

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

**ENGROSSED**

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

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  
Appropriations

**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 AND**  
106            **REDUCING AN APPROPRIATION.**

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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

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.*

SENATE  
Amended 2nd Reading  
April 19, 2017

implements the recommendations of the sunset review and report on the 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.

1           **SECTION 2.** In Colorado Revised Statutes, **amend** 12-14-137 as  
2 follows:

3           **12-14-137. Repeal of article.** This ~~article~~ ARTICLE 14 is repealed,  
4 effective ~~July 1, 2017~~ SEPTEMBER 1, 2028. BEFORE ITS REPEAL, THIS  
5 ARTICLE 14 IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION  
6 24-34-104.

7           **SECTION 3.** In Colorado Revised Statutes, 12-14-103, **repeal**  
8 **(1.5); and add (6.5) as 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                 =  
14           **(6.5) "DEBT BUYER" MEANS A PERSON WHO ENGAGES IN THE**  
15 **BUSINESS OF PURCHASING DEBT FOR COLLECTION PURPOSES, WHETHER IT**  
16 **COLLECTS THE DEBT ITSELF, HIRES A THIRD PARTY FOR COLLECTION, OR**  
17 **HIRES AN ATTORNEY FOR LITIGATION IN ORDER TO COLLECT THE DEBT.**  
18 **DEBT BUYERS ARE COLLECTION AGENCIES FOR THE PURPOSES OF THIS**  
19 **ARTICLE 14.**

20           **SECTION 4.** In Colorado Revised Statutes, 12-14-111, **add (2),**  
21 **(3), and (4) as follows:**

22           **12-14-111. Legal actions by collection agencies. (2) A DEBT**  
23 **COLLECTOR OR COLLECTION AGENCY WHO BRINGS A LEGAL ACTION ON A**  
24 **DEBT OWNED BY A DEBT BUYER SHALL ATTACH THE FOLLOWING**  
25 **MATERIALS TO THE COMPLAINT OR FORM:**

26           **(a) (I) A COPY OF THE CONTRACT, ACCOUNT-HOLDER AGREEMENT,**  
27 **OR OTHER WRITING FROM THE ORIGINAL CREDITOR OR THE CONSUMER**

1 EVIDENCING THE CONSUMER'S AGREEMENT TO THE ORIGINAL DEBT:

2 (II) IN THE CASE OF A MEDICAL DEBT, A COPY OF A REDACTED  
3 ITEMIZATION OF CHARGES INCURRED;

4 (III) IF A SIGNED WRITING EVIDENCING THE ORIGINAL DEBT DOES  
5 NOT EXIST, A COPY OF THE DOCUMENT PROVIDED TO THE CONSUMER  
6 WHILE THE ACCOUNT WAS ACTIVE, DEMONSTRATING THAT THE DEBT WAS  
7 INCURRED BY THE CONSUMER; OR, FOR A CREDIT CARD DEBT, THE MOST  
8 RECENT MONTHLY STATEMENT RECORDING A PURCHASE TRANSACTION,  
9 PAYMENT, OR BALANCE TRANSFER; OR

10 (IV) IF A CLAIM IS BASED ON AN ELECTRONIC TRANSACTION FOR  
11 WHICH A SIGNED WRITING EVIDENCING THE ORIGINAL DEBT NEVER  
12 EXISTED, A COPY OF THE RECORDS CREATED DURING THE TRANSACTION  
13 EVIDENCING THE CONSUMER'S AGREEMENT TO THE DEBT AND RECORDING  
14 THE DATE AND TERMS OF THE TRANSACTION AND INFORMATION PROVIDED  
15 BY THE CONSUMER DURING THE TRANSACTION; AND

16 (b) A COPY OF THE ASSIGNMENT OR OTHER WRITING ESTABLISHING  
17 THAT THE DEBT BUYER IS THE OWNER OF THE DEBT. IF THE DEBT WAS  
18 ASSIGNED MORE THAN ONCE, EACH ASSIGNMENT OR OTHER WRITING  
19 EVIDENCING TRANSFER OF OWNERSHIP MUST BE ATTACHED TO ESTABLISH  
20 AN UNBROKEN CHAIN OF OWNERSHIP, BEGINNING WITH THE ORIGINAL  
21 CREDITOR TO THE FIRST DEBT BUYER AND EACH SUBSEQUENT SALE.

22 (3) PRIOR TO ENTRY OF A DEFAULT JUDGMENT AGAINST A  
23 CONSUMER IN A LEGAL ACTION ON A DEBT OWNED BY A DEBT BUYER, THE  
24 PLAINTIFF SHALL FILE WITH THE COURT EVIDENCE THAT SATISFIES THE  
25 REQUIREMENTS OF RULES 803(6) AND 902(11) OF THE COLORADO RULES  
26 OF EVIDENCE OR IS OTHERWISE AUTHORIZED BY LAW OR RULE THAT  
27 ESTABLISHES THE AMOUNT AND NATURE OF THE DEBT AND INCLUDE:

- 1           (a) THE ORIGINAL ACCOUNT NUMBER AT CHARGE-OFF;
- 2           (b) THE ORIGINAL CREDITOR AT CHARGE-OFF;
- 3           (c) THE AMOUNT DUE AT CHARGE-OFF OR, IF THE BALANCE HAS
- 4 NOT BEEN CHARGED OFF, AN ITEMIZATION OF THE AMOUNT CLAIMED TO BE
- 5 OWED, INCLUDING THE PRINCIPAL, INTEREST, FEES, AND OTHER CHARGES
- 6 OR REDUCTIONS FROM PAYMENT MADE OR OTHER CREDITS;
- 7           (d) AN ITEMIZATION OF POST CHARGE-OFF ADDITIONS, IF ANY;
- 8           (e) (I) THE DATE OF THE LAST PAYMENT, IF APPLICABLE; OR
- 9           (II) THE DATE OF THE LAST TRANSACTION; AND
- 10          (f) IF THE ACCOUNT IS NOT A REVOLVING CREDIT ACCOUNT, THE
- 11 DATE THE DEBT WAS INCURRED.

12           (4) IN THE ABSENCE OF EVIDENCE REQUIRED BY SUBSECTIONS  
13 (2)(a) OR (2)(b) AND (3) OF THIS SECTION, AN AFFIDAVIT DOES NOT SATISFY  
14 THE REQUIREMENTS OF THESE SUBSECTIONS.

15           **SECTION 5.** In Colorado Revised Statutes, 12-14-113, **amend**  
16 (3) and (4) as follows:

17           **12-14-113. Civil liability.** (3) A debt collector, private child  
18 support collector, as defined in section 12-14.1-102 (9), or collection  
19 agency may not be held liable in any action brought pursuant to ~~the~~  
20 ~~provisions of this article~~ THIS SECTION if the debt collector or collection  
21 agency shows by a preponderance of evidence that the violation was not  
22 intentional or grossly negligent and ~~which~~ THE violation resulted from a  
23 bona fide error, notwithstanding the maintenance of procedures  
24 reasonably adapted to avoid any such error.

25           (4) ~~An~~ A PRIVATE action to enforce any liability created by ~~the~~  
26 ~~provisions of this article may~~ THIS SECTION MUST be brought in any court  
27 of competent jurisdiction within one year from the date on which the

1 violation occurs.

2 **SECTION 6.** In Colorado Revised Statutes, **repeal** 12-14-116.

3 **SECTION 7.** In Colorado Revised Statutes, 12-14-117, **repeal**  
4 (1); and add (6), (7), and (8) as follows:

5 **12-14-117. Powers and duties of the administrator.** (1) ~~Any~~  
6 ~~provision of this article to the contrary notwithstanding, the board, created~~  
7 ~~by section 12-14-116, is under the supervision and control of the~~  
8 ~~administrator, who may exercise any of the powers granted to the board.~~

9 (6) THE ADMINISTRATOR SHALL PREPARE A REPORT ACCOUNTING  
10 FOR THE EFFICIENT DISCHARGE OF ALL RESPONSIBILITIES ASSIGNED BY  
11 LAW AND THE GENERAL ADMINISTRATION OF THE PROGRAM ON A  
12 BIANNUAL BASIS. IN ADDITION TO ANY OTHER INFORMATION DEEMED  
13 RELEVANT BY THE ADMINISTRATOR, THE BIANNUAL REPORT SHALL  
14 ADDRESS WITH SPECIFICITY THE FOLLOWING: ENFORCEMENT ACTIONS  
15 COMPLETED AND WHETHER THOSE ACTIONS WERE APPEALED OR  
16 OTHERWISE CHALLENGED, THE NUMBER OF COMPLAINTS PROCESSED AND  
17 DETAILS AS TO OUTCOMES AND RESOLUTIONS OF COMPLAINTS, AND  
18 CHANGES TO THE PROGRAM AND HOW THEY RELATE TO INDUSTRY OR  
19 CONSUMER CONCERNS. THE REPORT SHALL INCLUDE A DESCRIPTION OF  
20 ANY SIGNIFICANT LEGAL FILINGS SUCH AS AMICUS BRIEFS IN ANY COURT  
21 AND A SUMMARY OF NEW REGULATIONS, LEGAL DEVELOPMENTS THAT  
22 DIRECTLY IMPACT THE PROGRAM OR PROGRAM CHANGES, AND ANY  
23 SIGNIFICANT MATTERS THAT NEED TO BE ADDRESSED AT THE REQUEST OF  
24 THE REGULATED COMMUNITY OR PUBLIC. THE REPORT SHALL BE  
25 SUBMITTED TO THE SENATE JUDICIARY COMMITTEE AND THE HOUSE  
26 JUDICIARY COMMITTEE AND PUBLISHED ON THE ATTORNEY GENERAL'S  
27 WEBSITE BY JULY 1 AND DECEMBER 31 OF EACH YEAR.

1           (7) IN ORDER TO FACILITATE INFORMATION SHARING, TO PRESENT  
2           THE BIENNIAL REPORT OR SIMILAR INFORMATION, AND TO SOLICIT  
3           INFORMATION RELEVANT TO THE GENERAL ADMINISTRATION OF THE  
4           PROGRAM, THE ADMINISTRATOR, OR REPRESENTATIVE DESIGNATED BY THE  
5           ATTORNEY GENERAL, SHALL ATTEND MEETINGS AND CONFERENCES OF  
6           INTERESTED AND RELEVANT GROUPS AND ASSOCIATIONS. UPON  
7           ATTENDANCE, THE ADMINISTRATOR SHALL HAVE MINUTES FROM THOSE  
8           MEETINGS PREPARED AND PUBLISHED ON THE ATTORNEY GENERAL'S  
9           WEBSITE AND MADE PART OF THE NEXT BIENNIAL REPORT. THE  
10          ADMINISTRATOR, OR DESIGNEE, SHALL ATTEND THE FOLLOWING ON AN  
11          ANNUAL BASIS:

12           (a) AT THE INVITATION OF THE COLLECTION AGENCY INDUSTRY,  
13          ONE LOCAL AND ONE NATIONAL ASSOCIATION OF COLLECTION AGENCIES  
14          OR OTHER COLLECTION AGENCY TRADE ASSOCIATION MEETING;

15           (b) AT THE INVITATION OF THE COLLECTION AGENCY INDUSTRY,  
16          ONE ANNUAL MEETING OF OTHER BUSINESS ENTITY ASSOCIATIONS OR  
17          GROUPS THAT REPRESENT CLIENTS OF COLLECTION AGENCIES, DEBT  
18          BUYERS, OR OTHER RELATED TRADE ASSOCIATIONS; AND

19           (c) ONE ANNUAL MEETING OF A RELEVANT CONSUMER ADVOCACY  
20          ASSOCIATION.

21           (8) THE ADMINISTRATOR SHALL HOST AN ANNUAL PUBLIC MEETING  
22          IN JANUARY OF EACH YEAR, WITH DIRECT NOTICE AT LEAST ONE MONTH IN  
23          ADVANCE TO CONSUMER ADVOCACY GROUPS AND ASSOCIATIONS AND  
24          OTHER INTERESTED PARTIES. THE ADMINISTRATOR SHALL ALSO HOST AN  
25          ANNUAL PUBLIC MEETING IN JULY OF EACH YEAR WITH DIRECT NOTICE AT  
26          LEAST ONE MONTH IN ADVANCE TO LICENSEES, INDUSTRY GROUPS, CLIENT  
27          GROUPS AND OTHER INTERESTED PARTIES.

1           (9) THIS SUBSECTION (9) AND SUBSECTIONS (6), (7), AND (8) OF  
2 THIS SECTION ARE REPEALED, EFFECTIVE JULY 1, 2020.

3           ==  
4           **SECTION 8.** In Colorado Revised Statutes, 12-14-124, **add** (12)  
5 as follows:

6           **12-14-124. Bond.** (12) A BOND SHALL NOT BE REQUIRED OF A  
7 DEBT BUYER AS LONG AS THE DEBT BUYER DOES NOT ALSO PROVIDE  
8 THIRD-PARTY DEBT COLLECTION.

9           == ==  
10          **SECTION 9.** In Colorado Revised Statutes, **add** 12-14-128.5 as  
11 follows:

12          **12-14-128.5. Statute of limitations - actions by administrator.**  
13 AN ACTION OR PROCEEDING BROUGHT BY THE ADMINISTRATOR PURSUANT  
14 TO THIS ARTICLE 14 OR PURSUANT TO ANY RULE ISSUED BY THE  
15 ADMINISTRATOR UNDER THIS ARTICLE 14 MUST BE BROUGHT WITHIN TWO  
16 YEARS AFTER THE DATE ON WHICH THE VIOLATION OCCURRED.

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

19          **12-14-130. Complaint - investigations - powers of**  
20 **administrator - sanctions.** (12) ~~Members of the collection agency~~  
21 ~~board,~~ The administrator, expert witnesses, and consultants ~~shall be~~ ARE  
22 immune from civil suit when they perform any duties in connection with  
23 any proceedings authorized under this section in good faith. Any person  
24 who files a complaint in good faith under this section ~~shall be~~ IS immune  
25 from civil suit.

26          **SECTION 11.** In Colorado Revised Statutes, **add** 12-14-136.5 as  
27 follows:



1           **12-14-136.5. Debts sold or resold after January 1, 2018. THIS**  
2           **PART 1 APPLIES TO DEBT BUYERS WITH RESPECT TO CONSUMER DEBTS**  
3           **SOLD OR RESOLD ON OR AFTER JANUARY 1, 2018.**

4           **SECTION 12. Appropriation - adjustments to 2017 long bill.**  
5           **To implement this act, the cash fund appropriation from the collection**  
6           **agency cash fund created in section 12-14-136 (1)(a), C.R.S., made in the**  
7           **annual general appropriation act for the 2017-18 state fiscal year to the**  
8           **department of law for use by the division of consumer protection for the**  
9           **consumer credit unit is decreased by \$860.**

10           **SECTION 13. Effective date.** This act takes effect upon passage;  
11           **except that sections 3, 4, and 7 of this act take effect January 1, 2018.**

12           **SECTION 14. Safety clause.** The general assembly hereby finds,  
13           determines, and declares that this act is necessary for the immediate  
14           preservation of the public peace, health, and safety.