items that the buyer affirms are either unfair, inaccurate, or unsubstantiated; and informing the buyer of the right to proceed against the bond along with the name and address of the bond surety; and

(III) A notice of cancellation that informs the buyer of the right to rescind the agreement within five business days after entering into the contract and the right to cancel services at any time, along with a preprinted form containing the mailing address of the credit repair organization;

(iii) Does not engage in debt adjusting, as such term is defined in Code Section 18-5-1; and

(iv) Does not do any of the following:

(I) Charge or receive any money or other valuable consideration before providing services listed in the contract, and when a credit repair organization provides services on a periodic basis and through periodic payments only so long as the contract contains a provision explaining how the buyer will be billed in substantially equal periodic payments at fixed time intervals;

69 (II) For the payment of money or other valuable consideration, add an authorized
70 user to a credit card account;

71 (III) Guarantee that a buyer's credit score or credit report will be improved through
72 such buyer contracting with such credit repair organization;

73 (IV) Seek an investigation by a third party of a trade line on a credit report without
74 the authorization of the buyer;

75 (V) Counsel or advise any buyer to make any statement that is untrue or misleading
76 with respect to a buyer's creditworthiness, credit standing, or credit capacity to any
77 consumer reporting agency or any person that has extended credit to such buyer or
78 to whom such buyer has applied or is applying for an extension of credit;

79 (VI) Make any statement, or advise or counsel any buyer to make any statement,
80 the intended effect of which is to alter the buyer's identification to prevent the
81 display of such buyer's credit record, history, or rating for the purpose of concealing
82 adverse information that is accurate and not obsolete to any consumer reporting
83 agency, any person that has extended credit to such buyer or to the person to whom
84 such buyer has applied or is applying for an extension of credit;

85 (VII) Make or use any untrue or misleading representation about the services of the
86 credit repair organization;

87 (VIII) Engage, directly or indirectly, in any act, practice, or course of business that
88 constitutes or results in the commission of, or an attempt to commit, a fraud or
89 deception on any person in connection with the offer or sale of the services of the
90 credit repair organization;

91 (IX) Fail to permit the buyer to cancel a contract with the credit repair organization
92 without obligation within five business days after the contract was signed by such
93 buyer;

(X) Fail to provide the buyer with a copy of the fully completed contract and all other documents the credit repair organization requires such buyer to sign at the time such contracts and documents are signed;

(XI) Fail to permit a buyer to cancel the contract by phone call, email, text message, or website;

(XII) Fail to ensure that every contract between the buyer and a credit repair organization for the purchase of credit services is in writing, dated, and signed by the buyer and includes: the phone number, physical address, and website address of the credit repair organization; a conspicuous statement in size equal to at least 10 point boldface type, in immediate proximity to the space reserved for the signature of the buyer, that reads: 'You, the buyer, may cancel this contract at any time before midnight on the fifth working day after you sign it'; a statement informing the buyer that the contract may be canceled at any time by phone call, email, text message, or website; the terms and conditions of payment for the services that the credit repair organization will provide to the buyer; and, if the credit repair organization provides services on a periodic basis, a provision explaining how the buyer shall be billed in substantially equal periodic payments at fixed time intervals;

(XIII) Counsel or advise any buyer to make inauthentic and unfounded claims of identity theft; or

(XIV) Counsel or advise any buyer to change his or her mailing address or address of domicile with any address affiliated with such credit repair organization.

(b) A person commits the offense of operating a credit repair ~~services~~ organization when he or she owns, operates, or is affiliated with a credit repair ~~services~~ organization.

(c) Any person who commits the offense of operating a credit repair ~~services~~ organization shall be guilty of a misdemeanor."

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SECTION 2.

120 All laws and parts of laws in conflict with this Act are repealed.