

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REVISED

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

LLS NO. 18-0494.01 Richard Sweetman x4333

HOUSE BILL 18-1057

HOUSE SPONSORSHIP

McKean,

SENATE SPONSORSHIP

Coram,

House Committees

Judiciary
Finance
Appropriations

Senate Committees

Finance

A BILL FOR AN ACT

101 CONCERNING THE COLLECTION OF DEBTS, AND, IN CONNECTION
102 THEREWITH, ALLOWING COLLECTION AGENTS TO ADD CERTAIN
103 EXPENSES TO AMOUNTS DUE FOR COLLECTION.

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 allows a judgment creditor to file a petition in court to compel the department of labor and employment to disclose certain information about an individual judgment debtor. Judgment creditors must follow federal requirements for protecting any information disclosed and may not share it with other persons. A civil penalty of \$1,000 may be

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.

SENATE
Amended 2nd Reading
May 8, 2018

HOUSE
Amended 3rd Reading
May 7, 2018

HOUSE
Amended 2nd Reading
May 4, 2018

assessed against a judgment creditor who fails to comply with these requirements.

The bill creates the judgment debtor disclosure fund in the state treasury. The fund consists of money from fees collected for requests for disclosure of current employer information on individual judgment debtors.

The bill allows a collection agency or privately retained attorney collecting on any debt arising from past-due orders, obligations, fines, or fees due to the state, or to any political subdivision within the state, to add to the amount due that has been placed for collection all fees, costs, and costs of collection, including designated contractual costs and attorney fees, regardless of whether the debt has been reduced to judgment.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** section
3 5-16-111.5 as follows:

4 **5-16-111.5. Fees, costs, and costs of collection - limitation.**

5 (1) EXCEPT AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION, A PRIVATE
6 COLLECTION AGENCY OR PRIVATELY RETAINED ATTORNEY COLLECTING ON
7 ANY DEBT ARISING FROM PAST-DUE ORDERS, OBLIGATIONS, FINES, OR FEES
8 DUE TO THE STATE, OR DUE TO ANY POLITICAL SUBDIVISION WITHIN THE
9 STATE, MAY ADD TO THE AMOUNT DUE THAT HAS BEEN PLACED FOR
10 COLLECTION ALL FEES, COSTS, AND COSTS OF COLLECTION, INCLUDING
11 DESIGNATED CONTRACTUAL ATTORNEY FEES AND COSTS THAT ARE
12 AWARDED BY A COURT OF COMPETENT JURISDICTION. EXCLUSIVE OF THE
13 ACCRUAL OF INTEREST AND COURT COSTS, ANY FEES, COSTS, AND COSTS
14 OF COLLECTION MAY NOT EXCEED EIGHTEEN PERCENT IN THE AGGREGATE
15 UNLESS ADDITIONAL REASONABLE ATTORNEY FEES ARE AWARDED BY A
16 COURT OF COMPETENT JURISDICTION.

17 (2) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY IF THE
18 STATE OR POLITICAL SUBDIVISION OF THE STATE HAS SOLD THE DEBT TO A
19 THIRD PARTY.

1 (3) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), ON OR
2 BEFORE JANUARY 1, 2023, AND ON OR BEFORE JANUARY 1 EVERY FIVE
3 YEARS THEREAFTER, THE STATE AUDITOR SHALL REVIEW THE RATE
4 DESCRIBED IN SUBSECTION (1) OF THIS SECTION AND THE AGGREGATE FEE
5 DESCRIBED IN SECTION 24-30-202.4 (8)(a) AND REPORT THE RESULTS OF
6 HIS OR HER REVIEW TO THE FINANCE COMMITTEES OF THE SENATE AND THE
7 HOUSE OF REPRESENTATIVES OR ANY SUCCESSOR COMMITTEES. THE
8 REPORT MAY INCLUDE ANY RECOMMENDATIONS OF THE STATE AUDITOR
9 REGARDING RAISING OR LOWERING THE RATE OR THE AGGREGATE FEE.

10 SECTION 2. In Colorado Revised Statutes, 24-30-202.4, amend
11 (8)(a) as follows:

12 24-30-202.4. Collection of debts due the state - controller's
13 duties - creation of debt collection fund - definitions - reciprocal debt
14 collection agreements. (8) (a) The department of personnel may add a
15 collection fee to the amount of a debt's principal and accruing interest
16 referred to the state controller pursuant to this section except where other
17 specific statutory authority, requirements under federal programs, or
18 written agreement with the debtor provide otherwise. The department
19 shall determine upon annual review the amount of the collection fee,
20 which shall approximate the reasonable costs incurred by the controller
21 in collecting debts. The collection fee may include a fee to recover the
22 collection costs incurred by either the controller, private counsel, or
23 private collection agencies, but in no case shall the aggregate fee for the
24 controller or private collection agencies exceed ~~twenty-one~~ EIGHTEEN
25 percent and in no case shall the aggregate fee for private counsel exceed
26 twenty-five percent. ■ ■

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1 **SECTION 3. Act subject to petition - effective date.** This act
2 takes effect July 1, 2019; except that, if a referendum petition is filed
3 pursuant to section 1 (3) of article V of the state constitution against this
4 act or an item, section, or part of this act within the ninety-day period
5 after final adjournment of the general assembly, then the act, item,
6 section, or part will not take effect unless approved by the people at the
7 general election to be held in November 2018 and, in such case, will take
8 effect on July 1, 2019, or on the date of the official declaration of the vote
9 thereon by the governor, whichever is later.