

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 10, 2017
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB17-216 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 3, strike lines 6 and 7, and substitute:
- 2 "SECTION 3. In Colorado Revised Statutes, 12-14-103, **repeal**
3 (1.5) as".
- 4 Page 3, strike lines 13 through 27.
- 5 Page 3, after line 27, insert:
- 6 "SECTION 4. In Colorado Revised Statutes, 12-14-111, **add** (2),
7 (3), and (4) as follows:
- 8 **12-14-111. Legal actions by collection agencies.** (2) A DEBT
9 COLLECTOR OR COLLECTION AGENCY WHO BRINGS A LEGAL ACTION ON A
10 DEBT OWNED BY A DEBT BUYER SHALL ATTACH THE FOLLOWING
11 MATERIALS TO THE COMPLAINT OR FORM:
- 12 (a) (I) A COPY OF THE CONTRACT, ACCOUNT-HOLDER AGREEMENT,
13 OR OTHER WRITING FROM THE ORIGINAL CREDITOR OR THE CONSUMER
14 EVIDENCING THE CONSUMER'S AGREEMENT TO THE ORIGINAL DEBT;
- 15 (II) IN THE CASE OF A MEDICAL DEBT, A COPY OF A REDACTED
16 ITEMIZATION OF CHARGES INCURRED;
- 17 (III) IF A SIGNED WRITING EVIDENCING THE ORIGINAL DEBT DOES
18 NOT EXIST, A COPY OF THE DOCUMENT PROVIDED TO THE CONSUMER
19 WHILE THE ACCOUNT WAS ACTIVE, DEMONSTRATING THAT THE DEBT WAS
20 INCURRED BY THE CONSUMER; OR, FOR A CREDIT CARD DEBT, THE MOST
21 RECENT MONTHLY STATEMENT RECORDING A PURCHASE TRANSACTION,
22 PAYMENT, OR BALANCE TRANSFER; OR

1 (IV) IF A CLAIM IS BASED ON AN ELECTRONIC TRANSACTION FOR
2 WHICH A SIGNED WRITING EVIDENCING THE ORIGINAL DEBT NEVER
3 EXISTED, A COPY OF THE RECORDS CREATED DURING THE TRANSACTION
4 EVIDENCING THE CONSUMER'S AGREEMENT TO THE DEBT AND RECORDING
5 THE DATE AND TERMS OF THE TRANSACTION AND INFORMATION PROVIDED
6 BY THE CONSUMER DURING THE TRANSACTION; AND

7 (b) A COPY OF THE ASSIGNMENT OR OTHER WRITING ESTABLISHING
8 THAT THE DEBT BUYER IS THE OWNER OF THE DEBT. IF THE DEBT WAS
9 ASSIGNED MORE THAN ONCE, EACH ASSIGNMENT OR OTHER WRITING
10 EVIDENCING TRANSFER OF OWNERSHIP MUST BE ATTACHED TO ESTABLISH
11 AN UNBROKEN CHAIN OF OWNERSHIP, BEGINNING WITH THE ORIGINAL
12 CREDITOR TO THE FIRST DEBT BUYER AND EACH SUBSEQUENT SALE.

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

- 19 (a) THE ORIGINAL ACCOUNT NUMBER AT CHARGE-OFF;
- 20 (b) THE ORIGINAL CREDITOR AT CHARGE-OFF;
- 21 (c) THE AMOUNT DUE AT CHARGE-OFF OR, IF THE BALANCE HAS
22 NOT BEEN CHARGED OFF, AN ITEMIZATION OF THE AMOUNT CLAIMED TO BE
23 OWED, INCLUDING THE PRINCIPAL, INTEREST, FEES, AND OTHER CHARGES
24 OR REDUCTIONS FROM PAYMENT MADE OR OTHER CREDITS;
- 25 (d) AN ITEMIZATION OF POST CHARGE-OFF ADDITIONS, IF ANY;
- 26 (e) (I) THE DATE OF THE LAST PAYMENT, IF APPLICABLE; OR
27 (II) THE DATE OF THE LAST TRANSACTION; AND
- 28 (f) IF THE ACCOUNT IS NOT A REVOLVING CREDIT ACCOUNT, THE
29 DATE THE DEBT WAS INCURRED.

30 (4) IN THE ABSENCE OF EVIDENCE REQUIRED BY SUBSECTIONS
31 (2)(a) OR (2)(b) OF THIS SECTION, AN AFFIDAVIT DOES NOT SATISFY THE
32 REQUIREMENTS OF THESE SUBSECTIONS."

33 Renumber succeeding sections accordingly.

34 Page 4, line 16, strike "(1)" and substitute "(1); and **add** (6), (7), and (8)
35 as follows:".

36 Page 4, after line 21, insert:

37 "(6) THE ADMINISTRATOR SHALL PREPARE A REPORT ACCOUNTING
38 FOR THE EFFICIENT DISCHARGE OF ALL RESPONSIBILITIES ASSIGNED BY

1 LAW AND THE GENERAL ADMINISTRATION OF THE PROGRAM ON A
2 BIENNIAL BASIS. IN ADDITION TO ANY OTHER INFORMATION DEEMED
3 RELEVANT BY THE ADMINISTRATOR, THE BIENNIAL REPORT SHALL
4 ADDRESS WITH SPECIFICITY THE FOLLOWING: ENFORCEMENT ACTIONS
5 COMPLETED AND WHETHER THOSE ACTIONS WERE APPEALED OR
6 OTHERWISE CHALLENGED, THE NUMBER OF COMPLAINTS PROCESSED AND
7 DETAILS AS TO OUTCOMES AND RESOLUTIONS OF COMPLAINTS, AND
8 CHANGES TO THE PROGRAM AND HOW THEY RELATE TO INDUSTRY OR
9 CONSUMER CONCERNS. THE REPORT SHALL INCLUDE A DESCRIPTION OF
10 ANY SIGNIFICANT LEGAL FILINGS SUCH AS AMICUS BRIEFS IN ANY COURT
11 AND A SUMMARY OF NEW REGULATIONS, LEGAL DEVELOPMENTS THAT
12 DIRECTLY IMPACT THE PROGRAM OR PROGRAM CHANGES, AND ANY
13 SIGNIFICANT MATTERS THAT NEED TO BE ADDRESSED AT THE REQUEST OF
14 THE REGULATED COMMUNITY OR PUBLIC. THE REPORT SHALL BE
15 SUBMITTED TO THE SENATE JUDICIARY COMMITTEE AND THE HOUSE
16 JUDICIARY COMMITTEE AND PUBLISHED ON THE ATTORNEY GENERAL'S
17 WEBSITE BY JULY 1 AND DECEMBER 31 OF EACH YEAR.

18 (7) IN ORDER TO FACILITATE INFORMATION SHARING, TO PRESENT
19 THE BIENNIAL REPORT OR SIMILAR INFORMATION, AND TO SOLICIT
20 INFORMATION RELEVANT TO THE GENERAL ADMINISTRATION OF THE
21 PROGRAM, THE ADMINISTRATOR, OR REPRESENTATIVE DESIGNATED BY THE
22 ATTORNEY GENERAL, SHALL ATTEND MEETINGS AND CONFERENCES OF
23 INTERESTED AND RELEVANT GROUPS AND ASSOCIATIONS. UPON
24 ATTENDANCE, THE ADMINISTRATOR SHALL HAVE MINUTES FROM THOSE
25 MEETINGS PREPARED AND PUBLISHED ON THE ATTORNEY GENERAL'S
26 WEBSITE AND MADE PART OF THE NEXT BIENNIAL REPORT. THE
27 ADMINISTRATOR, OR DESIGNEE, SHALL ATTEND THE FOLLOWING ON AN
28 ANNUAL BASIS:

29 (a) AT THE INVITATION OF THE COLLECTION AGENCY INDUSTRY,
30 ONE LOCAL AND ONE NATIONAL ASSOCIATION OF COLLECTION AGENCIES
31 OR OTHER COLLECTION AGENCY TRADE ASSOCIATION MEETING;

32 (b) AT THE INVITATION OF THE COLLECTION AGENCY INDUSTRY,
33 ONE ANNUAL MEETING OF OTHER BUSINESS ENTITY ASSOCIATIONS OR
34 GROUPS THAT REPRESENT CLIENTS OF COLLECTION AGENCIES, DEBT
35 BUYERS, OR OTHER RELATED TRADE ASSOCIATIONS; AND

36 (c) ONE ANNUAL MEETING OF A RELEVANT CONSUMER ADVOCACY
37 ASSOCIATION.

38 (8) THE ADMINISTRATOR SHALL HOST AN ANNUAL PUBLIC MEETING
39 IN JANUARY OF EACH YEAR, WITH DIRECT NOTICE AT LEAST ONE MONTH IN
40 ADVANCE TO CONSUMER ADVOCACY GROUPS AND ASSOCIATIONS AND
41 OTHER INTERESTED PARTIES. THE ADMINISTRATOR SHALL ALSO HOST AN
42 ANNUAL PUBLIC MEETING IN JULY OF EACH YEAR WITH DIRECT NOTICE AT

1 LEAST ONE MONTH IN ADVANCE TO LICENSEES, INDUSTRY GROUPS, CLIENT
2 GROUPS AND OTHER INTERESTED PARTIES."

3 Page 5, strike lines 22 through 27.

4 Page 6, strike line 1.

5 Renumber succeeding sections accordingly.

6 Page 6, line 7, strike "FOUR" and substitute "TWO".

7 Page 6, after line 17, insert:

8 "SECTION 12. In Colorado Revised Statutes, **add** 12-14-136.5
9 as follows:

10 **12-14-136.5. Debts sold or resold after January 1, 2018.** THIS
11 PART 1 APPLIES TO DEBT BUYERS WITH RESPECT TO CONSUMER DEBTS
12 SOLD OR RESOLD ON OR AFTER JANUARY 1, 2018.

13 **SECTION 13. Effective date.** This act takes effect upon passage;
14 except that section 4 of this act takes effect January 1, 2018."

15 Renumber succeeding section accordingly.

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