

CHAPTER 239

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 95-1053

BY REPRESENTATIVES BY REPRESENTATIVES Kaufman, Jerke, Prinster, Hagedorn, Musgrave, and Paschall;
also SENATORS Bishop, Ament, Blickensderfer, Rizzuto, Wattenberg, and Matsunaka.

AN ACT**CONCERNING THE "COLORADO FAIR DEBT COLLECTION PRACTICES ACT".**

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

SECTION 1. 12-14-102, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-14-102. Scope of article. (1) This article shall apply to any collection agency, solicitor, or debt collector THAT HAS A PLACE OF BUSINESS LOCATED:

- (a) ~~Having his place of business located~~ Within this state;
- (b) ~~Having his place of business located~~ Outside this state and ~~collecting or attempting~~ COLLECTS OR ATTEMPTS to collect from consumers who reside within this state for a creditor whose place of business is located within this state;
- (c) ~~Having his place of business located~~ Outside this state and regularly collecting or attempting to collect from consumers who reside within this state for a creditor whose place of business is located outside this state; or
- (d) ~~Having his place of business located~~ Outside this state and ~~soliciting or attempting~~ SOLICITS OR ATTEMPTS to solicit ~~claims~~ DEBTS for collection from a creditor whose place of business is located within this state.

(2) ~~This article shall not apply to attorneys-at-law other than attorneys-at-law regularly engaged in debt collection and only with respect to collection or attempted collection of a consumer debt owed to any person prior to the filing of a lawsuit to collect such debt. Attorneys-at-law shall not be required to be~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

~~licensed as collection agencies or registered as debt collectors or solicitors to perform acts for which attorneys are licensed by the supreme court of this state. Employees or persons engaged by attorneys-at-law shall be registered as debt collectors or solicitors if they are employed regularly for that purpose. For purposes of this section only, "consumer debt" means any obligation or alleged obligation of any natural person to pay money arising out of a consensual transaction, in which the money, property, insurance, or services which are the subject of such transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.~~

SECTION 2. 12-14-103 (2), (4), (5), (6), (7), and (10), Colorado Revised Statutes, 1991 Repl. Vol., are amended, and the said 12-14-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-14-103. Definitions. As used in this article, unless the context otherwise requires:

(2) (a) "Collection agency" means any:

(I) Person ~~firm, corporation, or partnership which~~ WHO engages in ~~any~~ A business the principal purpose of which is the collection of ~~any~~ debts; or ~~any~~

(II) Person ~~firm, corporation, or partnership which~~ WHO:

(A) Regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another; ~~or which~~

(B) Takes assignment of ~~claims~~ DEBTS for ~~the~~ COLLECTION purposes; ~~of collecting such claims or which~~

(C) Directly or indirectly solicits ~~claims for the collection of~~ FOR COLLECTION debts owed or due or asserted to be owed or due another;

(D) COLLECTS DEBT FOR THE DEPARTMENT OF ADMINISTRATION, BUT ONLY FOR THE PURPOSES SPECIFIED IN PARAGRAPH (d) OF THIS SUBSECTION (2).

(b) "Collection agency" does not include:

(I) Any officer or employee of a creditor while, in the name of the creditor, collecting debts for such creditor;

(II) Any person while acting as a collection agency for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a collection agency does so only for creditors to whom it is so related or affiliated and if the principal business of such person is not the collection of debts;

(III) Any officer or employee of the United States or any state to the extent that collecting or attempting to collect any debt is in the performance of ~~his~~ SUCH OFFICER'S OR EMPLOYEE'S official duties, EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (7) OF THIS SECTION;

(IV) Any person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt;

(V) Any nonprofit organization which, at the request of consumers, performs bona fide consumer credit counseling and assists consumers in the liquidation of their debts by receiving payments from such consumers and distributing such amounts to creditors;

(VI) Repealed.

(VII) Any person collecting or attempting to collect any debt owed or due or asserted to be owed or due another to the extent that:

(A) Such activity is incidental to a bona fide fiduciary obligation or a bona fide escrow arrangement;

(B) Such activity concerns a debt which was extended by such person;

(C) Such activity concerns a debt which was not in default at the time it was obtained by such person; ~~except that, such person, in the instance of a person collecting or attempting to collect a debt which was not obtained by him when it was in default and which is now in default, shall be exempt only from the provisions of section 12-14-115; or~~

(D) Such activity concerns a debt obtained by such person as a secured party in a commercial credit transaction involving the creditor. ~~or~~

(VIII) Any person whose principal business is the making of loans or the servicing of debt not in default and who acts as a loan correspondent, or seller and servicer for the owner, or holder of a debt which is secured by a deed of trust on real property whether or not such debt is also secured by an interest in personal property.

(c) Notwithstanding the provisions of subparagraph (VII) of paragraph (b) of this subsection (2), "collection agency" includes any ~~creditor~~ PERSON who, in the process of collecting his OR HER own debts, uses ~~any~~ ANOTHER name ~~other than his own~~ which would indicate that a third person is collecting or attempting to collect such debts.

(d) For the purposes of section 12-14-108 (1) (f), "collection agency" includes any person ~~firm, corporation, or partnership~~ engaged in any business the principal purpose of which is the enforcement of security interests. FOR PURPOSES OF SECTIONS 12-14-104, 12-14-105, 12-14-106, 12-14-107, 12-14-108, AND 12-14-109 ONLY, BUT NOT FOR PURPOSES OF SECTION 12-14-109 (1) (g), "COLLECTION AGENCY" INCLUDES A DEBT COLLECTOR FOR THE DEPARTMENT OF ADMINISTRATION.

(e) NOTWITHSTANDING PARAGRAPH (b) OF THIS SUBSECTION (2), "COLLECTION AGENCY" INCLUDES ANY PERSON WHO ENGAGES IN ANY OF THE FOLLOWING ACTIVITIES; EXCEPT THAT SUCH PERSON SHALL BE EXEMPT FROM PROVISIONS OF THIS ARTICLE THAT CONCERN LICENSING AND LICENSEES:

(I) REGULARLY COLLECTS OR ATTEMPTS TO COLLECT A DEBT OWED OR DUE, OR

ASSERTED TO BE OWED OR DUE, TO SUCH PERSON IF HE OR SHE DID NOT EXTEND THE CREDIT AND IF SUCH DEBT WAS IN DEFAULT AT THE TIME IT WAS OBTAINED BY SUCH PERSON; EXCEPT THAT SUCH PERSON SHALL ALSO BE EXEMPT FROM SECTION 12-14-109 (1) (f) AND (1) (g);

(II) IS AN ATTORNEY-AT-LAW AND REGULARLY ENGAGES IN THE COLLECTION OR ATTEMPTED COLLECTION OF DEBTS IN THIS STATE; EXCEPT THAT SUCH PERSON SHALL ALSO BE EXEMPT FROM SECTION 12-14-109 (1) (f) AND (1) (g);

(III) IS A PERSON LOCATED OUTSIDE THIS STATE WHOSE COLLECTION ACTIVITIES ARE LIMITED TO COLLECTING DEBTS NOT INCURRED IN THIS STATE FROM CONSUMERS LOCATED IN THIS STATE AND WHOSE COLLECTION ACTIVITIES ARE CONDUCTED BY MEANS OF INTERSTATE COMMUNICATIONS, INCLUDING TELEPHONE, MAIL, OR FACSIMILE TRANSMISSION, AND WHO IS LOCATED IN ANOTHER STATE THAT REGULATES AND LICENSES COLLECTION AGENCIES BUT DOES NOT REQUIRE COLORADO COLLECTION AGENCIES TO OBTAIN A LICENSE TO COLLECT DEBTS IN THEIR STATE IF SUCH AGENCIES' COLLECTION ACTIVITIES ARE LIMITED IN THE SAME MANNER; EXCEPT THAT SUCH PERSON SHALL ALSO BE EXEMPT FROM SECTION 12-14-109 (1) (f) AND (1) (g).

(4) "Consumer" means any natural person obligated or allegedly obligated to pay any debt. ~~including a business debt~~

(5) "Creditor" means any person ~~firm, corporation, or partnership which~~ WHO offers or extends credit creating a debt or to which a debt is owed, but such term does not include any person ~~firm, corporation, or partnership~~ to the extent ~~that it~~ SUCH PERSON receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of such debt for another.

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

(b) "DEBT" DOES NOT INCLUDE A DEBT FOR BUSINESS, INVESTMENT, COMMERCIAL, OR AGRICULTURAL PURPOSES OR A DEBT INCURRED BY A BUSINESS.

(7) "Debt collector" means any person employed or engaged by a collection agency to perform the collection of ~~claims~~ DEBTS owed or due or asserted to be owed or due to another, AND INCLUDES ANY PERSON EMPLOYED BY THE DEPARTMENT OF ADMINISTRATION, OR ANY DIVISION OF SAID DEPARTMENT, WHEN COLLECTING DEBTS DUE TO THE STATE ON BEHALF OF ANOTHER STATE AGENCY.

(9.3) "PERSON" MEANS A NATURAL PERSON, FIRM, CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP.

(10) "Solicitor" means any person employed or engaged by a collection agency who solicits or attempts to solicit ~~claims, accounts, notes, or other evidence of indebtedness~~ DEBTS for collection by such person or ~~by~~ any other person.

SECTION 3. 12-14-105 (3) (c), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-14-105. Communication in connection with debt collection. (3) (c) ~~With the~~ IN ITS initial written communication to ~~the~~ A consumer, ~~the~~ A collection agency shall ~~notify the consumer in writing of the consumer's~~ INCLUDE NOTIFICATION OF THE CONSUMER'S rights under this subsection (3). ~~The notification of such rights shall be made in bold-face type no less than eight-point size, and~~ If such notification is placed on the back of ~~any~~ THE written communication, there shall be a statement on the front of the written communication that important information may be found on the back of the written communication NOTIFYING THE CONSUMER OF SUCH FACT.

SECTION 4. 12-14-107 (1) (l), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-14-107. False or misleading representations. (1) A debt collector or collection agency shall not use any false, deceptive, or misleading representation or means in connection with the collection of any debt, including, but not limited to, the following conduct:

(l) Except as otherwise provided for communications to acquire location information under section 12-14-104, the failure to disclose clearly, in ~~all~~ ~~communications~~ THE INITIAL WRITTEN COMMUNICATION made to collect a debt or to obtain information about a consumer, that the debt collector or collection agency is attempting to collect a debt and that any information obtained will be used for that purpose;

SECTION 5. 12-14-108 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-14-108. Unfair practices. (1) A debt collector or collection agency shall not use unfair or unconscionable means to collect or attempt to collect any debt, including, but not limited to, the following conduct:

(j) COMMUNICATING CREDIT INFORMATION TO A CONSUMER REPORTING AGENCY, AS DEFINED IN THE FEDERAL "FAIR CREDIT REPORTING ACT", 15 U.S.C. SEC. 1681a, EARLIER THAN THIRTY DAYS AFTER THE INITIAL NOTICE TO THE CONSUMER HAS BEEN MAILED, UNLESS THE CONSUMER'S LAST KNOWN ADDRESS IS KNOWN TO BE INVALID. THIS PARAGRAPH (j) SHALL NOT APPLY TO CHECKS, NEGOTIABLE INSTRUMENTS, OR CREDIT CARD DRAFTS.

SECTION 6. The introductory portion to 12-14-109 (1) and 12-14-109 (1) (e) and (1) (f), Colorado Revised Statutes, 1991 Repl. Vol., are amended, and the said 12-14-109 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-14-109. Validation of debts - required disclosures. (1) Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector or collection agency shall, unless the following information is contained in the initial written communication or the consumer has paid the debt, send the consumer a written notice with the disclosures specified in paragraphs (a) to ~~(f)~~ (g) of this subsection (1). ~~Such disclosures shall be made in bold-face type no less than eight-point size, and,~~ If such disclosures are placed on the back of the notice, the front of the notice shall contain a statement that important information may

~~be found on the back of the notice~~ NOTIFYING CONSUMERS OF THAT FACT. Such disclosures shall state: ~~the following:~~

(e) That upon the consumer's written request within the thirty-day period, the debt collector or collection agency will provide the consumer with the name and address of the original creditor, if different from the current creditor; ~~and~~

(f) That collection agencies are ~~regulated~~ LICENSED by the collection agency board. ~~in the department of law, with the current address of the department of law listed thereafter~~ THE ADDRESS OF THE BOARD SHALL ALSO BE DISCLOSED. IF, HOWEVER, THE DEBT COLLECTOR IS A PERSON EMPLOYED BY THE DEPARTMENT OF ADMINISTRATION FOR THE PURPOSE OF COLLECTING DEBTS DUE TO THE STATE ON BEHALF OF ANOTHER STATE AGENCY, THE DISCLOSURE REQUIRED UNDER THIS PARAGRAPH (f) SHALL STATE THAT THE ACTIVITIES OF SUCH DEBT COLLECTOR ARE SUBJECT TO SECTIONS 12-14-104 TO 12-14-109, COLORADO REVISED STATUTES, AS CONTAINED IN THE "COLORADO FAIR DEBT COLLECTION PRACTICES ACT", THAT COMPLAINTS MAY BE FILED WITH THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION, AND THAT DISCIPLINARY ACTIONS WILL BE SUBJECT TO THE RULES AND REGULATIONS OF THE STATE PERSONNEL SYSTEM.

(g) THAT CONSUMERS SHALL NOT SEND PAYMENTS TO THE COLLECTION AGENCY BOARD.

SECTION 7. 12-14-112, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-14-112. Deceptive forms. (1) It is unlawful for any person to design, compile, and furnish any form knowing that such form would be used to create the false belief in a consumer that a person other than the creditor of such consumer is participating in the collection or in the attempted collection of a debt that such consumer allegedly owes such creditor when in fact such person is not so participating. ~~For the purposes of this subsection (1), "person" means any individual, firm, corporation, or partnership.~~

(2) Any person ~~firm, corporation, or partnership which~~ WHO violates this section shall be liable to the same extent and in the same manner as a debt collector or collection agency ~~is liable~~ under section 12-14-113 for failure to comply with a ~~provision of this article.~~

(3) This section shall apply if the person ~~firm, corporation, or partnership~~ supplying or using the forms or the consumer receiving the forms is located within this state.

SECTION 8. 12-14-113 (1) and (7), Colorado Revised Statutes, 1991 Repl. Vol., are amended, and the said 12-14-113 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-14-113. Civil liability. (1) In addition to administrative enforcement pursuant to section 12-14-114 and subject to section 12-14-134, and except as otherwise provided by this section, any debt collector or collection agency who fails to comply with any provision of this article with respect to ~~any person~~ A CONSUMER is liable to

such ~~person~~ CONSUMER in an amount equal to the sum of:

(a) Any actual damage sustained by such ~~person~~ CONSUMER as a result of such failure;

(b) (I) In the case of any action by an individual, such additional damages as the court may allow, but not to exceed one thousand dollars;

(II) In the case of a class action, such amount for each named plaintiff as could be recovered under subparagraph (I) of this paragraph (b) and such amount as the court may allow for all other class members, without regard to a minimum individual recovery, not to exceed five hundred thousand dollars or one percent of the net worth of the debt collector or collection agency, whichever is the lesser; and

(c) In the case of any successful action to enforce such liability, the costs of the action, together with such reasonable attorney fees as may be determined by the court. ~~The court may award attorney fees to the defendant pursuant to part 1 of article 17 of title 13, C.R.S.~~

(1.5) IN THE CASE OF ANY UNSUCCESSFUL ACTION BROUGHT UNDER THIS SECTION, THE PLAINTIFF SHALL BE LIABLE TO EACH DEFENDANT IN AN AMOUNT EQUAL TO THAT DEFENDANT'S COST INCURRED IN DEFENDING THE ACTION, TOGETHER WITH SUCH REASONABLE ATTORNEY FEES AS MAY BE DETERMINED BY THE COURT.

(7) Notwithstanding subsection (1) of this section, harassment of the employer or the family of a ~~debtor~~ CONSUMER shall be considered an invasion of privacy and a civil action may be brought ~~thereon~~ which is not subject to the damage limitations of ~~the~~ said subsection (1).

SECTION 9. 12-14-114, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-14-114. Administrative enforcement. Compliance with this article shall be enforced by the board. The board has power to make reasonable rules and regulations for the administration and enforcement of this article, including standards of conduct for licensees and registrants AND COLLECTION NOTICES AND FORMS. The board shall be subject to the provisions of section 24-5-101, C.R.S.

SECTION 10. 12-14-115, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-14-115. License - registration - unlawful acts. (1) It is unlawful for any person ~~firm, corporation, or partnership~~ to:

(a) Conduct THE BUSINESS OF a collection agency ~~or branch office of a collection agency, or engage in the business of collecting claims for others, or soliciting the right to collect, or receive payment for another of any claim,~~ or advertise or solicit, either in print, by letter, in person, or otherwise, the right to make collection or obtain payment of any ~~claim~~ DEBT on behalf of another without having obtained a license under this article; or ~~to~~

(b) Conduct the business of a collection agency under any name other than that under which licensed.

(2) It is unlawful for any person to act as a solicitor without ~~a valid registration as a solicitor~~ BEING REGISTERED under this article.

(3) It is unlawful for any person to act as a ~~collections manager or a debt collector~~ without ~~a valid registration as a debt collector~~ BEING REGISTERED under this article.

(3.5) IT IS UNLAWFUL FOR A PERSON TO ACT AS A COLLECTIONS MANAGER WITHOUT HAVING COMPLIED WITH SECTIONS 12-14-119 AND 12-14-122.

(4) It is unlawful for any person ~~firm, corporation, or partnership~~ to employ any person as a solicitor, collections manager, or debt collector under this article without ~~a valid registration certificate~~ COMPLYING WITH THIS SECTION.

SECTION 11. 12-14-116 (2) and (3), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-14-116. Collection agency board - created. (2) No person shall be appointed as a member of such board unless ~~he~~ SUCH PERSON is a bona fide resident of the state of Colorado. EFFECTIVE JULY 1, 1995, BOARD APPOINTMENTS SHALL ENSURE THAT three members of the board ~~shall~~ have been engaged in the collection business within the state of Colorado, either as COLLECTIONS MANAGERS, owners, partners, or officers of a corporation, for a period of at least five years immediately prior to their appointment. Two members of the board shall be representatives of the general public and not engaged in the collection business.

(3) Each member of the board shall be allowed a per diem compensation of fifty dollars and ~~his~~ actual expenses for each day of active service, payable from the moneys appropriated to the board.

SECTION 12. 12-14-117 (2), (3), and (4), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-14-117. Powers and duties of the executive director. (2) The executive director is authorized to develop any examination required for the administration of this article and to determine the amount of any examination fee. ~~He~~ THE EXECUTIVE DIRECTOR shall offer each such examination at least twice a year, or MORE FREQUENTLY if demand warrants, ~~at more frequent intervals.~~ ~~He~~ AND shall establish a passing score for each examination which reflects a minimum level of competency.

(3) The executive director is authorized to approve or deny any application submitted pursuant to this article and to issue any license ~~or certificate of registration~~ authorized by this article.

(4) Any complaint received by the executive director regarding violations of ~~the "Colorado Fair Debt Collection Practices Act"~~ THIS ARTICLE by an attorney shall be forwarded to the supreme court ~~grievance committee~~ COURT'S DISCIPLINARY COUNSEL.

SECTION 13. 12-14-118, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-14-118. Collection agency license - required. Any person ~~firm, corporation, or partnership~~ acting as a collection agency must possess a valid license issued by the executive director in accordance with this article and any rules and regulations adopted pursuant thereto.

SECTION 14. 12-14-119 (1) (a), the introductory portion to 12-14-119 (1) (b) (I), 12-14-119 (1) (b) (I) (A), (1) (c), (2) (c), the introductory portions to 12-14-119 (2) (d), (2) (d) (II), (2) (d) (III), and 12-14-119 (2) (d) (IV), (3), (4), and (6), Colorado Revised Statutes, 1991 Repl. Vol., are amended, and the said 12-14-119 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-14-119. Collection agency license - requirements - application - fee - expiration. (1) As requisites for licensure, the applicant for a collection agency license shall:

(a) (I) Be owned by, or ~~shall~~ employ as ~~the~~ COLLECTIONS manager or ~~as~~ an executive officer of the agency at least one individual who has been engaged in a responsible position in an established collection agency for a period of at least two years. ~~except that~~

(II) NOTWITHSTANDING THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), the board ~~is authorized to~~ MAY substitute other business experience for ~~this requirement~~ SUCH REQUIREMENTS where such business experience has provided comparable experience in collections. ~~and~~

(b) (I) ~~For each office of the agency;~~ Employ a collections manager who shall:

(A) If ~~he is hired by a collection agency~~ on or after July 1, 1990, pass a written examination administered by the executive director, UNLESS SUCH PERSON WAS APPROVED BY THE COLLECTION AGENCY BOARD AS COLLECTIONS MANAGER BEFORE JULY 1, 1990, AND HAS SINCE BEEN CONTINUOUSLY EMPLOYED BY A LICENSED COLLECTION AGENCY IN THIS STATE.

(c) ~~For each office of the agency;~~ File a bond in the amount and manner specified in section 12-14-124;

(2) Each applicant for a collection agency license shall submit an application providing all information in the form and manner the executive director shall designate, including, but not limited to:

(c) If a corporation, the name of the shareholder and the number of shares held by any shareholder owning ten percent or more of the stock; AND

(d) ~~For any of the principals~~ AND THE COLLECTIONS MANAGER of the applicant:

(II) The denial, revocation, or suspension of any license issued to any collection agency which employed ~~the principal or which~~ OR was owned by ~~the principal~~ SUCH PERSONS, in whole or in part, directly or indirectly, and a statement of ~~the principal's~~

THEIR position and authority at ~~that~~ SUCH collection agency:

(III) The taking of any other disciplinary or adverse action or the existence of any outstanding complaints against any collection agency which employed ~~the principal or which~~ OR was owned in whole or in part, directly or indirectly, by ~~the principal~~ SUCH PERSONS, and a statement of ~~the principal's~~ THEIR position and authority at ~~that~~ SUCH collection agency:

(IV) The ~~denial, suspension or revocation~~ TERMINATION OF APPROVAL of any ~~certificate of registration issued~~ COLLECTIONS MANAGER under this article, or any other disciplinary or adverse action taken against the applicant, ~~or principal,~~ OR COLLECTIONS MANAGER by the board or ~~by~~ any other jurisdiction.

(3) At the time the application is submitted, the applicant shall pay a nonrefundable investigation fee in an amount TO BE determined by the board. ~~A separate investigation fee shall not be required for branch offices.~~

(4) When the executive director approves the application, the applicant shall pay a nonrefundable license fee in an amount TO BE determined by the board. ~~The applicant shall pay a separate license fee for each branch office operated by the collection agency.~~

(6) If ~~the~~ AN application is ~~submitted or approved after January 1~~ APPROVED BETWEEN JANUARY 1 AND JUNE 30 in any year, the license fee for the remainder of that licensing year shall be one-half the license fee determined by the board.

(7) A COLLECTION AGENCY MUST OBTAIN A LICENSE FOR ITS PRINCIPAL PLACE OF BUSINESS, BUT ITS BRANCH OFFICES, IF ANY, NEED NOT OBTAIN SEPARATE LICENSES. A COLLECTION AGENCY WITH BRANCH OFFICES MUST NOTIFY THE EXECUTIVE DIRECTOR IN WRITING OF THE LOCATION OF EACH BRANCH OFFICE WITHIN THIRTY DAYS AFTER THE BRANCH OFFICE COMMENCES BUSINESS.

SECTION 15. 12-14-120 (5), Colorado Revised Statutes, 1991 Repl. Vol., is repealed as follows:

12-14-120. License - issuance - grounds for denial - appeal - contents. (5) ~~The license issued for each branch office shall bear on its face in conspicuous type the words "branch office" and shall bear the address of the branch office only, but in all other respects shall be the same as any license issued to a licensee.~~

SECTION 16. 12-14-122 (1) (a), (2) (c), and (3) (a), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-14-122. Collection agency license - notification of change and reapplication requirements. (1) (a) Upon any of the following changes, the licensee shall notify the executive director in writing of ~~said~~ SUCH change within thirty days ~~thereafter~~ AFTER ITS OCCURRENCE:

(I) Change of business name or address;

(II) If a corporation, change in ownership of ten or more percent but less than fifty

percent of the corporate stock.

(2) (c) The changes which require a new license application are: ~~as follows:~~

(I) In a sole proprietorship or partnership, any change in the persons owning the collection agency;

(II) In a corporation, any change of ownership of fifty percent or more of the stock in any one transaction or a cumulative change of ownership of fifty percent or more from the date of the issuance of the license or from the date of the latest renewal of the license;

(III) Any change of ownership structure, including but not limited to a change to or from a sole proprietorship, partnership, or corporation. NO INVESTIGATION FEE SHALL BE REQUIRED IN THE EVENT OF SUCH A CHANGE AND THE APPLICATION REQUIRED MAY BE MORE ABBREVIATED THAN THAT REQUIRED FOR AN INITIAL LICENSE, AS DETERMINED BY THE EXECUTIVE DIRECTOR.

(3) (a) Upon a change of collections manager, the licensee shall notify the executive director in the form and manner ~~he shall designate~~ DESIGNATED BY THE EXECUTIVE DIRECTOR. THE LICENSEE SHALL APPOINT A NEW COLLECTIONS MANAGER within thirty days of ~~said~~ SUCH change.

SECTION 17. The introductory portion to 12-14-123 (1) and 12-14-123 (1) (a), Colorado Revised Statutes, 1991 Repl. Vol., are amended, and the said 12-14-123 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-14-123. Duties of collection agencies. (1) A ~~collection agency~~ LICENSEE shall:

(a) Maintain, at all times, liquid assets in the form of ~~cash or~~ deposit accounts in the total sum of not less than two thousand five hundred dollars more than all sums due and owing to clients;

(f) BE RESPONSIBLE, PURSUANT TO THIS ARTICLE, FOR VIOLATIONS OF THIS ARTICLE THAT ARE CAUSED BY ITS COLLECTIONS MANAGER, DEBT COLLECTORS, OR SOLICITORS.

SECTION 18. 12-14-124, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-14-124. Bond. (1) Each licensee shall maintain at all times and each applicant shall file, prior to the issuance of any license to such applicant, a bond in the sum of ~~eight~~ TWELVE thousand dollars plus an additional two thousand dollars for each ten thousand dollars or part thereof by which the average monthly sums remitted or owed to clients during the previous year exceed fifteen thousand dollars; OR, IN THE ALTERNATIVE, AN APPLICANT OR LICENSEE SHALL PRESENT EVIDENCE OF A SAVINGS ACCOUNT, DEPOSIT, OR CERTIFICATE OF DEPOSIT OF THE SAME SUM AND MEETING THE REQUIREMENTS OF SECTION 11-35-101, C.R.S. The total amount of the bond SHALL not ~~to~~ exceed twenty thousand dollars AND SHALL BE in favor of the attorney general of the state of Colorado for use of the people of the state of Colorado and the collection agency board. ~~or shall present evidence of a savings account, deposit, or~~

~~certificate of deposit of the same sum and meeting the requirements of section 11-35-101, C.R.S.~~ Such bond shall be executed by the applicant OR LICENSEE as principal and by a corporation which is licensed by the commissioner of insurance to transact the business of fidelity and surety insurance as surety. If any such surety, during the life of the bond, cancels the bond OR REDUCES THE PENAL SUM OF THE BOND, it immediately shall notify the board ~~which~~ IN WRITING. THE BOARD shall give notice to the licensee that ~~his~~ THE bond ~~is~~ HAS BEEN cancelled OR REDUCED and that ~~his~~ THE LICENSEE'S license will be revoked unless a new OR INCREASED bond with proper sureties is filed within thirty days AFTER THE DATE THE BOARD RECEIVED THE NOTICE, OR ON SUCH LATER DATE AS IS STATED IN THE SURETY'S NOTICE.

(2) The bond shall ~~be conditioned~~ INCLUDE A CONDITION that the licensee SHALL, upon demand in writing made by the board, ~~will~~ pay over to said board for the use of any ~~claimant~~ CLIENT from whom any ~~claim~~ DEBT is taken or received for collection by said licensee, the proceeds of such collection, ~~plus any additional amounts incurred by the board in the investigation of claims against the bond,~~ less the charges for collection in accordance with the terms of the agreement made between said licensee and ~~said claimant~~ THE CLIENT.

(3) ~~Any claimant~~ A CLIENT may file with ~~such~~ THE board a duly verified claim as to money due such ~~claimant~~ CLIENT for money collected by ~~any~~ A licensee. ~~The board shall consider such claim after written notice of such complaint to the licensee and surety, giving the time and place of hearing thereon, and, if such claim is found to be correct and unpaid, the board shall make a demand upon the licensee on such bond or the surety for the claim and an amount including investigation costs, and, if not paid, shall bring action on such bond in any court of record within the state of Colorado. Nothing in this section shall preclude the board from making a demand on both the licensee and the surety~~ IF THE BOARD MAKES A PRELIMINARY DETERMINATION THAT A CLAIM MEETS THE REQUIREMENTS OF THIS SECTION IT SHALL MAKE A DEMAND FOR THE AMOUNT CLAIMED. SUCH DEMAND MAY BE MADE ON THE LICENSEE, THE SURETY, OR BOTH.

(4) If a receiver has been appointed by any court of competent jurisdiction in the state of Colorado to take charge of the assets of any licensee, such receiver, upon the written consent of the board, first had and obtained, may make demand for and receive payment on said bond from the surety on such bond of said licensee and, upon order of court first had and obtained, may bring suit upon said bond in the name of such receiver, without joining the board as a party to said action.

(5) ~~In case any claimant~~ IF A CLIENT has filed a duly verified claim with ~~said~~ THE board, ~~and the board~~ WHICH has refused to make demand upon the licensee or surety, ~~said claimant~~ THE CLIENT may bring suit against the licensee or surety on ~~said~~ THE bond for the recovery of money due ~~such claimant~~ from such licensee without assignment of such bond to ~~such claimant~~ THE CLIENT. Nothing in this section shall preclude a ~~claimant~~ CLIENT from making a demand on both the licensee and the surety.

(6) (a) Said bond shall ~~be conditioned~~ INCLUDE A CONDITION that ~~said~~ THE licensee SHALL, upon written demand, ~~will~~ turn over to ~~claimant~~ THE CLIENT any and all notes, valuable papers, or evidence of indebtedness which may have been deposited with said licensee by ~~any such claimant~~ THE CLIENT, but such licensee shall not be required

to return any such papers, notes, or evidence of indebtedness on ~~claims~~ DEBTS in process of collection, unless reimbursed by ~~claimant~~ THE CLIENT for the services performed on the ~~claim~~ DEBT so evidenced.

(b) "~~Claims~~ DEBTS in process of collection" means any ~~claims~~ DEBTS which have been in said licensee's hands for less than nine months, ~~claims~~ DEBTS on which payments are being made, or on which payments have been promised, ~~claims~~ DEBTS on which suit has been brought, and claims which have been forwarded to any other collection agency or attorney.

(7) Such bond shall cover all matters placed with said licensee during the term of the license granted and any renewal, ~~thereof~~ except as provided in this section. Such bond may be enforced in the manner ~~provided for the enforcement of bonds and undertakings in special proceedings by the board, or~~ DESCRIBED IN THIS SECTION, by a receiver appointed to take charge of the assets of any licensee, or by any ~~claimant~~ in case of refusal of CLIENT IF the board REFUSES to act. The aggregate liability of the surety, for any and all claims ~~and costs of investigation~~, which may arise under such bond, shall ~~in no event~~ NOT exceed the penalty of such bond.

(8) Any licensee, at any time, may file a new bond with the board. Any surety may file with the board notice of ~~his~~ withdrawal as surety on the bond of any licensee. Upon filing of such new bond or on expiration of thirty days after the filing of notice of withdrawal as surety by the surety, the liability of the former surety for all future acts of the licensee shall terminate, except as provided in subsection (9) of this section. The board shall cancel the bond given by any surety company upon being advised its license to transact the business of fidelity and surety insurance has been revoked by the commissioner of insurance and shall notify the licensee.

(9) No action shall be brought upon any bond required to be given and filed, after the expiration of two years from the SURRENDER, revocation, or expiration of the license issued thereunder. After the expiration of said period of two years, all liability of the surety upon the said bond shall cease if no action has been commenced upon said bond before the expiration of the period.

(10) In lieu of an individual surety bond, the executive director may authorize a blanket bond covering qualifying licensees in the sum of two million dollars in favor of the attorney general of the state of Colorado for use of the people of the state of Colorado and the collection agency board. Each new and renewal applicant shall pay a fee in an amount determined by the executive director to offset the applicant's share of the blanket bond. Conditions and procedures regarding the bond shall be as set forth in this section for individual bonds.

SECTION 19. 12-14-125, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-14-125. Debt collectors - registration required. (1) EACH LICENSEE SHALL REGISTER WITH THE EXECUTIVE DIRECTOR any person acting as a debt collector ~~must possess a certificate of registration issued by the executive director in accordance with this article and any rules and regulations adopted pursuant thereto.~~ FOR SUCH LICENSEE. SUCH REGISTRATION SHALL BE MADE WITHIN FIFTEEN DAYS AFTER THE DEBT COLLECTOR IS EMPLOYED AND UPON THE RENEWAL OF EACH COLLECTION

AGENCY LICENSE. THE DEBT COLLECTOR'S HOME ADDRESS, HOME TELEPHONE NUMBER, AND SOCIAL SECURITY NUMBER SHALL NOT BE OPEN TO PUBLIC INSPECTION UNDER ARTICLE 72 OF TITLE 24, C.R.S. EACH INITIAL AND RENEWAL REGISTRATION SHALL BE ACCOMPANIED BY A FEE ESTABLISHED BY THE EXECUTIVE DIRECTOR.

~~(2) Any person acting as a collections manager shall register with the executive director as a debt collector and must possess a certificate of registration as a debt collector.~~

SECTION 20. 12-14-126, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-14-126. Solicitor - registration required. EACH LICENSEE SHALL REGISTER WITH THE EXECUTIVE DIRECTOR any person acting as a solicitor ~~must possess a certificate of registration issued by the executive director in accordance with this article and any rules and regulations adopted pursuant thereto.~~ FOR SUCH LICENSEE. SUCH REGISTRATION SHALL BE MADE WITHIN FIFTEEN DAYS AFTER SUCH PERSON IS EMPLOYED AND UPON THE RENEWAL OF EACH COLLECTION AGENCY LICENSE. EACH INITIAL AND RENEWAL REGISTRATION SHALL BE ACCOMPANIED BY A FEE ESTABLISHED BY THE EXECUTIVE DIRECTOR.

SECTION 21. 12-14-127, Colorado Revised Statutes, 1991 Repl. Vol., is repealed as follows:

12-14-127. Debt collectors and solicitors - certificates of registration - application - expiration - notification of change required. ~~(1) Each applicant for a certificate of registration as a debt collector or solicitor shall submit an application to the executive director in the form and manner he shall require and shall pay a registration fee in an amount determined by the board.~~

~~(2) Each certificate issued pursuant to this section shall expire on the third July 1 following the date of its issuance.~~

~~(3) (a) On or before June 15 of the final year of the certificate, the holder of the certificate shall submit an application for a new certificate in the form and manner designated by the executive director and shall pay the registration fee.~~

~~(b) If the application or the fee is not postmarked on or before June 15 of the final year, a penalty fee of one-half the registration fee shall be assessed and added to the registration fee and shall be paid by the applicant before a new certificate is issued.~~

~~(c) If the application or the total fee is not postmarked by July 15, the registration of the debt collector or solicitor shall terminate automatically.~~

~~(4) Each holder of a certificate shall be required to report to the executive director, in the form and manner he shall designate, any change to the information provided in the application for certificate or in any such reports previously submitted, within thirty days of such change.~~

SECTION 22. 12-14-128 (1) and (4), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-14-128. Unlawful acts. (1) In addition to the unlawful acts specified in sections 12-14-112 and 12-14-115, it is unlawful and a violation of this article for any person: ~~firm, corporation, or partnership~~:

(a) To refuse or fail to comply with section 12-14-104, 12-14-105, 12-14-106, 12-14-107, 12-14-108, 12-14-109, 12-14-110, 12-14-118, 12-14-119(1), 12-14-123(1) (b), (1) (c), (1) (d), (1) (e), or (2), 12-14-125, or 12-14-126;

(b) To aid or abet any person ~~firm, corporation, or partnership~~ operating or attempting to operate in violation of ~~any provision of~~ this article, including but not limited to section 12-14-115; except that nothing in this article shall prevent any licensed collection agency from accepting, as forwarder, claims for collection from any collection agency or attorney whose place of business is outside this state;

(c) To recover or attempt to recover treble damages for any check, draft, or order not paid on presentment without complying with the provisions of section 13-21-109, C.R.S.

(4) It is unlawful and a violation of this article for any licensee, collections manager, debt collector, or solicitor:

(a) To refuse or fail to comply with any rule and regulation adopted pursuant to this article or any lawful order of the board or executive director; or

(b) To aid or abet any person ~~firm, corporation, or partnership~~ in such refusal or failure.

SECTION 23. 12-14-129, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-14-129. Criminal penalties. Any person ~~firm, corporation, or partnership~~ who violates any provision of section 12-14-128 (1), (2), (3), or (4) commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

SECTION 24. 12-14-130 (1), (2), (3), (4), (9), and (10), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-14-130. Complaint - investigations - powers of the board - sanctions.

(1) Upon the filing with the board by any interested person of a written complaint charging any person ~~firm, corporation, or partnership~~ with a violation of ~~any provision of~~ this article, any rule or regulation adopted pursuant to this article, or any lawful order of the board, the board shall conduct an investigation thereof.

(2) The board may, on its own motion, conduct an investigation of the conduct of any person ~~firm, corporation, or partnership~~ concerning compliance with this article.

(3) If any licensee or ~~registrant~~ ONE OF ITS PRINCIPALS OR COLLECTIONS MANAGERS is convicted of or enters a plea of guilty or nolo contendere to any crime specified in part 4 of article 4 or in part 1, 2, 3, 5, or 7 of article 5 of title 18, C.R.S., or to any similar crime under the jurisdiction of any federal court or court of another state, said conviction or plea shall constitute grounds for disciplinary action under this

section.

(4) In any proceeding held under this section, the board may accept as prima facie evidence of grounds for disciplinary or adverse action any disciplinary or adverse action taken against a licensee, ~~or registrant~~ DEBT COLLECTOR, SOLICITOR, OR COLLECTIONS MANAGER by another jurisdiction if the violation which prompted the disciplinary or adverse action by that jurisdiction would be grounds for disciplinary action under this section.

(9) If the board finds cause to believe a licensee or ~~registrant~~ COLLECTIONS MANAGER has violated ~~any provision of this article, any rules or regulations adopted pursuant to this article, or any lawful order of the board,~~ the board shall so notify the licensee or ~~registrant~~ COLLECTIONS MANAGER and hold a hearing. Any proceedings conducted pursuant to this section shall be in accordance with ~~the provisions of article 4 of title 24, C.R.S.~~

(10) (a) If the board or the administrative law judge finds that the licensee or ~~registrant~~ COLLECTIONS MANAGER has violated ~~a provision of this article, the rules and regulations adopted pursuant to this article, or any lawful order of the board,~~ the board may issue letters of admonition, deny, revoke, or suspend the license ~~or registration,~~ OF SUCH LICENSEE OR APPROVAL OF THE COLLECTIONS MANAGER, place ~~the~~ SUCH licensee or ~~registrant~~ COLLECTIONS MANAGER on probation, or impose administrative fines in an amount up to one thousand dollars per violation on the licensee or ~~registrant~~ COLLECTIONS MANAGER.

(b) The board or the executive director may issue letters of admonition pursuant to paragraph (a) of this subsection (10) without a hearing; except that the licensee or ~~registrant~~ COLLECTIONS MANAGER receiving the letter of admonition may request a hearing before the board to appeal the issuance of the letter.

(c) A letter of admonition may be issued to a licensee OR COLLECTIONS MANAGER whether or not ~~its~~ A license OR APPROVAL has been surrendered prior to said issuance.

(d) No person ~~firm, or corporation or partnership~~ whose license has been revoked shall be licensed again under the terms of this article for ~~a period of five years.~~ No person ~~whose registration has been revoked shall be registered again under the terms of this article for a period of two years:~~ HIRED AS A COLLECTIONS MANAGER WHOSE APPROVAL HAS BEEN TERMINATED BY THE EXECUTIVE DIRECTOR FOR A VIOLATION OF THIS ARTICLE SHALL BE HIRED AGAIN AS A COLLECTIONS MANAGER FOR FIVE YEARS.

SECTION 25. Article 14 of title 12, Colorado Revised Statutes, 1991 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

12-14-130.1. Debt collectors for the department of administration - complaint - disciplinary procedures. (1) ANY INTERESTED PERSON MAY FILE A WRITTEN COMPLAINT WITH THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION CHARGING A DEBT COLLECTOR IN THE EMPLOY OF THE DEPARTMENT OF ADMINISTRATION WITH A VIOLATION OF:

(a) THIS ARTICLE OR A RULE PROMULGATED PURSUANT THERETO;

(b) A LAWFUL ORDER OF THE STATE BOARD OF ETHICS; OR

(c) THE STANDARDS OF CONDUCT SET FORTH IN THE CODE OF CONDUCT DEVELOPED BY THE DEPARTMENT OF ADMINISTRATION FOR SUCH DEBT COLLECTORS.

(2) EACH COMPLAINT FILED PURSUANT TO THIS SECTION SHALL BE REFERRED TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION WHO SHALL CONDUCT AN INVESTIGATION TO DETERMINE IF A VIOLATION OF SUBSECTION (1) OF THIS SECTION OCCURRED. IF THE EXECUTIVE DIRECTOR MAKES A DETERMINATION THAT A VIOLATION DID OCCUR, THE DEBT COLLECTOR WHO IS THE SUBJECT OF THE COMPLAINT SHALL BE SUBJECT TO THE DISCIPLINARY PROCEDURES SET FORTH IN RULES ADOPTED BY THE STATE PERSONNEL BOARD. IF A DETERMINATION MADE PURSUANT TO THIS SUBSECTION (2) IS UNSATISFACTORY TO ANY PARTY, AN APPEAL MAY BE MADE TO THE BOARD OF ETHICS FOR THE EXECUTIVE BRANCH OF STATE GOVERNMENT IN THE OFFICE OF THE GOVERNOR.

(3) IF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION, OR THE BOARD OF ETHICS IN THE CASE OF AN APPEAL, MAKES A DETERMINATION THAT A DEBT COLLECTOR IN THE EMPLOY OF THE DEPARTMENT OF ADMINISTRATION HAS ACTED IN VIOLATION OF THIS ARTICLE OR A RULE PROMULGATED PURSUANT THERETO, A LAWFUL ORDER OF THE STATE BOARD OF ETHICS, OR THE CODE OF CONDUCT DESCRIBED IN PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION, SUCH DETERMINATION SHALL BE MADE A PART OF THE PERSONNEL FILE OF THE DEBT COLLECTOR AGAINST WHOM THE COMPLAINT WAS FILED.

SECTION 26. 12-14-131, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-14-131. Records. The executive director shall keep ~~in his office in~~ a suitable record OF all LICENSE applications ~~for licenses and all~~ AND bonds required to be filed. ~~and~~ Such record shall state whether ~~or not~~ a license has been issued under such application and bond and, if revoked, the date of the filing of the order of revocation. The executive director shall keep a list of each person ~~firm, corporation, or partnership which~~ WHO has had a license ~~or solicitor's or debt collector's registration~~ revoked OR HAS BEEN TERMINATED AS A COLLECTIONS MANAGER FOR A VIOLATION OF THIS ARTICLE. In such record, all licenses issued shall be indicated by their serial numbers ~~as well as by~~ AND the names and addresses of the licensees. This section shall apply to ~~the~~ renewal applications and renewal licenses, which shall be entered in said record in their proper order in the same manner as original applications and licenses; ~~are entered; except that, with respect to such an application or license,~~ EXCEPT THAT said record shall ALSO show ~~in addition,~~ the word "renewal" with the number of the last preceding license granted to the same licensee. Such record shall be open for inspection as a public record in the office of the executive director.

SECTION 27. Title 12, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 14.3
Colorado Consumer Credit Reporting Act

12-14.3-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS

THE "COLORADO CONSUMER CREDIT REPORTING ACT".

12-14.3-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ADVERSE ACTION" INCLUDES:

(a) THE DENIAL OF, INCREASE IN ANY CHARGE FOR, OR REDUCTION IN THE AMOUNT OF INSURANCE FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES;

(b) THE DENIAL OF EMPLOYMENT OR ANY OTHER DECISION FOR EMPLOYMENT PURPOSES THAT ADVERSELY AFFECTS A CURRENT OR PROSPECTIVE EMPLOYEE; AND

(c) AN ACTION OR DETERMINATION WITH RESPECT TO A CONSUMER'S APPLICATION FOR CREDIT UNDER A CREDIT ARRANGEMENT THAT IS ADVERSE TO THE CONSUMER'S INTERESTS.

(2) "CONSUMER" MEANS A NATURAL PERSON RESIDING IN THE STATE OF COLORADO.

(3) (a) "CONSUMER REPORT" MEANS ANY WRITTEN, ORAL, OR OTHER COMMUNICATION OR ANY INFORMATION BY A CONSUMER REPORTING AGENCY BEARING ON A CONSUMER'S CREDIT WORTHINESS, CREDIT STANDING, CREDIT CAPACITY, DEBTS, CHARACTER, GENERAL REPUTATION, PERSONAL CHARACTERISTICS, OR MODE OF LIVING, WHICH IS USED OR EXPECTED TO BE USED OR COLLECTED, IN WHOLE OR IN PART, AS A FACTOR TO ESTABLISH A CONSUMER'S ELIGIBILITY FOR CREDIT OR INSURANCE TO BE USED FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES, EMPLOYMENT PURPOSES, OR ANY OTHER PURPOSE AUTHORIZED PURSUANT TO APPLICABLE PROVISIONS OF THE FEDERAL "FAIR CREDIT REPORTING ACT", 15 U.S.C. SEC. 1681a AND 1681b, AS AMENDED.

(b) "CONSUMER REPORT" DOES NOT INCLUDE:

(I) ANY REPORT CONTAINING INFORMATION SOLELY AS TO A TRANSACTION BETWEEN THE CONSUMER AND THE PERSON MAKING THE REPORT;

(II) ANY AUTHORIZATION OR APPROVAL OF A SPECIFIC EXTENSION OF CREDIT DIRECTLY OR INDIRECTLY BY THE ISSUER OF A CREDIT CARD OR SIMILAR DEVICE;

(III) ANY REPORT IN WHICH A PERSON WHO HAS BEEN REQUESTED BY A THIRD PARTY TO MAKE A SPECIFIC EXTENSION OF CREDIT DIRECTLY OR INDIRECTLY TO A CONSUMER CONVEYS A DECISION WITH RESPECT TO THE REQUEST, IF THE THIRD PARTY ADVISES THE CONSUMER OF THE NAME AND ADDRESS OF THE PERSON TO WHOM THE REQUEST WAS MADE AND THE PERSON MAKES THE DISCLOSURES THAT MUST BE MADE TO THE CONSUMER PURSUANT TO THE PROVISIONS OF THE FEDERAL "FAIR CREDIT REPORTING ACT", 15 U.S.C. SEC. 1681m, AS AMENDED, IN THE EVENT OF ADVERSE ACTION.

(4) "CONSUMER REPORTING AGENCY" MEANS ANY PERSON WHICH, FOR MONETARY FEES, DUES, OR ON A COOPERATIVE NONPROFIT BASIS, REGULARLY ENGAGES IN WHOLE OR IN PART IN THE PRACTICE OF ASSEMBLING OR EVALUATING CONSUMER CREDIT

INFORMATION OR OTHER INFORMATION ON CONSUMERS FOR THE PURPOSE OF FURNISHING CONSUMER REPORTS TO THIRD PARTIES. "CONSUMER REPORTING AGENCY" SHALL NOT INCLUDE ANY BUSINESS ENTITY THAT PROVIDES CHECK VERIFICATION SERVICES ONLY.

(5) "EMPLOYMENT PURPOSES", WHEN USED IN CONNECTION WITH A CONSUMER REPORT, MEANS A REPORT USED FOR THE PURPOSE OF EVALUATING A CONSUMER FOR EMPLOYMENT, PROMOTION, REASSIGNMENT, OR RETENTION AS AN EMPLOYEE.

(6) "FILE" MEANS ALL OF THE INFORMATION ON THE CONSUMER WHICH IS RECORDED AND RETAINED BY A CONSUMER REPORTING AGENCY REGARDLESS OF HOW THE INFORMATION IS STORED.

(7) "INVESTIGATIVE CONSUMER REPORT" MEANS A CONSUMER REPORT OR PORTION THEREOF IN WHICH INFORMATION ON A CONSUMER'S CHARACTER, GENERAL REPUTATION, PERSONAL CHARACTERISTICS, OR MODE OF LIVING IS OBTAINED THROUGH PERSONAL INTERVIEWS WITH NEIGHBORS, FRIENDS, OR ASSOCIATES OF THE CONSUMER, REPORTED ON OR WITH OTHERS WITH WHOM THE CONSUMER IS ACQUAINTED OR WHO MAY HAVE KNOWLEDGE CONCERNING ANY SUCH ITEMS OF INFORMATION. THE TERM DOES NOT INCLUDE SPECIFIC FACTUAL INFORMATION ON A CONSUMER'S CREDIT RECORD OBTAINED DIRECTLY FROM A CREDITOR OF THE CONSUMER OR FROM A CONSUMER REPORTING AGENCY WHEN SUCH INFORMATION WAS OBTAINED DIRECTLY FROM A CREDITOR OF THE CONSUMER OR FROM THE CONSUMER.

(8) "PERSON" MEANS ANY NATURAL PERSON, FIRM, CORPORATION, OR PARTNERSHIP.

12-14.3-103. Permissible purposes - prohibition. (1) A CONSUMER REPORTING AGENCY MAY FURNISH A CONSUMER REPORT ONLY UNDER THE FOLLOWING CIRCUMSTANCES:

(a) IN RESPONSE TO AN ORDER OF A COURT HAVING JURISDICTION TO ISSUE SUCH AN ORDER;

(b) IN ACCORDANCE WITH THE WRITTEN INSTRUCTIONS OF THE CONSUMER TO WHOM IT RELATES; AND

(c) TO A PERSON WHICH THE CONSUMER REPORTING AGENCY HAS REASON TO BELIEVE:

(I) INTENDS TO USE THE INFORMATION IN CONNECTION WITH A CREDIT TRANSACTION INVOLVING THE CONSUMER ON WHOM THE INFORMATION IS TO BE FURNISHED AND INVOLVING THE EXTENSION OF CREDIT TO, OR REVIEW OR COLLECTION OF AN ACCOUNT OF, THE CONSUMER; OR

(II) INTENDS TO USE THE INFORMATION FOR EMPLOYMENT PURPOSES; OR

(III) INTENDS TO USE THE INFORMATION IN CONNECTION WITH THE UNDERWRITING OF INSURANCE INVOLVING THE CONSUMER; OR

(IV) INTENDS TO USE THE INFORMATION IN CONNECTION WITH A DETERMINATION OF THE CONSUMER'S ELIGIBILITY FOR A LICENSE OR OTHER BENEFIT GRANTED BY A GOVERNMENTAL INSTRUMENTALITY REQUIRED BY LAW TO CONSIDER AN APPLICANT'S FINANCIAL RESPONSIBILITY OR STATUS; OR

(V) OTHERWISE HAS A LEGITIMATE BUSINESS NEED FOR THE INFORMATION IN CONNECTION WITH A BUSINESS TRANSACTION INVOLVING THE CONSUMER; OR

(VI) INTENDS TO USE THE INFORMATION FOR ANY PURPOSE ALLOWED UNDER THE FEDERAL "FAIR CREDIT REPORTING ACT" AND RULES PROMULGATED PURSUANT TO SUCH ACT.

(2) A CONSUMER REPORTING AGENCY MAY NOT, BY CONTRACT OR OTHERWISE, PROHIBIT A USER OF ANY CONSUMER REPORT OR INVESTIGATIVE CONSUMER REPORT FROM, UPON REQUEST OF THE CONSUMER, DISCLOSING THE CONTENTS OF SUCH REPORT TO THE CONSUMER TO WHOM IT RELATES IF ADVERSE ACTION AGAINST THE CONSUMER HAS BEEN TAKEN OR IS CONTEMPLATED BY THE USER OF THE CONSUMER REPORT OR INVESTIGATIVE CONSUMER REPORT, BASED IN WHOLE OR IN PART ON SUCH REPORT. NO USER OR CONSUMER REPORTING AGENCY SHALL BE HELD LIABLE OR OTHERWISE RESPONSIBLE FOR A DISCLOSED REPORT WHEN ACTING PURSUANT TO THIS SUBSECTION (2) NOR SHALL SUCH DISCLOSURE, BY ITSELF, MAKE THE USER A CONSUMER REPORTING AGENCY.

12-14.3-104. Disclosures to consumers. (1) A CONSUMER REPORTING AGENCY SHALL, UPON WRITTEN OR VERBAL REQUEST AND PROPER IDENTIFICATION OF ANY CONSUMER, CLEARLY AND ACCURATELY DISCLOSE TO THE CONSUMER, IN WRITING, ALL INFORMATION IN ITS FILES AT THE TIME OF THE REQUEST PERTAINING TO THE CONSUMER, INCLUDING BUT NOT LIMITED TO:

(a) THE NAMES OF ALL PERSONS REQUESTING CREDIT INFORMATION PERTAINING TO THE CONSUMER DURING THE PRIOR SIX MONTH PERIOD AND THE DATE OF EACH REQUEST;

(b) A SET OF INSTRUCTIONS DESCRIBING HOW INFORMATION IS PRESENTED ON ITS WRITTEN DISCLOSURE OF THE FILE; AND

(c) A TOLL FREE NUMBER FOR USE IN RESOLVING THE DISPUTE IF THE CONSUMER SUBMITTED A WRITTEN DISPUTE TO THE CONSUMER REPORTING AGENCY, WHICH OPERATES ON A NATIONWIDE BASIS.

12-14.3-105. Charges for certain disclosures. (1) A CONSUMER REPORTING AGENCY SHALL NOT IMPOSE A CHARGE FOR:

(a) A REQUEST FOR A COPY OF THE CONSUMER'S FILE MADE WITHIN SIXTY DAYS AFTER ADVERSE ACTION IS TAKEN; OR

(b) NOTIFYING ANY PERSON DESIGNATED BY THE CONSUMER, PURSUANT TO THE APPLICABLE PROVISIONS OF THE FEDERAL "FAIR CREDIT REPORTING ACT", 15 U.S.C. SEC. 1681i, AS AMENDED, OF THE DELETION OF INFORMATION WHICH IS FOUND TO BE INACCURATE OR WHICH CAN NO LONGER BE VERIFIED; OR

(c) A SET OF INSTRUCTIONS FOR UNDERSTANDING THE INFORMATION PRESENTED ON THE CONSUMER REPORT AND A TOLL FREE TELEPHONE NUMBER THAT CONSUMERS MAY UTILIZE TO OBTAIN ADDITIONAL ASSISTANCE CONCERNING THE CONSUMER REPORT.

(2) FOR ALL OTHER DISCLOSURES TO CONSUMERS OF INFORMATION PERTAINING TO THE CONSUMER, THE CONSUMER REPORTING AGENCY MAY IMPOSE A REASONABLE CHARGE, NOT TO EXCEED THE RETAIL PRICE OF A WRITTEN REPORT RENDERED IN THE NORMAL COURSE OF BUSINESS TO THE CUSTOMERS OF SUCH AGENCY FOR EACH REQUEST FOR INFORMATION.

12-14.3-106. Procedure for disputed information. (1) IF THE COMPLETENESS OR ACCURACY OF ANY ITEM OF INFORMATION CONTAINED IN THE CONSUMER'S FILE IS DISPUTED BY THE CONSUMER AND THE CONSUMER NOTIFIES THE CONSUMER REPORTING AGENCY DIRECTLY OF SUCH DISPUTE, THE AGENCY SHALL REINVESTIGATE THE ITEM FREE OF CHARGE AND RECORD THE CURRENT STATUS OF THE DISPUTED INFORMATION ON OR BEFORE THIRTY BUSINESS DAYS AFTER THE DATE THE AGENCY RECEIVES NOTICE CONVEYED BY THE CONSUMER.

(2) ON OR BEFORE FIVE BUSINESS DAYS AFTER THE DATE A CONSUMER REPORTING AGENCY RECEIVES NOTICE OF A DISPUTE FROM A CONSUMER IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION, THE AGENCY SHALL PROVIDE NOTICE OF THE DISPUTE TO ALL PERSONS WHO PROVIDED ANY ITEM OF INFORMATION IN DISPUTE.

(3) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, A CONSUMER REPORTING AGENCY MAY TERMINATE A REINVESTIGATION OF INFORMATION DISPUTED BY A CONSUMER UNDER SUCH SUBSECTION (1) IF THE AGENCY REASONABLY DETERMINES THAT SUCH DISPUTE BY THE CONSUMER IS FRIVOLOUS OR IRRELEVANT. UPON MAKING SUCH A DETERMINATION, A CONSUMER REPORTING AGENCY SHALL PROMPTLY NOTIFY THE CONSUMER OF SUCH DETERMINATION AND THE REASONS THEREFOR, BY MAIL, OR IF AUTHORIZED BY THE CONSUMER FOR THAT PURPOSE, BY TELEPHONE. THE PRESENCE OF CONTRADICTORY INFORMATION IN THE CONSUMER'S FILE DOES NOT IN AND OF ITSELF CONSTITUTE REASONABLE GROUNDS FOR DETERMINING THE DISPUTE IS FRIVOLOUS OR IRRELEVANT.

(4) IF, AFTER A REINVESTIGATION UNDER SUBSECTION (1) OF THIS SECTION OF ANY INFORMATION DISPUTED BY A CONSUMER, THE INFORMATION IS FOUND TO BE INACCURATE OR CANNOT BE VERIFIED, THE CONSUMER REPORTING AGENCY SHALL PROMPTLY DELETE SUCH INFORMATION FROM THE CONSUMER'S FILE, REVISE THE FILE, AND REFRAIN FROM REPORTING THE INFORMATION IN SUBSEQUENT REPORTS.

(5) INFORMATION DELETED PURSUANT TO SUBSECTION (4) OF THIS SECTION MAY NOT BE REINSERTED IN THE CONSUMER'S FILE UNLESS THE PERSON WHO FURNISHES THE INFORMATION REINVESTIGATES AND STATES IN WRITING OR BY ELECTRONIC RECORD TO THE CONSUMER REPORTING AGENCY THAT THE INFORMATION IS COMPLETE AND ACCURATE.

(6) A CONSUMER REPORTING AGENCY SHALL PROVIDE WRITTEN NOTICE OF THE RESULTS OF ANY REINVESTIGATION OR REINSERTION MADE PURSUANT TO THIS SECTION WITHIN FIVE BUSINESS DAYS OF THE COMPLETION OF THE REINVESTIGATION OR REINSERTION. SUCH NOTICE SHALL INCLUDE:

- (a) A STATEMENT THAT THE REINVESTIGATION IS COMPLETE;
- (b) A STATEMENT OF THE DETERMINATION OF THE CONSUMER REPORTING AGENCY ON THE COMPLETENESS OR ACCURACY OF THE DISPUTED INFORMATION;
- (c) A COPY OF THE CONSUMER'S FILE OR CONSUMER REPORT AND A DESCRIPTION OF THE RESULTS OF THE REINVESTIGATION;
- (d) A NOTICE THAT, IF REQUESTED BY THE CONSUMER, A DESCRIPTION OF THE PROCEDURE USED TO DETERMINE THE ACCURACY AND COMPLETENESS OF THE INFORMATION SHALL BE PROVIDED TO THE CONSUMER BY THE CONSUMER REPORTING AGENCY, INCLUDING THE NAME, BUSINESS ADDRESS, AND, IF AVAILABLE, THE TELEPHONE NUMBER OF ANY PERSON CONTACTED IN CONNECTION WITH SUCH INFORMATION;
- (e) A NOTIFICATION THAT THE CONSUMER HAS THE RIGHT, PURSUANT TO THE APPLICABLE PROVISIONS OF THE FEDERAL "FAIR CREDIT REPORTING ACT", 15 U.S.C. SEC. 1681i, AS AMENDED, TO ADD A STATEMENT TO THE CONSUMER'S FILE DISPUTING THE ACCURACY OR COMPLETENESS OF THE INFORMATION; AND
- (f) A NOTIFICATION OF THE CONSUMER'S RIGHTS TO DISPUTE RESOLUTION UNDER SECTION 12-14.3-107, WHICH ARE AVAILABLE AFTER THE CONSUMER HAS FOLLOWED ALL DISPUTE PROCEDURES DESCRIBED IN THIS SECTION AND HAS RECEIVED THE NOTICE SPECIFIED UNDER THIS SUBSECTION (6).

12-14.3-107. Consumer's right to file action in court or arbitrate disputes.

AN ACTION TO ENFORCE ANY OBLIGATION OF A CONSUMER REPORTING AGENCY TO A CONSUMER UNDER THIS ARTICLE MAY BE BROUGHT IN ANY COURT OF COMPETENT JURISDICTION AS PROVIDED BY THE FEDERAL "FAIR CREDIT REPORTING ACT" OR SUBMITTED TO BINDING ARBITRATION AFTER THE CONSUMER HAS FOLLOWED ALL DISPUTE PROCEDURES IN SECTION 12-14.3-106 AND HAS RECEIVED THE NOTICE SPECIFIED IN SUBSECTION (6) OF SAID SECTION IN THE MANNER SET FORTH IN THE RULES OF THE AMERICAN ARBITRATION ASSOCIATION TO DETERMINE WHETHER THE CONSUMER REPORTING AGENCY MET ITS OBLIGATIONS UNDER THIS ARTICLE. NO DECISION BY AN ARBITRATOR PURSUANT TO THIS SECTION SHALL AFFECT THE VALIDITY OF ANY OBLIGATIONS OR DEBTS OWED TO ANY PARTY. A SUCCESSFUL PARTY TO ANY SUCH ARBITRATION PROCEEDING SHALL BE COMPENSATED FOR THE COSTS AND ATTORNEY FEES OF THE PROCEEDING AS DETERMINED BY THE COURT OR ARBITRATION. NO CONSUMER MAY SUBMIT MORE THAN ONE ACTION TO ARBITRATION AGAINST ANY CONSUMER REPORTING AGENCY DURING ANY ONE-HUNDRED-TWENTY-DAY PERIOD. THE RESULTS OF AN ARBITRATION ACTION BROUGHT AGAINST A CONSUMER REPORTING AGENCY DOING BUSINESS IN THIS STATE SHALL BE COMMUNICATED IN A TIMELY MANNER WITH ALL OTHER CONSUMER REPORTING AGENCIES DOING BUSINESS IN THIS STATE. IF AS A RESULT OF AN ARBITRATION A DETERMINATION IS MADE IN FAVOR OF THE CONSUMER, ANY ADVERSE INFORMATION IN SUCH CONSUMER'S FILE OR RECORD SHALL BE REMOVED OR STRICKEN IN A TIMELY MANNER. IF SUCH ADVERSE INFORMATION IS NOT SO REMOVED OR STRICKEN, THE CONSUMER MAY BRING AN ACTION AGAINST THE NONCOMPLYING AGENCY PURSUANT TO THIS SECTION NOTWITHSTANDING THE ONE-HUNDRED-TWENTY-DAY WAITING PERIOD.

12-14.3-108. Violations. (1) ANY CONSUMER REPORTING AGENCY THAT WILLFULLY VIOLATES ANY PROVISION OF THIS ARTICLE SHALL BE LIABLE FOR THREE TIMES THE AMOUNT OF ACTUAL DAMAGES OR ONE THOUSAND DOLLARS, WHICHEVER IS GREATER, REASONABLE ATTORNEY FEES, AND COSTS.

(2) ANY CONSUMER REPORTING AGENCY WHICH NEGLIGENTLY VIOLATES THIS ARTICLE SHALL BE LIABLE FOR ACTUAL DAMAGES OR FIVE HUNDRED DOLLARS, WHICHEVER IS GREATER, REASONABLE ATTORNEY FEES, AND COSTS. A CONSUMER REPORTING AGENCY HAS NO LIABILITY UNDER THIS SUBSECTION (2) IF WITHIN SIXTY DAYS AFTER RECEIVING NOTICE OF DISPUTE FROM A CONSUMER, IN ACCORDANCE WITH SECTION 12-14.3-106, THE CONSUMER REPORTING AGENCY CORRECTS THE COMPLAINED OF ITEM OR ACTIVITY AND SENDS THE CONSUMER WRITTEN NOTIFICATION OF SUCH CORRECTIVE ACTION, IN ACCORDANCE WITH SECTION 12-14.3-106 (6).

12-14.3-109. Provisions of article cumulative. THE PROVISIONS OF THIS ARTICLE ARE CUMULATIVE, AND ANY ACTION TAKEN UNDER THE PROVISIONS OF THIS ARTICLE SHALL NOT CONSTITUTE AN ELECTION TO TAKE ANY SUCH ACTION TO THE EXCLUSION OF ANY OTHER ACTION AUTHORIZED BY LAW; EXCEPT THAT A CREDIT REPORTING AGENCY SHALL NOT BE SUBJECT TO SUIT WITH RESPECT TO ANY ISSUE THAT WAS THE SUBJECT OF AN ARBITRATION PROCEEDING BROUGHT PURSUANT TO SECTION 12-14.3-107.

SECTION 28. 12-14.3-103 (1) (c), Colorado Revised Statutes, 1991 Repl. Vol., as enacted by Senate Bill 95-122 enacted at the First Regular Session of the Sixtieth General Assembly, is amended to read:

12-14.3-103. Permissible purposes - prohibition. (1) A consumer reporting agency may furnish a consumer report only under the following circumstances:

(c) To a person which the consumer reporting agency has reason to believe:

(I) Intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer; or

(II) Intends to use the information for employment purposes; or

(III) Intends to use the information in connection with the underwriting of insurance involving the consumer; or

(IV) Intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or

(V) Otherwise has a legitimate business need for the information in connection with a business transaction involving the consumer; OR

(VI) INTENDS TO USE THE INFORMATION FOR ANY PURPOSE ALLOWED UNDER THE FEDERAL "FAIR CREDIT REPORTING ACT" AND RULES PROMULGATED PURSUANT TO

SUCH ACT.

SECTION 29. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 30. Effective date - applicability. (1) Sections 6 and 27 of this act shall take effect January 1, 1996, and shall apply to acts occurring on or after said date; except that said section 27 shall only take effect if Senate Bill 95-122, enacted at the First Regular Session of the Sixtieth General Assembly, does not become law. The remainder of this act shall take effect July 1, 1995, and shall apply to acts occurring on or after said date.

(2) Section 28 of this act shall take effect January 1, 1996, only if Senate Bill 95-122, enacted at the First Regular Session of the Sixtieth General Assembly, becomes law.

SECTION 31. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 3, 1995