

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0298.01 Kristen Forrestal x4217

SENATE BILL 17-216

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SENATE SPONSORSHIP

Gardner,

HOUSE SPONSORSHIP

Becker K. and Lontine,

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Senate Committees  
Judiciary

House Committees

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A BILL FOR AN ACT

101 CONCERNING CONTINUATION OF THE REGULATION OF COLLECTION  
102 AGENCIES UNDER THE "COLORADO FAIR DEBT COLLECTION  
103 PRACTICES ACT", AND, IN CONNECTION THEREWITH,  
104 IMPLEMENTING THE RECOMMENDATIONS OF THE 2016 SUNSET  
105 REPORT OF THE DEPARTMENT OF REGULATORY AGENCIES.

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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/>.)*

**Sunset Process - Senate Judiciary Committee.** The bill implements the recommendations of the sunset review and report on the

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

continuation of the "Colorado Fair Debt Collection Practices Act" (Act)  
by:

- ! Continuing the Act through 2028;
- ! Defining what is expected of a collection agency that purchases, sells, or attempts to collect on a purchased debt;
- ! Clarifying that when a collection agency attempts to collect on a debt, the Act applies, by removing language from the definition of "debt";
- ! Clarifying that the statute of limitations for private actions and actions by the administrator of the Act is 4 years;
- ! Repealing the collection agency board; and
- ! Allowing consumers who have monetary judgments against a collection agency to access surety bond funds.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-34-104, **repeal**  
3 (12)(a)(VII); and **add** (29) as follows:

4 **24-34-104. General assembly review of regulatory agencies**  
5 **and functions for repeal, continuation, or reestablishment - legislative**  
6 **declaration - repeal.** (12) (a) The following agencies, functions, or both,  
7 will repeal on July 1, 2017:

8 ~~(VII) The regulation of collection agencies in accordance with~~  
9 ~~article 14 of title 12, C.R.S.;~~

10 (29) (a) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, ARE  
11 SCHEDULED FOR REPEAL ON SEPTEMBER 1, 2028:

12 (I) THE ADMINISTRATION OF THE "COLORADO FAIR DEBT  
13 COLLECTION PRACTICES ACT" BY THE ADMINISTRATOR OF THE "UNIFORM  
14 CONSUMER CREDIT CODE", ARTICLES 1 TO 9 OF TITLE 5, IN ACCORDANCE  
15 WITH ARTICLE 14 OF TITLE 12.

16 (b) THIS SUBSECTION (29) IS REPEALED, EFFECTIVE SEPTEMBER 1,  
17 2030.

18 **SECTION 2.** In Colorado Revised Statutes, **amend** 12-14-137 as

1 follows:

2 **12-14-137. Repeal of article.** This ~~article~~ ARTICLE 14 is repealed,  
3 effective ~~July 1, 2017~~ SEPTEMBER 1, 2028. BEFORE ITS REPEAL, THIS  
4 ARTICLE 14 IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION  
5 24-34-104.

6 **SECTION 3.** In Colorado Revised Statutes, 12-14-103, **amend**  
7 the introductory portion and (6)(a); **repeal** (1.5); and **add** (9.7) as  
8 follows:

9 **12-14-103. Definitions.** As used in this ~~article~~ ARTICLE 14, unless  
10 the context otherwise requires:

11 (1.5) ~~"Board" means the collection agency board created in~~  
12 ~~section 12-14-116.~~

13 (6) (a) "Debt" means any obligation or alleged obligation of a  
14 consumer to pay money, ~~arising out of a transaction~~, whether or not ~~such~~  
15 THE obligation has been reduced to judgment.

16 (9.7) "RETIRED DEBT" MEANS DEBT AS TO WHICH ANY OF THE  
17 FOLLOWING IS TRUE:

18 (a) IT HAS BEEN DISCHARGED IN A CHAPTER 7 BANKRUPTCY CASE  
19 WITH NO ASSETS FOR DISTRIBUTION TO CREDITORS;

20 (b) THE LICENSEE HAS BEEN INFORMED OR HAS KNOWLEDGE THAT  
21 THE CONSUMER RESPONSIBLE FOR THE DEBT IS DECEASED;

22 (c) IT HAS BEEN SETTLED;

23 (d) MORE THAN FOUR YEARS HAVE PASSED SINCE THE DATE OF THE  
24 CONSUMER'S LAST PAYMENT; OR

25 (e) IT IS BEYOND THE DATE OF OBSOLESCENCE UNDER SECTION  
26 1681c OF THE FEDERAL "FAIR CREDIT REPORTING ACT", 15 U.S.C. SEC.  
27 1681 ET SEQ., AS AMENDED.

1           **SECTION 4.** In Colorado Revised Statutes, 12-14-113, **amend**  
2 (3) and (4) as follows:

3           **12-14-113. Civil liability.** (3) A debt collector, private child  
4 support collector, as defined in section 12-14.1-102 (9), or collection  
5 agency may not be held liable in any action brought pursuant to ~~the~~  
6 ~~provisions of this article~~ THIS SECTION if the debt collector or collection  
7 agency shows by a preponderance of evidence that the violation was not  
8 intentional or grossly negligent and ~~which~~ THE violation resulted from a  
9 bona fide error, notwithstanding the maintenance of procedures  
10 reasonably adapted to avoid any such error.

11           (4) ~~An~~ A PRIVATE action to enforce any liability created by ~~the~~  
12 ~~provisions of this article may~~ THIS SECTION MUST be brought in any court  
13 of competent jurisdiction within one year from the date on which the  
14 violation occurs.

15           **SECTION 5.** In Colorado Revised Statutes, **repeal** 12-14-116.

16           **SECTION 6.** In Colorado Revised Statutes, 12-14-117, **repeal** (1)  
17 as follows:

18           **12-14-117. Powers and duties of the administrator.** (1) ~~Any~~  
19 ~~provision of this article to the contrary notwithstanding, the board, created~~  
20 ~~by section 12-14-116, is under the supervision and control of the~~  
21 ~~administrator, who may exercise any of the powers granted to the board.~~

22           **SECTION 7.** In Colorado Revised Statutes, 12-14-123, **add**  
23 (1)(g), (1)(h), and (1)(i) as follows:

24           **12-14-123. Duties of collection agencies.** (1) A licensee shall:

25           (g) WHEN A DEBT IS SOLD, INCLUDE IN THE TRANSACTION ALL  
26 RELEVANT DOCUMENTATION, AS DETERMINED BY RULE OF THE  
27 ADMINISTRATOR, CONCERNING THE ORIGINAL TRANSACTION AND THE

1 CREDITOR VERIFYING THE DEBT;

2 (h) IF A DEBT IS UNDER DISPUTE AND BEING SOLD, INCLUDE  
3 DOCUMENTATION THAT THE DEBT IS UNDER DISPUTE AND THAT THE  
4 CONSUMER MAY NOT BE CONTACTED UNLESS VERIFICATION OF THE DEBT  
5 IS DOCUMENTED;

6 (i) NOT SELL A RETIRED DEBT AS AN ACCOUNT RECEIVABLE.

7 **SECTION 8.** In Colorado Revised Statutes, 12-14-124, **amend**  
8 (4) as follows:

9 **12-14-124. Bond.** (4) (a) If a receiver has been appointed by any  
10 court of competent jurisdiction in the state of Colorado to take charge of  
11 the assets of any licensee, ~~such~~ THE receiver, upon the written consent of  
12 the administrator, may demand and receive payment on the bond from the  
13 surety and, upon order of the court, may bring suit upon the bond in the  
14 name of ~~such~~ THE receiver, without joining the administrator as a party to  
15 the action.

16 (b) (I) IN A PRIVATE ACTION PURSUANT TO SECTION 12-14-113 (4),  
17 THE CONSUMER MAY BRING SUIT UPON THE BOND IN THE NAME OF THE  
18 CONSUMER.

19 (II) AN ORDER FOR RESTITUTION FOR A CONSUMER PURSUANT TO  
20 SECTION 12-14-135 MAY INCLUDE RESTITUTION MADE THROUGH THE  
21 BOND.

22 **SECTION 9.** In Colorado Revised Statutes, 12-14-128, **amend**  
23 (1) introductory portion; and **add** (1)(d) as follows:

24 **12-14-128. Unlawful acts.** (1) In addition to the unlawful acts  
25 specified in sections 12-14-112 and 12-14-115, it is unlawful and a  
26 violation of this ~~article~~ ARTICLE 14 for any person:

27 (d) TO CONTACT A DEBTOR AFTER THE FOUR-YEAR STATUTE OF

1       LIMITATIONS HAS RUN AFTER THE LAST PAYMENT WAS MADE ON A DEBT.

2               **SECTION 10.** In Colorado Revised Statutes, **add** 12-14-128.5 as  
3 follows:

4               **12-14-128.5. Statute of limitations - actions by administrator.**

5 AN ACTION OR PROCEEDING BROUGHT BY THE ADMINISTRATOR PURSUANT  
6 TO THIS ARTICLE 14 OR PURSUANT TO ANY RULE ISSUED BY THE  
7 ADMINISTRATOR UNDER THIS ARTICLE 14 MUST BE BROUGHT WITHIN FOUR  
8 YEARS AFTER THE DATE ON WHICH THE VIOLATION OCCURRED.

9               **SECTION 11.** In Colorado Revised Statutes, 12-14-130, **amend**  
10 (12) as follows:

11               **12-14-130. Complaint - investigations - powers of**  
12 **administrator - sanctions.** (12) ~~Members of the collection agency~~  
13 ~~board,~~ The administrator, expert witnesses, and consultants ~~shall be~~ ARE  
14 immune from civil suit when they perform any duties in connection with  
15 any proceedings authorized under this section in good faith. Any person  
16 who files a complaint in good faith under this section ~~shall be~~ IS immune  
17 from civil suit.

18               **SECTION 12. Safety clause.** The general assembly hereby finds,  
19 determines, and declares that this act is necessary for the immediate  
20 preservation of the public peace, health, and safety.