

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

DRAFT  
1.13.17

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LLS NO. 17-0298.01 Kristen Forrestal x4217

SUNSET BILL

Sunset Process - Senate Judiciary Committee

**BILL TOPIC:** "Sunset Continue Fair Debt Collections Act"  
**DEADLINES:** Finalize by: JAN 25, 2017 File by: JAN 27, 2017

A BILL FOR AN ACT

101 CONCERNING CONTINUATION OF THE REGULATION OF COLLECTION  
102 AGENCIES UNDER THE "COLORADO FAIR DEBT COLLECTION  
103 PRACTICES ACT", AND, IN CONNECTION THEREWITH,  
104 IMPLEMENTING THE RECOMMENDATIONS OF THE 2016 SUNSET  
105 REPORT OF THE DEPARTMENT OF REGULATORY AGENCIES.

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/>.)*

**Sunset Process - Senate Judiciary Committee.** The bill implements the recommendations of the sunset review and report on the

*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

continuation of the "Colorado Fair Debt Collection Practices Act" (Act) by:

- Continuing the Act through 2028;
- Defining what is expected of a collection agency that purchases, sells, or attempts to collect on a purchased debt;
- Clarifying that when a collection agency attempts to collect on a debt, the Act applies, by removing language from the definition of "debt";
- Clarifying that the statute of limitations for private actions and actions by the administrator of the Act is 4 years;
- Repealing the collection agency board; and
- Allowing consumers who have monetary judgments against a collection agency to access surety bond funds.

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

2 **Recommendation 1**

3 **SECTION 1.** In Colorado Revised Statutes, 24-34-104, **repeal**  
4 (12)(a)(VII); and **add** (29)(a)(I) as follows:

5 **24-34-104. General assembly review of regulatory agencies**  
6 **and functions for repeal, continuation, or reestablishment - legislative**  
7 **declaration - repeal.** (12) (a) The following agencies, functions, or both,  
8 will repeal on July 1, 2017:

9 ~~(VII) The regulation of collection agencies in accordance with~~  
10 ~~article 14 of title 12, C.R.S.;~~

11 (29) (a) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, ARE  
12 SCHEDULED FOR REPEAL ON SEPTEMBER 1, 2028:

13 (I) THE ADMINISTRATION OF THE "COLORADO FAIR DEBT  
14 COLLECTION PRACTICES ACT" BY THE ADMINISTRATOR OF THE "UNIFORM  
15 CONSUMER CREDIT CODE", ARTICLES 1 TO 9 OF TITLE 5, IN ACCORDANCE  
16 WITH ARTICLE 14 OF TITLE 12.

17 (b) THIS SUBSECTION (29) IS REPEALED, EFFECTIVE SEPTEMBER 1,  
18 2030.

1           **SECTION 2.** In Colorado Revised Statutes, **amend** 12-14-137 as  
2 follows:

3           **12-14-137. Repeal of article.** This ~~article~~ ARTICLE 14 is repealed,  
4 effective ~~July 1, 2017~~ SEPTEMBER 1, 2028. BEFORE ITS REPEAL, THIS  
5 ARTICLE 14 IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION  
6 24-34-104.

7           **Recommendation 2**

8           **SECTION 3.** In Colorado Revised Statutes, 12-14-103, **amend**  
9 the introductory portion; and **add** (9.7) as follows:

10           **12-14-103. Definitions.** As used in this ~~article~~ ARTICLE 14, unless  
11 the context otherwise requires:

12           (9.7) "RETIRED DEBT" MEANS DEBT AS TO WHICH ANY OF THE  
13 FOLLOWING IS TRUE:

14           (a) IT HAS BEEN DISCHARGED IN A CHAPTER 7 BANKRUPTCY CASE  
15 WITH NO ASSETS FOR DISTRIBUTION TO CREDITORS;

16           (b) THE LICENSEE HAS BEEN INFORMED OR HAS KNOWLEDGE THAT  
17 THE CONSUMER RESPONSIBLE FOR THE DEBT IS DECEASED;

18           (c) IT HAS BEEN SETTLED;

19           (d) MORE THAN FOUR YEARS HAVE PASSED SINCE THE DATE OF THE  
20 CONSUMER'S LAST PAYMENT; OR

21           (e) IT IS BEYOND THE DATE OF OBSOLESCENCE UNDER SECTION  
22 1681c OF THE FEDERAL "FAIR CREDIT REPORTING ACT", 15 U.S.C. SEC.  
23 1681 ET SEQ., AS AMENDED.

24           **SECTION 4.** In Colorado Revised Statutes, 12-14-123, **add**  
25 (1)(g), (1)(h), and (1)(i) as follows:

26           **12-14-123. Duties of collection agencies.** (1) A licensee shall:

27           (g) WHEN A DEBT IS SOLD, INCLUDE IN THE TRANSACTION ALL

1 RELEVANT DOCUMENTATION, AS DETERMINED BY RULE OF THE  
2 ADMINISTRATOR, CONCERNING THE ORIGINAL TRANSACTION AND THE  
3 CREDITOR VERIFYING THE DEBT;

4 (h) IF A DEBT IS UNDER DISPUTE AND BEING SOLD, INCLUDE  
5 DOCUMENTATION THAT THE DEBT IS UNDER DISPUTE AND THAT THE  
6 CONSUMER MAY NOT BE CONTACTED UNLESS VERIFICATION OF THE DEBT  
7 IS DOCUMENTED;

8 (i) NOT SELL A RETIRED DEBT AS AN ACCOUNT RECEIVABLE.

9 **SECTION 5.** In Colorado Revised Statutes, 12-14-128, **amend**  
10 (1) introductory portion; and **add** (1)(d) as follows:

11 **12-14-128. Unlawful acts.** (1) In addition to the unlawful acts  
12 specified in sections 12-14-112 and 12-14-115, it is unlawful and a  
13 violation of this ~~article~~ ARTICLE 14 for any person:

14 (d) TO CONTACT A DEBTOR AFTER THE FOUR-YEAR STATUTE OF  
15 LIMITATIONS HAS RUN AFTER THE LAST PAYMENT WAS MADE ON A DEBT.

16 **SECTION 6.** In Colorado Revised Statutes, **add** 12-14-128.5 as  
17 follows:

18 **12-14-128.5. Statute of limitations - actions by administrator.**  
19 AN ACTION OR PROCEEDING BROUGHT BY THE ADMINISTRATOR PURSUANT  
20 TO THIS ARTICLE 14 OR PURSUANT TO ANY RULE ISSUED BY THE  
21 ADMINISTRATOR UNDER THIS ARTICLE 14 MUST BE BROUGHT WITHIN FOUR  
22 YEARS AFTER THE DATE ON WHICH THE VIOLATION OCCURRED.

23 **Recommendation 3**

24 **SECTION 7.** In Colorado Revised Statutes, 12-14-103, **amend**  
25 the introductory portion and (6)(a) as follows:

26 **12-14-103. Definitions.** As used in this ~~article~~ ARTICLE 14, unless  
27 the context otherwise requires:

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

4 **Recommendation 4**

5 **SECTION 8.** In Colorado Revised Statutes, 12-14-113, **amend**  
6 (3) and (4) as follows:

7 **12-14-113. Civil liability.** (3) A debt collector, private child  
8 support collector, as defined in section 12-14.1-102 (9), or collection  
9 agency may not be held liable in any action brought pursuant to ~~the~~  
10 ~~provisions of this article~~ THIS SECTION if the debt collector or collection  
11 agency shows by a preponderance of evidence that the violation was not  
12 intentional or grossly negligent and ~~which~~ THE violation resulted from a  
13 bona fide error, notwithstanding the maintenance of procedures  
14 reasonably adapted to avoid any such error.

15 (4) ~~An~~ A PRIVATE action to enforce any liability created by ~~the~~  
16 ~~provisions of this article may~~ THIS SECTION MUST be brought in any court  
17 of competent jurisdiction within one year from the date on which the  
18 violation occurs.

19 **Recommendation 5**

20 **SECTION 9.** In Colorado Revised Statutes, 12-14-103, **amend**  
21 the introductory portion; and **repeal** (1.5) as follows:

22 **12-14-103. Definitions.** As used in this ~~article~~ ARTICLE 14, unless  
23 the context otherwise requires:

24 (1.5) ~~"Board" means the collection agency board created in~~  
25 ~~section 12-14-116.~~

26 **SECTION 10.** In Colorado Revised Statutes, **repeal** 12-14-116.

27 **SECTION 11.** In Colorado Revised Statutes, 12-14-117, **repeal**

1 (1) as follows:

2 **12-14-117. Powers and duties of the administrator.** (1) Any  
3 ~~provision of this article to the contrary notwithstanding, the board, created~~  
4 ~~by section 12-14-116, is under the supervision and control of the~~  
5 ~~administrator, who may exercise any of the powers granted to the board.~~

6 **SECTION 12.** In Colorado Revised Statutes, 12-14-130, **amend**  
7 (12) as follows:

8 **12-14-130. Complaint - investigations - powers of**  
9 **administrator - sanctions.** (12) ~~Members of the collection agency~~  
10 ~~board,~~ The administrator, expert witnesses, and consultants ~~shall be~~ ARE  
11 immune from civil suit when they perform any duties in connection with  
12 any proceedings authorized under this section in good faith. Any person  
13 who files a complaint in good faith under this section ~~shall be~~ IS immune  
14 from civil suit.

15 **Recommendation 6**

16 **SECTION 13.** In Colorado Revised Statutes, 12-14-124, **amend**  
17 (4) as follows:

18 **12-14-124. Bond.** (4) (a) If a receiver has been appointed by any  
19 court of competent jurisdiction in the state of Colorado to take charge of  
20 the assets of any licensee, ~~such~~ THE receiver, upon the written consent of  
21 the administrator, may demand and receive payment on the bond from the  
22 surety and, upon order of the court, may bring suit upon the bond in the  
23 name of ~~such~~ THE receiver, without joining the administrator as a party to  
24 the action.

25 (b) (I) IN A PRIVATE ACTION PURSUANT TO SECTION 12-14-113 (4),  
26 THE CONSUMER MAY BRING SUIT UPON THE BOND IN THE NAME OF THE  
27 CONSUMER.

1           (II) AN ORDER FOR RESTITUTION FOR A CONSUMER PURSUANT TO  
2 SECTION 12-14-135 MAY INCLUDE RESTITUTION MADE THROUGH THE  
3 BOND.

4           **SECTION 14. Safety clause.** The general assembly hereby finds,  
5 determines, and declares that this act is necessary for the immediate  
6 preservation of the public peace, health, and safety.