

# STATE OF COLORADO

## COLLECTION AGENCY BOARD

Frank D. Cowgill, Jr.  
Phyllis Anne Berry  
James L. Dorram  
Charlie Matthews  
Aaron Harber

## Department of Law

Laura E. Udis  
Executive Director  
Jack L. Kinkel  
Deputy Administrator



## COSTS OF COLLECTION

The Collection Agency Board has received inquiries about the permissible scope of costs of collection. At its April 14, 1989 meeting, the Board took the following position.

The Colorado Fair Debt Collection Practices Act prohibits an agency from adding collection costs to a debt unless:

- (1) the agreement or contract between the creditor and the consumer expressly provides for addition of collection costs, or
- (2) collection costs are allowed by a specific law, for example, the treble damages law.

Section 12-14-108, C.R.S. Violation of this procedure is an unfair practice and may provide grounds for disciplinary action. Federal law on collection costs is similar. See 15 U.S.C. §1692f(1).

In addition, Board Rule 2.03 forbids collection agencies from suggesting or requesting that creditors add costs of collection to their agreements with consumers except as may be provided by the the treble damages law, §13-21-109, C.R.S.

There are certain instances in which even an express agreement providing for collection costs will not be enforceable. Consumer loans and credit sales subject to the Uniform Consumer Credit Code (personal, family, or household loans and sales with payment contemplated in installments or subject to a finance charge or credit service charge) cannot include collection costs. Sections 5-2-414 and 5-3-604, C.R.S.

The Board takes no position on the amount of collection costs which may be expressly agreed to by the consumer and creditor. Courts will have to determine whether a particular amount must be reasonable, must reflect actual costs, must be stated in terms of a fixed amount, or is in effect so excessive as to be considered a penalty or forfeiture.