

CHAPTER 320

GOVERNMENT - STATE

HOUSE BILL 99-1048

BY REPRESENTATIVES Pfiffner, Decker, Hagedorn, McKay, Paschall, Scott, Stengel, Sullivant, Vigil, and Young;
also SENATORS Hillman, Congrove, Evans, Hernandez, Lamborn, Musgrave, Tebedo, Wattenberg, and Wham.

AN ACT

CONCERNING LIMITATIONS ON THE AMOUNT A GOVERNMENTAL ENTITY MAY CHARGE AS A RESULT OF
THE LATE PAYMENT OF AN AMOUNT DUE AND OWING TO SUCH ENTITY.

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

SECTION 1. Legislative declaration. The general assembly hereby finds and declares that the law currently provides certain protections to consumers with respect to delinquency charges and other fees assessed in a private consumer transaction for making a payment after its scheduled due date. The general assembly further finds and declares that comparable protections do not exist to define the imposition of state and local government delinquency charges upon citizens. This act is intended to extend some of the protections found in the consumer protection laws to citizens who receive goods or services from state and local governments but who pay for such goods or services after a scheduled due date.

SECTION 2. Title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 79.5
Delinquency Charges Imposed by the State

24-79.5-101. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AMOUNT DUE" MEANS THE AMOUNT OF A FEE, FINE, PENALTY, OR OTHER SEPARATE CHARGE DUE AND OWING TO THE STATE.

(2) "DELINQUENCY CHARGE" MEANS A SEPARATE FEE, FINE, OR PENALTY LEVIED AS A RESULT OF THE LATE PAYMENT OF AN AMOUNT DUE. FOR PURPOSES OF THIS

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

ARTICLE, A DELINQUENCY CHARGE SHALL NOT INCLUDE ANY FEE, FINE, OR OTHER PENALTY IMPOSED:

(a) IN ACCORDANCE WITH THE EXPRESS TERMS OF A WRITTEN CONTRACTUAL PROVISION;

(b) AS A RESULT OF THE LATE PAYMENT OF A TAX;

(c) BY A STATE, COUNTY, MUNICIPAL, OR OTHER COURT;

(d) AS A RESULT OF A CHECK, DRAFT, OR ORDER FOR THE PAYMENT OF MONEY THAT IS NOT PAID UPON PRESENTMENT;

(e) IN CONNECTION WITH THE UNLAWFUL STOPPING, STANDING, OR PARKING OF A MOTOR VEHICLE;

(f) BY A PUBLIC LIBRARY UPON OVERDUE, DAMAGED, OR DESTROYED MATERIALS; AND

(g) BY A LOCAL LIQUOR LICENSING AUTHORITY PURSUANT TO ARTICLE 47 OF TITLE 12, C.R.S.

(3) "STATE" SHALL HAVE THE SAME MEANING AS DEFINED IN SECTION 11-54-102 (12), C.R.S.

24-79.5-102. Delinquency charges. (1) NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY, THE STATE SHALL NOT IMPOSE A DELINQUENCY CHARGE EXCEPT AS PROVIDED IN THIS SECTION.

(2) NO DELINQUENCY CHARGE MAY BE COLLECTED BY THE STATE ON ANY AMOUNT DUE THAT IS PAID IN FULL WITHIN FIVE DAYS AFTER THE SCHEDULED DUE DATE.

(3) NO DELINQUENCY CHARGE SHALL EXCEED FIFTEEN DOLLARS OR UP TO FIVE PERCENT PER MONTH, OR FRACTION THEREOF, NOT TO EXCEED A TOTAL OF TWENTY-FIVE PERCENT OF THE AMOUNT DUE, WHICHEVER IS GREATER.

(4) NO MORE THAN THE AMOUNT SET FORTH IN SUBSECTION (3) OF THIS SECTION SHALL BE COLLECTED BY THE STATE ON ANY AMOUNT DUE REGARDLESS OF THE PERIOD OF TIME DURING WHICH THE AMOUNT DUE REMAINS IN DEFAULT.

(5) IN THE EVENT THAT AN AMOUNT DUE IS ONE OF A SERIES OF PAYMENTS TO BE MADE TOWARD THE SATISFACTION OF A SINGLE FEE, FINE, PENALTY, OR OTHER CHARGE ASSESSED BY THE STATE, NO MORE THAN THE AMOUNT SET FORTH IN SUBSECTION (3) OF THIS SECTION SHALL BE COLLECTED BY THE STATE ON ANY ONE OF SUCH PAYMENTS REGARDLESS OF THE PERIOD OF TIME DURING WHICH THE PAYMENT REMAINS IN DEFAULT.

(6) NO INTEREST SHALL BE ASSESSED ON A DELINQUENCY CHARGE.

(7) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE STATE FROM CHARGING INTEREST ON AN AMOUNT DUE. IN NO EVENT SHALL SUCH INTEREST BE

CHARGED UPON A DELINQUENCY CHARGE OR ANY AMOUNT OTHER THAN THE AMOUNT DUE. IN NO EVENT SHALL ANY SUCH INTEREST CHARGE EXCEED AN ANNUAL PERCENTAGE RATE OF EIGHTEEN PERCENT OR THE EQUIVALENT FOR A LONGER OR SHORTER PERIOD OF TIME.

(8) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE STATE FROM RECOVERING THE COSTS OF COLLECTION, INCLUDING BUT NOT LIMITED TO DISCONNECTION OR RECONNECTION FEES OR PENALTIES ASSESSED WHERE FRAUD IS INVOLVED.

SECTION 3. Article 1 of title 29, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 11
LOCAL GOVERNMENT DELINQUENCY CHARGES

29-1-1101. Definitions. AS USED IN THIS PART 11, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AMOUNT DUE" MEANS THE AMOUNT OF A FEE, FINE, PENALTY, OR OTHER SEPARATE CHARGE DUE AND OWING TO A LOCAL GOVERNMENT.

(2) "DELINQUENCY CHARGE" MEANS A SEPARATE FEE, FINE, OR PENALTY LEVIED AS A RESULT OF THE LATE PAYMENT OF AN AMOUNT DUE. FOR PURPOSES OF THIS PART 11, A DELINQUENCY CHARGE SHALL NOT INCLUDE ANY FEE, FINE, OR OTHER PENALTY IMPOSED:

(a) IN ACCORDANCE WITH THE EXPRESS TERMS OF A WRITTEN CONTRACTUAL PROVISION;

(b) AS A RESULT OF THE LATE PAYMENT OF A TAX;

(c) BY A STATE, COUNTY, MUNICIPAL, OR OTHER COURT;

(d) AS A RESULT OF A CHECK, DRAFT, OR ORDER FOR THE PAYMENT OF MONEY THAT IS NOT PAID UPON PRESENTMENT;

(e) IN CONNECTION WITH THE UNLAWFUL STOPPING, STANDING, OR PARKING OF A MOTOR VEHICLE;

(f) BY A PUBLIC LIBRARY UPON OVERDUE, DAMAGED, OR DESTROYED MATERIALS;
AND

(g) BY A LOCAL LIQUOR LICENSING AUTHORITY PURSUANT TO ARTICLE 47 OF TITLE 12, C.R.S.

(3) "LOCAL GOVERNMENT" SHALL HAVE THE SAME MEANING AS DEFINED IN SECTION 29-1-602 (5) (a).

29-1-1102. Delinquency charges. (1) NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY, NO LOCAL GOVERNMENT SHALL IMPOSE A

DELINQUENCY CHARGE EXCEPT AS PROVIDED IN THIS SECTION.

(2) NO DELINQUENCY CHARGE MAY BE COLLECTED BY A LOCAL GOVERNMENT ON ANY AMOUNT DUE THAT IS PAID IN FULL WITHIN FIVE DAYS AFTER THE SCHEDULED DUE DATE.

(3) NO DELINQUENCY CHARGE SHALL EXCEED THE AMOUNT OF FIFTEEN DOLLARS OR UP TO FIVE PERCENT PER MONTH, OR FRACTION THEREOF, NOT TO EXCEED A TOTAL OF TWENTY-FIVE PERCENT OF THE AMOUNT DUE, WHICHEVER IS GREATER.

(4) NO MORE THAN THE AMOUNT SET FORTH IN SUBSECTION (3) OF THIS SECTION SHALL BE COLLECTED BY A LOCAL GOVERNMENT ON ANY AMOUNT DUE REGARDLESS OF THE PERIOD OF TIME DURING WHICH THE AMOUNT DUE REMAINS IN DEFAULT.

(5) IN THE EVENT THAT AN AMOUNT DUE IS ONE OF A SERIES OF PAYMENTS TO BE MADE TOWARD THE SATISFACTION OF A SINGLE FEE, FINE, PENALTY, OR OTHER CHARGE ASSESSED BY A LOCAL GOVERNMENT, NO MORE THAN THE AMOUNT SET FORTH IN SUBSECTION (3) OF THIS SECTION SHALL BE COLLECTED BY A LOCAL GOVERNMENT ON ANY ONE OF SUCH PAYMENTS REGARDLESS OF THE PERIOD OF TIME DURING WHICH THE PAYMENT REMAINS IN DEFAULT.

(6) NO INTEREST SHALL BE ASSESSED ON A DELINQUENCY CHARGE.

(7) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT A LOCAL GOVERNMENT FROM CHARGING INTEREST ON AN AMOUNT DUE. IN NO EVENT SHALL SUCH INTEREST BE CHARGED UPON A DELINQUENCY CHARGE OR ANY AMOUNT OTHER THAN THE AMOUNT DUE. IN NO EVENT SHALL ANY SUCH INTEREST CHARGE EXCEED AN ANNUAL PERCENTAGE RATE OF EIGHTEEN PERCENT OR THE EQUIVALENT FOR A LONGER OR SHORTER PERIOD OF TIME. THE PROVISIONS OF THIS SUBSECTION (7) RESTRICTING THE CHARGING OF INTEREST SHALL NOT APPLY TO DELINQUENT INTEREST IMPOSED AFTER A TAX LIEN IS SOLD AT A TAX LIEN SALE PURSUANT TO ARTICLE 11 OF TITLE 39, C.R.S.

(8) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT A LOCAL GOVERNMENT FROM RECOVERING THE COSTS OF COLLECTION, INCLUDING BUT NOT LIMITED TO DISCONNECTION OR RECONNECTION FEES, REINSTATEMENT CHARGES, OR PENALTIES ASSESSED WHERE FRAUD IS INVOLVED.

SECTION 4. Effective date - applicability. (1) This act shall take effect January 1, 2000, unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution. If such a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of sections 2 and 3 of this act shall apply to any amount due that first becomes due and owing on or after the applicable effective date of this act.

Approved: June 3, 1999