

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 14-0734.01 Jennifer Berman x3286

HOUSE BILL 14-1285

HOUSE SPONSORSHIP

Ryden, Becker, Court, Exum, Ferrandino, Fields, Hamner, Kraft-Tharp, Labuda, Melton,
Rosenthal, Williams

SENATE SPONSORSHIP

Aguilar and Johnston,

House Committees

Business, Labor, Economic, & Workforce Development

Senate Committees

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.**

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.

HOUSE
Amended 2nd Reading
March 14, 2014

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.

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

5 (b) "TAX PREPARER" DOES NOT INCLUDE:

6 (I) A CERTIFIED PUBLIC ACCOUNTANT, CERTIFIED BY AND IN GOOD
7 STANDING WITH THE STATE BOARD OF ACCOUNTANCY UNDER SECTION
8 12-2-108, C.R.S., OR SIMILARLY CERTIFIED AND IN GOOD STANDING IN
9 ANOTHER STATE;

10 (II) AN ATTORNEY-AT-LAW, LICENSED BY AND IN GOOD STANDING
11 WITH THE COLORADO SUPREME COURT UNDER SECTION 12-5-101, C.R.S.,
12 OR SIMILARLY LICENSED AND IN GOOD STANDING IN ANOTHER STATE;

13 (III) AN ENROLLED AGENT, WHO IS AUTHORIZED BY AND IN GOOD
14 STANDING WITH THE UNITED STATES DEPARTMENT OF TREASURY UNDER
15 31 CFR, SECS. 10.5 AND 10.6; OR

16 (IV) AN INDIVIDUAL EMPLOYED BY A LOCAL, STATE, OR FEDERAL
17 GOVERNMENT AGENCY, BUT ONLY WHILE IN THE PERFORMANCE OF HIS OR
18 HER OFFICIAL DUTIES.

19 **6-1-1203. Tax preparer disclosure requirements.** (1) A TAX
20 PREPARER SHALL PROVIDE EACH CLIENT WITH A COPY OF THE DISCLOSURE
21 FORM CREATED BY THE DEPARTMENT OF REVENUE, AS REQUIRED IN
22 SUBSECTION (2) OF THIS SECTION, OR A SUBSTANTIALLY SIMILAR
23 DISCLOSURE FORM.

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

26 (a) THE FOLLOWING DISCLOSURE STATEMENTS:

27 (I) THAT A CLIENT IS ENTITLED TO KNOW HOW THE TAX PREPARER

1 CALCULATES HIS OR HER FEES AND CHARGES AND THAT THE TAX
2 PREPARER SHALL PROVIDE A RECEIPT STATING THE CHARGES FOR EACH
3 TAX RETURN OR CLAIM FOR REFUND;

4 (II) THAT A TAX PREPARER OR TAX PREPARATION COMPANY IS
5 REQUIRED TO PROVIDE THE CLIENT WITH INFORMATION ON HOW THE
6 CLIENT MAY CONTACT THE TAX PREPARER OR TAX PREPARATION COMPANY
7 THROUGHOUT THE YEAR;

8 (III) THAT A CLIENT IS ENTITLED TO KNOW WHETHER A TAX
9 PREPARER IS QUALIFIED TO REPRESENT THE CLIENT AT A GOVERNMENT
10 AUDIT, AND THAT, IF THE TAX PREPARER IS WILLING TO REPRESENT A
11 CLIENT AT A GOVERNMENT AUDIT, THE TAX PREPARER SHALL DISCLOSE HIS
12 OR HER FEE FOR REPRESENTATION; AND

13 (IV) THAT A CLIENT IS ENTITLED TO HAVE A TAX PREPARER SIGN
14 EVERY INCOME TAX RETURN THAT THE TAX PREPARER PREPARES ON THE
15 CLIENT'S BEHALF. IF THE INCOME TAX RETURN IS FILED ELECTRONICALLY,
16 THE TAX PREPARER SHALL PROVIDE AN ELECTRONIC SIGNATURE.

17 (b) A PLACE FOR THE TAX PREPARER TO PROVIDE INFORMATION
18 ABOUT THE TAX PREPARER'S BACKGROUND, QUALIFICATIONS, EDUCATION,
19 AND EXPERIENCE. THE TAX PREPARER SHALL, UPON REQUEST, PRODUCE
20 DOCUMENTATION VERIFYING HIS OR HER QUALIFICATIONS.

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

23 (d) A PLACE FOR THE TAX PREPARER TO PROVIDE HIS OR HER
24 PREPARER TAX IDENTIFICATION NUMBER, REQUIRED FOR ALL PAID
25 FEDERAL TAX RETURN PREPARERS BY THE FEDERAL INTERNAL REVENUE
26 SERVICE UNDER SECTION 6695 (c) OF THE FEDERAL "INTERNAL REVENUE
27 CODE OF 1986", AS AMENDED; AND

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

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

7 (a) PROVIDE THE CLIENT WITH A COPY OF THE DISCLOSURE FORM
8 CREATED BY THE DEPARTMENT OF REVENUE, AS REQUIRED IN SUBSECTION
9 (2) OF THIS SECTION, OR A SUBSTANTIALLY SIMILAR DISCLOSURE FORM;
10 AND

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

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

15 **18-5-310. Fraudulent information in tax preparer disclosure**
16 **form.** (1) A TAX PREPARER, AS DEFINED IN SECTION 6-1-1202 (3), C.R.S.,
17 COMMITS A CLASS 2 MISDEMEANOR IF HE OR SHE PROVIDES A CLIENT, AS
18 DEFINED IN SECTION 6-1-1202 (1), C.R.S., WITH FRAUDULENT
19 INFORMATION IN THE TAX PREPARER DISCLOSURE FORM THAT THE TAX
20 PREPARER IS REQUIRED TO PROVIDE THE CLIENT UNDER SECTION 6-1-1203,
21 C.R.S.

22 (2) THE TAX PREPARER COMMITS A SEPARATE OFFENSE FOR EACH
23 FRAUDULENT STATEMENT INCLUDED IN A DISCLOSURE FORM AND FOR
24 EACH CLIENT TO WHOM THE TAX PREPARER PROVIDED A DISCLOSURE FORM
25 CONTAINING FRAUDULENT INFORMATION.

26 **SECTION 5. Potential appropriation.** Pursuant to section
27 2-2-703, Colorado Revised Statutes, any bill that results in a net increase

1 in periods of imprisonment in the state correctional facilities must include
2 an appropriation of moneys that is sufficient to cover any increased
3 capital construction and operational costs for the first five fiscal years in
4 which there is a fiscal impact. Because this act may increase periods of
5 imprisonment, this act may require a five-year appropriation.

6 **SECTION 6. Act subject to petition - effective date -**
7 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
8 the expiration of the ninety-day period after final adjournment of the
9 general assembly (August 6, 2014, if adjournment sine die is on May 7,
10 2014); except that, if a referendum petition is filed pursuant to section 1
11 (3) of article V of the state constitution against this act or an item, section,
12 or part of this act within such period, then the act, item, section, or part
13 will not take effect unless approved by the people at the general election
14 to be held in November 2014 and, in such case, will take effect on the
15 date of the official declaration of the vote thereon by the governor.

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