

Second Regular Session  
Sixty-third General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 02-0447.01 Jery Payne

HOUSE BILL 02-1216

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HOUSE SPONSORSHIP

Williams T.,

SENATE SPONSORSHIP

Takis,

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House Committees

Business Affairs & Labor

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF PERSONS WHO ENGAGE IN THE  
102 COLLECTION OF CONSUMER DEBTS.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Changes the sunset date of the collection agency board from July 1, 2003, to July 1, 2007.

Clarifies that board members may serve multiple terms but shall not serve more than 2 consecutive terms. Changes the relationship between the administrator and the board as follows:

- Requires the administrator to act in conjunction with the board in the development of any examination required for the administration of this article, determination of the

**Shading denotes HOUSE amendment.** Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

amount of any examination fee, and issuance of letters of admonition.

Amends certain statutes in order to make the act more consistent with federal law, including the following changes:

- Deletes certain references to the phrase "collection agency", and where necessary, replaces such phrase with the phrase "debt collector".
- Replaces the prohibition on communication "in an inconvenient manner" with a prohibition on communication "at a time or place that is inconvenient".
- Replaces the test that makes a lack of response by an attorney for 30 days unreasonable per se with a simple unreasonableness test.
- Authorizes a debt collector to contact the debtor by telephone in order to communicate certain information authorized by statute even after the debtor notifies the debt collector or collection agency that the debtor does not wish to be contacted.
- Deletes the requirement that a debt collector notify the debtor of the right to terminate certain communications.
- Changes the requirement that, during a telephone call, a debt collector disclose the caller's identity within 60 seconds to a requirement that such disclosure is made at some time during the phone call.
- Deletes the requirement that certain required disclosures be on the front, as opposed to the back, of a debt validation notice.
- Deletes the requirement that the debt collector notify the debtor that the agency is licensed by the board, of the address of the board, and that payments should not be sent to the board.
- Adds a requirement that actions to enforce a secured interest in real property be brought in the judicial district where the property is located, and that all other actions be brought in either the judicial district where the contract was signed or where the debtor resides.
- Clarifies that nothing in the act authorizes a debt collector to bring a legal action.

Removes an apparent conflict in the law by repealing the specific prohibition on recovering treble damages for the writing of a bad check without complying with certain court procedures, which procedures are generally applicable to the recovery of bad checks but not applicable to consumer credit transactions.

Applies the just cause standard to certain investigative powers of the board that consist of the authority to examine the books, records, and

files of a licensee without a subpoena, and the authority to require a licensee to submit a statement of the licensee's assets and liabilities.

Defines relevant terms, including redefining "communication" to exclude pleadings in a legal proceeding.

Makes conforming amendments.

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

2           **SECTION 1.** 12-14-137, Colorado Revised Statutes, is amended  
3 to read:

4           **12-14-137. Termination of board.** The collection agency board  
5 shall be terminated July 1, ~~2003~~ 2007. Prior to such termination, the  
6 board shall be reviewed as provided in section 24-34-104, C.R.S.

7           **SECTION 2. Repeal.** 24-34-104 (32.5) (f), Colorado Revised  
8 Statutes, is repealed as follows:

9           **24-34-104. General assembly review of regulatory agencies and  
10 functions for termination, continuation, or reestablishment.**

11 (32.5) The following agencies, functions, or both, shall terminate on July  
12 1, 2003:

13           (f) ~~The collection agency board created in section 12-14-116,~~  
14 ~~C.R.S.;~~

15           **SECTION 3.** 24-34-104 (38), Colorado Revised Statutes, is  
16 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

17           **24-34-104. General assembly review of regulatory agencies and  
18 functions for termination, continuation, or reestablishment.** (38) The

19 following agencies, functions, or both, shall terminate on July 1, 2007:

20           (d) THE COLLECTION AGENCY BOARD, CREATED IN SECTION  
21 12-14-116, C.R.S.

22           **SECTION 4.** 12-14-103 (2) (d), (2) (e) (II), (2) (e) (III), (3), and  
23 (6), Colorado Revised Statutes, are amended to read:

1           **12-14-103. Definitions.** As used in this article, unless the context  
2 otherwise requires:

3           (2) (d) For the purposes of section 12-14-108 (1) (f), "collection  
4 agency" includes any person engaged in any business the principal  
5 purpose of which is the enforcement of security interests. For purposes  
6 of sections 12-14-104, 12-14-105, 12-14-106, 12-14-107, 12-14-108, and  
7 12-14-109 only, ~~but not for purposes of section 12-14-109 (1) (g);~~  
8 "collection agency" includes a debt collector for the department of  
9 personnel.

10           (e) Notwithstanding paragraph (b) of this subsection (2),  
11 "collection agency" includes any person who engages in any of the  
12 following activities; except that such person shall be exempt from  
13 provisions of this article that concern licensing and licensees:

14           (II) Is an attorney-at-law and regularly engages in the collection  
15 or attempted collection of debts in this state; ~~except that such person shall~~  
16 ~~also be exempt from section 12-14-109 (1) (f) and (1) (g);~~

17           (III) Is a person located outside this state whose collection  
18 activities are limited to collecting debts not incurred in this state from  
19 consumers located in this state and whose collection activities are  
20 conducted by means of interstate communications, including telephone,  
21 mail, or facsimile transmission, and who is located in another state that  
22 regulates and licenses collection agencies but does not require Colorado  
23 collection agencies to obtain a license to collect debts in their state if such  
24 agencies' collection activities are limited in the same manner. ~~except that~~  
25 ~~such person shall also be exempt from section 12-14-109 (1) (f) and (1)~~  
26 ~~(g).~~

27           (3) "Communication" means conveying information regarding a

1 debt in written or oral form, directly or indirectly, to any person through  
2 any medium; EXCEPT THAT "COMMUNICATION" DOES NOT MEAN  
3 PLEADINGS IN A COURT PROCEEDING.

4 (6) (a) "Debt" means any obligation or alleged obligation of a  
5 consumer to pay money arising out of a transaction IN WHICH THE MONEY,  
6 PROPERTY, INSURANCE, OR SERVICES THAT ARE THE SUBJECT OF THE  
7 TRANSACTION ARE PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD  
8 PURPOSES, whether or not such obligation has been reduced to judgment.

9 (b) ~~"Debt" does not include a debt for business, investment,~~  
10 ~~commercial, or agricultural purposes or a debt incurred by a business.~~

11 **SECTION 5.** 12-14-105 (1), (2), (3) (a), (3) (c), (3) (d), and (5),  
12 Colorado Revised Statutes, are amended, and the said 12-14-105 (3) is  
13 further amended BY THE ADDITION OF A NEW PARAGRAPH, to  
14 read:

15 **12-14-105. Communication in connection with debt collection.**

16 (1) Without the prior consent of the consumer given directly to the debt  
17 collector ~~or collection agency~~ or the express permission of a court of  
18 competent jurisdiction, a debt collector ~~or collection agency~~ shall not  
19 communicate with a consumer in connection with the collection of any  
20 debt:

21 (a) At any unusual time OR place ~~or manner~~ OR AT A TIME OR  
22 PLACE known or ~~which~~ THAT should be known to be inconvenient to the  
23 consumer. In the absence of knowledge of circumstances to the contrary,  
24 a debt collector ~~or collection agency~~ shall assume that the convenient  
25 time for communicating with a consumer is after 8 a.m. and before 9 p.m.  
26 local time at the consumer's location.

27 (b) If the debt collector ~~or collection agency~~ knows the consumer

1 is represented by an attorney with respect to such debt and has knowledge  
2 of, or can readily ascertain, such attorney's name and address, unless the  
3 attorney fails to respond within a reasonable period of time to a  
4 communication from the debt collector ~~or collection agency~~ or unless the  
5 attorney consents to direct communication with the consumer; or

6 (c) At the consumer's place of employment if the debt collector ~~or~~  
7 ~~collection agency~~ knows or has reason to know that the consumer's  
8 employer prohibits the consumer from receiving such communication.

9 (2) Except as provided in section 12-14-104, without the prior  
10 consent of the consumer given directly to the debt collector, ~~or collection~~  
11 ~~agency~~ or the express permission of a court of competent jurisdiction, or  
12 as reasonably necessary to effectuate a postjudgment judicial remedy, a  
13 debt collector ~~or collection agency~~ shall not communicate, in connection  
14 with the collection of any debt, with any person other than the consumer,  
15 ~~his~~ THE CONSUMER'S attorney, a consumer reporting agency if otherwise  
16 permitted by law, the creditor, the attorney of the creditor, or the attorney  
17 of the ~~collection agency~~ DEBT COLLECTOR.

18 (3) (a) If a consumer notifies a debt collector ~~or collection agency~~  
19 in writing that THE CONSUMER REFUSES TO PAY A DEBT OR THAT THE  
20 CONSUMER WISHES THE DEBT COLLECTOR TO CEASE FURTHER  
21 COMMUNICATION WITH THE CONSUMER, THE DEBT COLLECTOR SHALL NOT  
22 COMMUNICATE FURTHER WITH THE CONSUMER WITH RESPECT TO SUCH  
23 DEBT, EXCEPT:

24 (I) ~~The consumer wishes the collection agency to cease contact by~~  
25 ~~telephone at the consumer's residence or place of employment, then no~~  
26 ~~such further contact by telephone shall be made~~ TO ADVISE THE  
27 CONSUMER THAT THE DEBT COLLECTOR'S FURTHER EFFORTS ARE BEING

1 TERMINATED;

2 (II) ~~The consumer refuses to pay a debt or the consumer wishes~~  
3 ~~the collection agency to cease further communication with the consumer,~~  
4 ~~then the debt collector or collection agency shall not communicate further~~  
5 ~~with the consumer with respect to such debt, except for a written~~  
6 ~~communication~~ TO NOTIFY THE CONSUMER THAT THE DEBT COLLECTOR OR  
7 CREDITOR MAY INVOKE SPECIFIED REMEDIES WHICH ARE ORDINARILY  
8 INVOKED BY SUCH DEBT COLLECTOR OR CREDITOR; OR

9 (A) ~~To advise the consumer that the collection agency's further~~  
10 ~~efforts are being terminated;~~

11 (B) ~~To notify the consumer that the collection agency or creditor~~  
12 ~~may invoke specified remedies which are ordinarily invoked by such~~  
13 ~~collection agency or creditor; or~~

14 (C) ~~Where applicable, to notify the consumer that the collection~~  
15 ~~agency or creditor intends to invoke a specified remedy permitted by law.~~

16 (III) TO NOTIFY THE CONSUMER THAT THE DEBT COLLECTOR OR  
17 CREDITOR INTENDS TO INVOKE A SPECIFIED REMEDY.

18 (c) ~~In its initial written communication to a consumer, a collection~~  
19 ~~agency shall include notification of the consumer's rights under this~~  
20 ~~subsection (3). If such notification is placed on the back of the written~~  
21 ~~communication, there shall be a statement on the front notifying the~~  
22 ~~consumer of such fact.~~

23 (d) ~~If a consumer orally informs a debt collector or collection~~  
24 ~~agency of any of the matters specified in paragraph (a) of this subsection~~  
25 ~~(3), the debt collector or collection agency shall advise the consumer that~~  
26 ~~such communication must be made in writing.~~

27 (e) IF THE NOTICE FROM THE CONSUMER TO THE DEBT COLLECTOR

1 MADE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3) IS MADE BY  
2 MAIL, SUCH NOTIFICATION SHALL BE COMPLETE UPON RECEIPT.

3 (5) It shall be an affirmative defense to any action based upon  
4 failure of a debt collector ~~or collection agency~~ to comply with this section  
5 that the debt collector ~~or collection agency~~ believed, in good faith, that  
6 the debtor was other than a natural person.

7 **SECTION 6.** The introductory portion to 12-14-106 (1) and  
8 12-14-106 (1) (f), Colorado Revised Statutes, are amended to read:

9 **12-14-106. Harassment or abuse.** (1) A debt collector ~~or~~  
10 ~~collection agency~~ shall not engage in any conduct the natural  
11 consequence of which is to harass, oppress, or abuse any person in  
12 connection with the collection of a debt, including, but not limited to, the  
13 following conduct:

14 (f) Except as provided in section 12-14-104, the placement of  
15 telephone calls without meaningful disclosure of the caller's identity.  
16 ~~within the first sixty seconds after the other party to the call is identified~~  
17 ~~as the debtor.~~

18 **SECTION 7.** 12-14-109 (1), (2), and (4), Colorado Revised  
19 Statutes, are amended to read:

20 **12-14-109. Validation of debts.** (1) Within five days after the  
21 initial communication with a consumer in connection with the collection  
22 of any debt, a debt collector ~~or collection agency~~ shall, unless the  
23 following information is contained in the initial written communication  
24 or the consumer has paid the debt, send the consumer a written notice  
25 ~~with the disclosures specified in paragraphs (a) to (g) of this subsection~~  
26 ~~(1). If such disclosures are placed on the back of the notice, the front of~~  
27 ~~the notice shall contain a statement notifying consumers of that fact.~~

1 ~~Such disclosures shall state~~ CONTAINING THE FOLLOWING:

2 (a) The amount of the debt;

3 (b) The name of the creditor to whom the debt is owed;

4 (c) A STATEMENT that unless the consumer, within thirty days  
5 after receipt of the notice, disputes the validity of the debt, or any portion  
6 thereof, the debt will be assumed to be valid by the debt collector; ~~or~~  
7 ~~collection agency;~~

8 (d) A STATEMENT that if the consumer notifies the debt collector  
9 ~~or collection agency~~ in writing within the thirty-day period that the debt,  
10 or any portion thereof, is disputed, the debt collector ~~or collection agency~~  
11 will obtain verification of the debt or a copy of a judgment against the  
12 consumer; ~~and a copy of such verification or judgment will be mailed to~~  
13 ~~the consumer by the debt collector or collection agency;~~ AND

14 (e) A STATEMENT that upon the consumer's written request within  
15 the thirty-day period, the debt collector ~~or collection agency~~ will provide  
16 the consumer with the name and address of the original creditor, if  
17 different from the current creditor.

18 (f) ~~That collection agencies are licensed by the collection agency~~  
19 ~~board. The address of the board shall also be disclosed. If, however, the~~  
20 ~~debt collector is a person employed by the department of personnel for~~  
21 ~~the purpose of collecting debts due to the state on behalf of another state~~  
22 ~~agency, the disclosure required under this paragraph (f) shall state that the~~  
23 ~~activities of such debt collector are subject to sections 12-14-104 to~~  
24 ~~12-14-109, Colorado Revised Statutes, as contained in the "Colorado Fair~~  
25 ~~Debt Collection Practices Act", that complaints may be filed with the~~  
26 ~~executive director of the department of personnel, and that disciplinary~~  
27 ~~actions will be subject to the rules and regulations of the state personnel~~

1 system.

2 (g) ~~That consumers shall not send payments to the collection~~  
3 ~~agency board.~~

4 (2) If the consumer notifies the debt collector ~~or collection agency~~  
5 in writing within the thirty-day period described in paragraph (c) of  
6 subsection (1) of this section that the debt, or any portion thereof, is  
7 disputed or that the consumer requests the name and address of the  
8 original creditor, the debt collector ~~or collection agency~~ shall cease  
9 collection of the debt, or any disputed portion thereof, until the debt  
10 collector ~~or collection agency~~ obtains verification of the debt or a copy  
11 of a judgment or the name and address of the original creditor and THE  
12 DEBT COLLECTOR mails a copy of such verification or judgment or name  
13 and address of the original creditor to the consumer.

14 (4) ~~It shall be an affirmative defense to any action based upon~~  
15 ~~failure of a debt collector or collection agency to comply with this section~~  
16 ~~that the debt collector or collection agency believed, in good faith, that~~  
17 ~~the debtor was other than a natural person.~~

18 **SECTION 8.** 12-14-111, Colorado Revised Statutes, is amended  
19 to read:

20 **12-14-111. Legal actions by debt collectors.** (1) Any debt  
21 collector ~~or collection agency~~ who brings any legal action on a debt  
22 against any consumer shall: ~~comply with all provisions of law concerning~~  
23 ~~the location at which such action may be brought.~~

24 (a) IN THE CASE OF AN ACTION TO ENFORCE AN INTEREST IN REAL  
25 PROPERTY SECURING THE CONSUMER'S OBLIGATION, BRING SUCH ACTION  
26 ONLY IN A JUDICIAL DISTRICT IN WHICH SUCH REAL PROPERTY IS LOCATED;  
27 OR

1 (b) IN THE CASE OF AN ACTION NOT DESCRIBED IN PARAGRAPH (a)  
2 OF THIS SUBSECTION (1), BRING SUCH ACTION ONLY IN THE FOLLOWING  
3 JUDICIAL DISTRICTS:

4 (I) THE JUDICIAL DISTRICT IN WHICH SUCH CONSUMER SIGNED THE  
5 CONTRACT SUED UPON; OR

6 (II) THE JUDICIAL DISTRICT IN WHICH SUCH CONSUMER RESIDES AT  
7 THE COMMENCEMENT OF THE ACTION.

8 (2) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO AUTHORIZE  
9 THE BRINGING OF LEGAL ACTIONS BY DEBT COLLECTORS.

10 **SECTION 9.** The introductory portion to 12-14-113 (1) and  
11 12-14-113 (1) (b) (II), (2), and (3), Colorado Revised Statutes, are  
12 amended, and the said 12-14-113 is further amended BY THE  
13 ADDITION OF A NEW SUBSECTION, to read:

14 **12-14-113. Civil liability.** (1) In addition to administrative  
15 enforcement pursuant to section 12-14-114 and subject to section  
16 12-14-134, and except as otherwise provided by this section, any debt  
17 collector ~~or collection agency~~ who fails to comply with any provision of  
18 this article with respect to a consumer is liable to such consumer in an  
19 amount equal to the sum of:

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

26 (2) In determining the amount of liability in any action under  
27 subsection (1) of this section, the court shall consider, among other

1 relevant factors:

2 (a) In any individual action under subparagraph (I) of paragraph  
3 (b) of subsection (1) of this section, the frequency and persistence of  
4 noncompliance by the debt collector, ~~or collection agency~~, the nature of  
5 such noncompliance, and the extent to which such noncompliance was  
6 intentional;

7 (b) In any class action under subparagraph (II) of paragraph (b)  
8 of subsection (1) of this section, the frequency and persistence of  
9 noncompliance by the debt collector, ~~or collection agency~~, the nature of  
10 such noncompliance, the resources of the debt collector, ~~or collection~~  
11 ~~agency~~, the number of persons adversely affected, and the extent to which  
12 the debt collector's ~~or collection agency's~~ noncompliance was intentional.

13 (3) A debt collector ~~or collection agency~~ may not be held liable  
14 in any action brought pursuant to the provisions of this article if the debt  
15 collector ~~or collection agency~~ shows by a preponderance of evidence that  
16 the violation was not intentional or grossly negligent and which violation  
17 resulted from a bona fide error, notwithstanding the maintenance of  
18 procedures reasonably adapted to avoid any such error.

19 (8) IT SHALL BE AN AFFIRMATIVE DEFENSE TO ANY ACTION BASED  
20 UPON FAILURE OF A DEBT COLLECTOR OR COLLECTION AGENCY TO COMPLY  
21 WITH THIS SECTION THAT THE DEBT COLLECTOR OR COLLECTION AGENCY  
22 BELIEVED, IN GOOD FAITH, THAT THE DEBTOR WAS OTHER THAN A  
23 NATURAL PERSON.

24 **SECTION 10.** 12-14-116 (1), Colorado Revised Statutes, is  
25 amended to read:

26 **12-14-116. Collection agency board - created.** (1) For the  
27 purpose of carrying out the provisions of this article, the governor shall

1 appoint five members to the collection agency board, which board is  
2 hereby created. The members of the board serving on July 1, 1985 2002,  
3 shall continue to serve their appointed terms, and their successors shall  
4 be appointed for three-year terms. Upon the death, resignation, or  
5 removal of any member of the board, the governor shall appoint a  
6 member to fill the unexpired term. Any member of the board may be  
7 removed by the governor for misconduct, neglect of duty, or  
8 incompetence. ~~No member may serve more than two consecutive terms.~~  
9 MEMBERS MAY SERVE MULTIPLE TERMS BUT SHALL NOT SERVE MORE  
10 THAN TWO CONSECUTIVE TERMS.

11 **SECTION 11.** 12-14-117 (2), Colorado Revised Statutes, is  
12 amended to read:

13 **12-14-117. Administrator - office created - powers and duties.**  
14 (2) The administrator, IN CONJUNCTION WITH THE BOARD, is authorized  
15 to develop any examination required for the administration of this article  
16 and to determine the amount of any examination fee. The administrator  
17 shall offer each such examination at least twice a year, or more frequently  
18 if demand warrants, and shall establish a passing score for each  
19 examination that reflects a minimum level of competency.

20 **SECTION 12. Repeal.** 12-14-128 (1) (c), Colorado Revised  
21 Statutes, is repealed as follows:

22 **12-14-128. Unlawful acts.** (1) In addition to the unlawful acts  
23 specified in sections 12-14-112 and 12-14-115, it is unlawful and a  
24 violation of this article for any person:

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

1           **SECTION 13.** 12-14-130 (5), (6) (a), and (10) (b), Colorado  
2 Revised Statutes, are amended to read:

3           **12-14-130. Complaint - investigations - powers of the board -**  
4 **sanctions.** (5) FOR JUST CAUSE, the board, or someone designated by it  
5 THE BOARD for such purpose, has the right, during normal business hours  
6 without resort to subpoena, to examine the books, records, and files of  
7 any licensee. If the books, records, and files are located outside  
8 Colorado, the licensee shall bear all expenses in making them available  
9 to the board or its designee.

10           (6) (a) FOR JUST CAUSE, the board may require the making and  
11 filing, by any licensee, at any time, of a written verified statement of the  
12 licensee's assets and liabilities, including, if requested, a detailed  
13 statement of amounts due claimants. The board may also require an  
14 audited statement when cause has been shown that an audited statement  
15 is needed.

16           (10) (b) The board, ~~or~~ IN CONJUNCTION WITH THE administrator,  
17 may issue letters of admonition pursuant to paragraph (a) of this  
18 subsection (10) without a hearing; except that the licensee or collections  
19 manager receiving the letter of admonition may request a hearing before  
20 the board to appeal the issuance of the letter.

21           **SECTION 14.** The introductory portion to 12-14-102 (1),  
22 Colorado Revised Statutes, is amended to read:

23           **12-14-102. Scope of article.** (1) This article shall apply to any  
24 ~~collection agency,~~ solicitor or debt collector that has a place of business  
25 located:

26           **SECTION 15.** The introductory portion to 12-14-104 (1) and  
27 12-14-104 (1) (c), (1) (e), and (1) (f), Colorado Revised Statutes, are

1 amended to read:

2 **12-14-104. Location information - acquisition.** (1) Any debt  
3 collector ~~or collection agency~~ communicating with any person other than  
4 the consumer for the purpose of acquiring location information about the  
5 consumer shall:

6 (c) Not communicate with any such person more than once unless  
7 requested to do so by such person or unless the debt collector ~~or~~  
8 ~~collection agency~~ reasonably believes that the earlier response of such  
9 person is erroneous or incomplete and that such person now has correct  
10 or complete location information;

11 (e) Not use any language or symbol on any envelope or in the  
12 contents of any communication effected by the mails or telegram that  
13 indicates that the debtor collector ~~or collection agency~~ is in the debt  
14 collection business or that the communication relates to the collection of  
15 a debt; and

16 (f) After the debt collector ~~or collection agency~~ knows the  
17 consumer is represented by an attorney with regard to the subject debt  
18 and has knowledge of, or can readily ascertain, such attorney's name and  
19 address, not communicate with any person other than that attorney, unless  
20 the attorney fails to respond within a reasonable period of time, not less  
21 than thirty days, to communication from the debt collector. ~~or collection~~  
22 ~~agency.~~

23 **SECTION 16.** The introductory portion to 12-14-107 (1) and  
24 12-14-107 (1) (d), (1) (l), and (1) (q), Colorado Revised Statutes, are  
25 amended to read:

26 **12-14-107. False or misleading representations.** (1) A debt  
27 collector ~~or collection agency~~ shall not use any false, deceptive, or

1 misleading representation or means in connection with the collection of  
2 any debt, including, but not limited to, the following conduct:

3 (d) The representation or implication that nonpayment of any debt  
4 will result in the arrest or imprisonment of any person or in the seizure,  
5 garnishment, attachment, or sale of any property or wages of any person  
6 unless such action is lawful and the debt collector ~~collection agency~~, or  
7 creditor intends to take such action;

8 (l) Except as otherwise provided for communications to acquire  
9 location information under section 12-14-104, the failure to disclose  
10 clearly, in the initial written communication made to collect a debt or  
11 obtain information about a consumer, that the debt collector ~~or collection~~  
12 ~~agency~~ is attempting to collect a debt and that any information obtained  
13 will be used for that purpose;

14 (q) The false representation or implication that a debt collector ~~or~~  
15 ~~collection agency~~ operates or is employed by a consumer reporting  
16 agency.

17 **SECTION 17.** The introductory portion to 12-14-108 (1) and  
18 12-14-108 (1) (b), (1) (c), and (1) (h), Colorado Revised Statutes, are  
19 amended to read:

20 **12-14-108. Unfair practices.** (1) A debt collector ~~or collection~~  
21 ~~agency~~ shall not use unfair or unconscionable means to collect or attempt  
22 to collect any debt, including, but not limited to, the following conduct:

23 (b) The acceptance by a debt collector ~~or collection agency~~ from  
24 any person of a check or other payment instrument postdated by more  
25 than five days unless such person is notified in writing of the debt  
26 collector's ~~or collection agency's~~ intent to deposit such check or  
27 instrument not more than ten nor less than three business days prior to

1 such deposit;

2 (c) The solicitation by a debt collector ~~or collection agency~~ of any  
3 postdated check or other postdated payment instrument for the purpose  
4 of threatening or instituting criminal prosecution;

5 (h) Using any language or symbol, other than the debt collector's  
6 ~~or collection agency's~~ address, on any envelope when communicating  
7 with a consumer by use of the mails or by telegram; except that a debt  
8 collector ~~or collection agency~~ may use ~~his~~ A business name if such name  
9 does not indicate that ~~he~~ THE DEBT COLLECTOR is in the debt collection  
10 business;

11 **SECTION 18.** 12-14-110, Colorado Revised Statutes, is amended  
12 to read:

13 **12-14-110. Multiple debts.** If any consumer owes multiple debts  
14 and makes any single payment to any ~~collection agency~~ DEBT COLLECTOR  
15 with respect to such debts, such ~~collection agency~~ DEBT COLLECTOR shall  
16 not apply such payment to any debt ~~which~~ THAT is disputed by the  
17 consumer and when so informed shall apply such payment in accordance  
18 with the consumer's directions.

19 **SECTION 19.** 12-14-112 (2), Colorado Revised Statutes, is  
20 amended to read:

21 **12-14-112. Deceptive forms.** (2) Any person who violates this  
22 section shall be liable to the same extent and in the same manner as a debt  
23 collector ~~or collection agency~~ under section 12-14-113 for failure to  
24 comply with this article.

25 **SECTION 20. Effective date.** This act shall take effect July 1,  
26 2002, and shall apply to acts committed on or after said date.

27 **SECTION 21. Safety clause.** The general assembly hereby

- 1 finds, determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.