

Second Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0734.01 Jennifer Berman x3286

HOUSE BILL 14-1285

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**A BILL FOR AN ACT**

101 **CONCERNING A REQUIREMENT THAT A PROFESSIONAL TAX PREPARER**  
102 **PROVIDE CERTAIN DISCLOSURES TO A CLIENT WHEN PREPARING**  
103 **TAX DOCUMENTS FOR THE CLIENT.**

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**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://www.leg.state.co.us/billsummaries>.)*

The bill requires a person who prepares, for a fee, an income tax return or a claim for a refund on an income tax return for a taxpayer (professional tax preparer) to make certain disclosures to the taxpayer concerning the professional tax preparer's qualifications, fees, year-round

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.*

contact information, willingness to represent the taxpayer in a government audit, and obligation to sign the tax documents prepared.

**Section 1** of the bill makes a professional tax preparer's failure to provide a taxpayer with the requisite disclosures a deceptive trade practice, and **section 2** provides the penalty scheme for the deceptive trade practice.

**Section 3** requires the department of revenue to provide a disclosure form available on its web site and requires every professional tax preparer to provide a copy of either the department's disclosure form or a substantially similar disclosure form to each taxpayer before commencing work on preparing the taxpayer's income tax return or claim for refund on an income tax return.

**Section 4** of the bill criminalizes the act of providing fraudulent information in a professional tax preparer's disclosure form and makes the crime a class 2 misdemeanor.

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

2 **SECTION 1.** In Colorado Revised Statutes, 6-1-105, **add** (1) (fff)  
3 as follows:

4 **6-1-105. Deceptive trade practices.** (1) A person engages in a  
5 deceptive trade practice when, in the course of the person's business,  
6 vocation, or occupation, the person:

7 (fff) VIOLATES PART 12 OF THIS ARTICLE.

8 **SECTION 2.** In Colorado Revised Statutes, 6-1-112, **amend** (1)  
9 (c); and **add** (1) (e) as follows:

10 **6-1-112. Civil penalties.** (1) The attorney general or a district  
11 attorney may bring a civil action on behalf of the state to seek the  
12 imposition of civil penalties as follows:

13 (c) ~~Any~~ A person who violates or causes another to violate ~~any~~  
14 ~~provision of~~ this article, where ~~such~~ THE violation was committed against  
15 an elderly person, shall forfeit and pay to the general fund of the state a  
16 civil penalty of not more than ten thousand dollars for each ~~such~~  
17 violation; EXCEPT THAT, WHERE THE PERSON COMMITS A VIOLATION OF

1 SECTION 6-1-1203 AGAINST AN ELDERLY PERSON, THE PERSON SHALL  
2 FORFEIT AND PAY TO THE GENERAL FUND OF THE STATE A CIVIL PENALTY  
3 OF NOT MORE THAN ONE HUNDRED DOLLARS FOR EACH VIOLATION. For  
4 purposes of this paragraph (c), a violation of ~~any provision of this article~~  
5 ~~shall constitute~~ CONSTITUTES a separate violation with respect to each  
6 elderly person involved.

7 (e) A TAX PREPARER, AS DEFINED IN SECTION 6-1-1202, WHO FAILS  
8 TO DISCLOSE ALL OR PART OF THE INFORMATION REQUIRED TO BE  
9 DISCLOSED UNDER SECTION 6-1-1203 SHALL FORFEIT AND PAY TO THE  
10 GENERAL FUND OF THE STATE A CIVIL PENALTY OF NOT MORE THAN FIFTY  
11 DOLLARS FOR EACH CLIENT, AS DEFINED IN SECTION 6-1-1202, TO WHOM  
12 THE TAX PREPARER FAILED TO DISCLOSE THE REQUISITE INFORMATION;  
13 EXCEPT THAT THE MAXIMUM CIVIL PENALTY MUST NOT EXCEED  
14 TWENTY-FIVE THOUSAND DOLLARS.

15 **SECTION 3.** In Colorado Revised Statutes, **add** part 12 to article  
16 1 of title 6 as follows:

17 PART 12

18 COLORADO TAXPAYER PROTECTION ACT

19 **6-1-1201. Short title.** THIS PART 12 SHALL BE KNOWN AND MAY  
20 BE CITED AS THE "COLORADO TAXPAYER PROTECTION ACT".

21 **6-1-1202. Definitions.** AS USED IN THIS PART 12, UNLESS THE  
22 CONTEXT OTHERWISE REQUIRES:

23 (1) "CLIENT" MEANS A TAXPAYER WHO PAYS A FEE TO A TAX  
24 PREPARER TO PREPARE OR SUBMIT THE TAXPAYER'S INCOME TAX RETURN  
25 OR CLAIM FOR A REFUND ON AN INCOME TAX RETURN.

26 (2) "INCOME TAX RETURN" MEANS A RETURN FILED UNDER  
27 SECTION 39-22-601, C.R.S., OR A RETURN FILED UNDER SECTION 6012 OF

1 THE FEDERAL INTERNAL REVENUE CODE.

2 (3) "TAX PREPARER" MEANS A PERSON WHO, FOR A FEE, PREPARES  
3 ALL OR SUBSTANTIALLY ALL OF AN INCOME TAX RETURN OR A CLAIM FOR  
4 REFUND ON AN INCOME TAX RETURN.

5 **6-1-1203. Tax preparer disclosure requirements.** (1) A TAX  
6 PREPARER SHALL PROVIDE EACH CLIENT WITH A COPY OF THE DISCLOSURE  
7 FORM CREATED BY THE DEPARTMENT OF REVENUE, AS REQUIRED IN  
8 SUBSECTION (2) OF THIS SECTION, OR A SUBSTANTIALLY SIMILAR  
9 DISCLOSURE FORM.

10 (2) THE DEPARTMENT OF REVENUE SHALL PROVIDE ON ITS WEB  
11 SITE A DISCLOSURE FORM THAT CONTAINS:

12 (a) THE FOLLOWING DISCLOSURE STATEMENTS:

13 (I) THAT A CLIENT IS ENTITLED TO KNOW HOW THE TAX PREPARER  
14 CALCULATES HIS OR HER FEES AND CHARGES AND THAT THE TAX  
15 PREPARER SHALL PROVIDE A RECEIPT STATING THE CHARGES FOR EACH  
16 TAX RETURN OR CLAIM FOR REFUND;

17 (II) THAT A TAX PREPARER IS REQUIRED TO PROVIDE THE CLIENT  
18 WITH INFORMATION ON HOW THE CLIENT MAY CONTACT THE TAX  
19 PREPARER THROUGHOUT THE YEAR;

20 (III) THAT A CLIENT IS ENTITLED TO KNOW WHETHER A TAX  
21 PREPARER IS QUALIFIED TO REPRESENT THE CLIENT AT A GOVERNMENT  
22 AUDIT, AND THAT, IF THE TAX PREPARER IS WILLING TO REPRESENT A  
23 CLIENT AT A GOVERNMENT AUDIT, THE TAX PREPARER SHALL DISCLOSE HIS  
24 OR HER FEE FOR REPRESENTATION; AND

25 (IV) THAT A CLIENT IS ENTITLED TO HAVE A TAX PREPARER SIGN  
26 EVERY INCOME TAX RETURN THAT THE TAX PREPARER PREPARES ON THE  
27 CLIENT'S BEHALF. IF THE INCOME TAX RETURN IS FILED ELECTRONICALLY,

1 THE TAX PREPARER SHALL PROVIDE AN ELECTRONIC SIGNATURE.

2 (b) A PLACE FOR THE TAX PREPARER TO PROVIDE INFORMATION  
3 ABOUT THE TAX PREPARER'S BACKGROUND, QUALIFICATIONS, EDUCATION,  
4 AND EXPERIENCE. THE TAX PREPARER SHALL, UPON REQUEST, PRODUCE  
5 DOCUMENTATION VERIFYING HIS OR HER QUALIFICATIONS.

6 (c) SIGNATURE LINES FOR BOTH THE TAX PREPARER AND CLIENT TO  
7 SIGN AND DATE THE DISCLOSURE FORM;

8 (d) A PLACE FOR THE TAX PREPARER TO PROVIDE HIS OR HER  
9 PREPARER TAX IDENTIFICATION NUMBER, REQUIRED FOR ALL PAID  
10 FEDERAL TAX RETURN PREPARERS BY THE FEDERAL INTERNAL REVENUE  
11 SERVICE UNDER SECTION 6695 (c) OF THE FEDERAL "INTERNAL REVENUE  
12 CODE OF 1986", AS AMENDED; AND

13 (e) THE DEPARTMENT OF REVENUE'S WEB SITE ADDRESS AND A  
14 STATEMENT INDICATING THAT THE CLIENT MIGHT FIND HELPFUL  
15 INFORMATION CONCERNING TAXES ON THE WEB SITE.

16 (3) BEFORE COMMENCING WITH THE PREPARATION OF A CLIENT'S  
17 INCOME TAX RETURN OR CLAIM FOR REFUND ON AN INCOME TAX RETURN,  
18 A TAX PREPARER MUST:

19 (a) PROVIDE THE CLIENT WITH A COPY OF THE DISCLOSURE FORM  
20 CREATED BY THE DEPARTMENT OF REVENUE, AS REQUIRED IN SUBSECTION  
21 (2) OF THIS SECTION, OR A SUBSTANTIALLY SIMILAR DISCLOSURE FORM;  
22 AND

23 (b) OBTAIN A SIGNED AND DATED COPY OF THE DISCLOSURE FORM  
24 THAT CONTAINS THE CLIENT'S SIGNATURE.

25 **SECTION 4.** In Colorado Revised Statutes, **add** 18-5-310 as  
26 follows:

27 **18-5-310. Fraudulent information in tax preparer disclosure**

1 **form.** (1) A TAX PREPARER, AS DEFINED IN SECTION 6-1-1202 (3), C.R.S.,  
2 COMMITS A CLASS 2 MISDEMEANOR IF HE OR SHE PROVIDES A CLIENT, AS  
3 DEFINED IN SECTION 6-1-1202 (1), C.R.S., WITH FRAUDULENT  
4 INFORMATION IN THE TAX PREPARER DISCLOSURE FORM THAT THE TAX  
5 PREPARER IS REQUIRED TO PROVIDE THE CLIENT UNDER SECTION 6-1-1203,  
6 C.R.S.

7 (2) THE TAX PREPARER COMMITS A SEPARATE OFFENSE FOR EACH  
8 FRAUDULENT STATEMENT INCLUDED IN A DISCLOSURE FORM AND FOR  
9 EACH CLIENT TO WHOM THE TAX PREPARER PROVIDED A DISCLOSURE FORM  
10 CONTAINING FRAUDULENT INFORMATION.

11 **SECTION 5. Potential appropriation.** Pursuant to section  
12 2-2-703, Colorado Revised Statutes, any bill that results in a net increase  
13 in periods of imprisonment in the state correctional facilities must include  
14 an appropriation of moneys that is sufficient to cover any increased  
15 capital construction and operational costs for the first five fiscal years in  
16 which there is a fiscal impact. Because this act may increase periods of  
17 imprisonment, this act may require a five-year appropriation.

18 **SECTION 6. Act subject to petition - effective date -**  
19 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
20 the expiration of the ninety-day period after final adjournment of the  
21 general assembly (August 6, 2014, if adjournment sine die is on May 7,  
22 2014); except that, if a referendum petition is filed pursuant to section 1  
23 (3) of article V of the state constitution against this act or an item, section,  
24 or part of this act within such period, then the act, item, section, or part  
25 will not take effect unless approved by the people at the general election  
26 to be held in November 2014 and, in such case, will take effect on the  
27 date of the official declaration of the vote thereon by the governor.

1           (2) This act applies to offenses committed on or after the  
2 applicable effective date of this act.