

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-1277.02 Megan Waples x4348

SENATE BILL 20-211

SENATE SPONSORSHIP

Winter and Gonzales,

HOUSE SPONSORSHIP

(None),

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.

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 debt**
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).

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

18 (c) "PERSON" HAS THE SAME MEANING AS SET FORTH IN SECTION
19 5-16-103 (11).

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 ONE
23 HUNDRED EIGHTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, A
24 PERSON SHALL NOT INITIATE A NEW EXTRAORDINARY DEBT COLLECTION
25 ACTION. A COURT OF RECORD SHALL DENY WITHOUT PREJUDICE ANY
26 REQUEST FOR ISSUANCE OF A WRIT OR LEGAL PROCESS TO EFFECT AN
27 EXTRAORDINARY COLLECTION ACTION. DURING THE TIME PERIOD

1 DESCRIBED IN THIS SUBSECTION (2), AND AS IT MAY BE EXTENDED UNDER
2 SUBSECTION (3) OF THIS SECTION, THE USE OF AN EXTRAORDINARY
3 COLLECTION ACTION CONSTITUTES AN UNFAIR AND UNCONSCIONABLE
4 MEANS OF COLLECTING A DEBT UNDER SECTION 5-16-108.

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

14 (4) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022.

15 **SECTION 3.** In Colorado Revised Statutes, 13-54-102, **amend**
16 (1)(e), (1)(j)(I), and (1)(j)(II)(A); and **add** (1)(w) as follows:

17 **13-54-102. Property exempt - definitions.** (1) The following
18 property is exempt from levy and sale under writ of attachment or writ of
19 execution:

20 (e) The household goods owned and used by the debtor or the
21 debtor's dependents to the extent of ~~three~~ SIX thousand dollars in value;

22 (j) (I) Up to two motor vehicles or bicycles kept and used by any
23 debtor in the aggregate value of ~~seven~~ FIFTEEN thousand ~~five hundred~~
24 dollars; or

25 (II) (A) Up to two motor vehicles or bicycles kept and used by any
26 elderly or disabled debtor or by any debtor with an elderly or disabled
27 spouse or dependent, in the aggregate value of ~~twelve~~ TWENTY thousand

1 ~~five hundred~~ dollars.

2 (w) UP TO SEVEN THOUSAND DOLLARS IN A DEPOSITORY ACCOUNT
3 IN THE NAME OF THE DEBTOR.

4 **SECTION 4.** In Colorado Revised Statutes, 13-54-104, **amend**
5 (2)(a)(I)(A), (2)(a)(I)(B), and (2)(a)(I)(C) as follows:

6 **13-54-104. Restrictions on garnishment and levy under**
7 **execution or attachment - definitions.** (2) (a) Except as provided in
8 subsection (3) of this section, the maximum part of the aggregate
9 disposable earnings of an individual for any workweek that is subjected
10 to garnishment or levy under execution or attachment may not exceed:

11 (I) For debts other than debts pursuant to subsection (2)(a)(II) of
12 this section, the lesser of:

13 (A) ~~Twenty~~ TEN percent of the individual's disposable earnings
14 for that week; or

15 (B) The amount by which the individual's disposable earnings for
16 that week exceed ~~forty~~ EIGHTY times the federal minimum hourly wage
17 prescribed by 29 U.S.C. sec. 206 (a)(1) in effect at the time the earnings
18 are payable; or

19 (C) The amount by which the individual's disposable earnings for
20 that week exceed ~~forty~~ EIGHTY times the state minimum hourly wage
21 pursuant to section 15 of article XVIII of the state constitution in effect
22 at the time the earnings are payable;

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

25 **5-16-108. Unfair practices.** (1) A debt collector or collection
26 agency shall not use unfair or unconscionable means to collect or attempt
27 to collect any debt, including, but not limited to, the following conduct:

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

3 **SECTION 6. Applicability.** Sections 3 and 4 of this act apply to
4 writs of garnishment, attachment, or execution ordered on or after the
5 effective date of this act.

6 **SECTION 7. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, or safety.