

**COLORADO FAIR DEBT COLLECTION PRACTICES ACT  
and RELATED LAWS**

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# COLORADO FAIR DEBT COLLECTION PRACTICES ACT

## **12-14-101. Short title.**

This article shall be known and may be cited as the "Colorado Fair Debt Collection Practices Act".

## **12-14-102. Scope of article.**

(1) This article shall apply to any collection agency, solicitor, or debt collector that has a place of business located:

(a) Within this state;

(b) Outside this state and collects or attempts to collect from consumers who reside within this state for a creditor with a place of business located within this state;

(c) Outside this state and regularly collects or attempts to collect from consumers who reside within this state for a creditor with a place of business located outside this state; or

(d) Outside this state and solicits or attempts to solicit debts for collection from a creditor with a place of business located within this state.

(2) (Deleted by amendment, L. 95, p. 1224, 1, effective July 1, 1995.)

## **12-14-103. Definitions.**

As used in this article, unless the context otherwise requires:

(1) "Administrator" means the administrator of the "Uniform Consumer Credit Code", articles 1 to 9 of title 5, C.R.S., whose office is created in the department of law in section 5-6-103, C.R.S.

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

(2) (a) "Collection agency" means any:

(I) Person who engages in a business the principal purpose of which is the collection of debts; or

(II) Person who:

(A) Regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another;

(B) Takes assignment of debts for collection purposes;

(C) Directly or indirectly solicits for collection debts owed or due or asserted to be owed or due another;

(D) Collects debt for the department of personnel, but only for the purposes specified in paragraph (d) of this subsection (2);

(b) "Collection agency" does not include:

(I) Any officer or employee of a creditor while, in the name of the creditor, collecting debts for such creditor;

(II) Any person while acting as a collection agency for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a collection agency does so only for creditors to whom it is so related or affiliated and if the principal business of such person is not the collection of debts;

(III) Any officer or employee of the United States or any state to the extent that collecting or attempting to collect any debt is in the performance of such officer's or employee's official duties, except as otherwise provided in subsection (7) of this section;

(IV) Any person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt;

(V) Any debt-management services provider operating in compliance with or exempt from the "Uniform Debt-Management Services Act", part 2 of article 14.5 of title 12, C.R.S.;

(VI) Repealed.

(VII) Any person collecting or attempting to collect any debt owed or due or asserted to be owed or due another to the extent that:

(A) Such activity is incidental to a bona fide fiduciary obligation or a bona fide escrow arrangement;

(B) Such activity concerns a debt which was extended by such person;

(C) Such activity concerns a debt which was not in default at the time it was obtained by such person; or

(D) Such activity concerns a debt obtained by such person as a secured party in a commercial credit transaction involving the creditor;

(VIII) Any person whose principal business is the making of loans or the servicing of debt not in default and who acts as a loan correspondent, or seller and servicer for the owner, or holder of a debt which is secured by a deed of trust on real property whether or not such debt is also secured by an interest in personal property;

(IX) A limited gaming or racing licensee acting pursuant to part 6 of article 35 of title 24, C.R.S.

(c) Notwithstanding the provisions of subparagraph (VII) of paragraph (b) of this subsection (2), "collection agency" includes any person who, in the process of collecting his or her own debts, uses another name which would indicate that a third person is collecting or attempting to collect such debts.

(d) For the purposes of section 12-14-108 (1) (f), "collection agency" includes any person engaged in any business the principal purpose of which is the enforcement of security interests. For purposes of sections 12-14-104, 12-14-105, 12-14-106, 12-14-107, 12-14-108, and 12-14-109 only, "collection agency" includes a debt collector for the department of personnel.

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

(I) (Deleted by amendment, L. 2000, p. 935, 2, effective July 1, 2000.)

(II) Is an attorney-at-law and regularly engages in the collection or attempted collection of debts in this state;

(III) Is a person located outside this state whose collection activities are limited to collecting debts not incurred in this state from consumers located in this state and whose collection activities are conducted by means of interstate communications, including telephone, mail, or facsimile transmission, and who is located in another state that regulates and licenses collection agencies but does not require Colorado collection agencies to obtain a license to collect debts in their state if such agencies' collection activities are limited in the same manner.

(3) "Communication" means conveying information regarding a debt in written or oral form, directly or indirectly, to any person through any medium.

(4) "Consumer" means any natural person obligated or allegedly obligated to pay any debt.

(4.5) (a) "Consumer reporting agency" means any person that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

(b) "Consumer reporting agency" shall not include any business entity that provides check verification or check guarantee services only.

(c) "Consumer reporting agency" shall include any persons defined in 15 U.S.C. sec. 1681a (f) or section 12-14.3-102 (4).

(5) "Creditor" means any person who offers or extends credit creating a debt or to which a debt is owed, but such term does not include any person to the extent such person

receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of such debt for another.

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

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

(7) "Debt collector" means any person employed or engaged by a collection agency to perform the collection of debts owed or due or asserted to be owed or due to another, and includes any person employed by the department of personnel, or any division of said department, when collecting debts due to the state on behalf of another state agency.

(8) (Deleted by amendment, L. 2000, p. 935, 2, effective July 1, 2000.)

(9) "Location information" means a consumer's place of abode and his telephone number at such place or his place of employment.

(9.3) "Person" means a natural person, firm, corporation, limited liability company, or partnership.

(9.5) "Principal" means any individual having a position of responsibility in a collection agency, including but not limited to any manager, director, officer, partner, owner, or shareholder owning ten percent or more of the stock.

(10) "Solicitor" means any person employed or engaged by a collection agency who solicits or attempts to solicit debts for collection by such person or any other person.

(11) "State" means any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of them.

**12-14-104. Location information - acquisition.**

(1) Any debt collector or collection agency communicating with any person other than the consumer for the purpose of acquiring location information about the consumer shall:

(a) Identify himself, state that he is confirming or correcting location information concerning the consumer, and, only if expressly requested, identify his employer;

(b) Not state that such consumer owes any debt;

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

(d) Not communicate by postcard;

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

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

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

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

(a) At any unusual time, place, or manner known or which should be known to be inconvenient to the consumer. In the absence of knowledge of circumstances to the contrary, a debt collector or collection agency shall assume that the convenient time for communicating with a consumer is after 8 a.m. and before 9 p.m. local time at the consumer's location.

(b) If the debt collector or collection agency knows the consumer is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the debt collector or collection agency or unless the attorney consents to direct communication with the consumer; or

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

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

(3) (a) If a consumer notifies a debt collector or collection agency in writing that the consumer refuses to pay a debt or that the consumer wishes the debt collector or collection agency to cease further communication with the consumer, the debt collector or collection agency shall not communicate further with the consumer with respect to such debt, except to:

(I) Advise the consumer that the debt collector's or collection agency's further efforts are being terminated;

(II) Notify the consumer that the collection agency or creditor may invoke specified remedies that are ordinarily invoked by such collection agency or creditor; or

(III) Notify the consumer that the collection agency or creditor intends to invoke a specified remedy.

(b) If such notice from the consumer is made by mail, notification shall be complete upon receipt.

(c) In its initial written communication to a consumer, a collection agency shall include the following statement: "FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE [WWW.AGO.STATE.CO.US/CADC/CADCMAIN.CFM](http://WWW.AGO.STATE.CO.US/CADC/CADCMAIN.CFM)." If the web site address is changed, the notification shall be corrected to contain the correct address. If the notification is placed on the back of the written communication, there shall be a statement on the front notifying the consumer of such fact.

(d) (Deleted by amendment, L. 2003, p. 1865, 2, effective May 21, 2003.)

(e) In its initial written communication to a consumer, a collection agency shall include the following statement: "A consumer has the right to request in writing that a debt collector or collection agency cease further communication with the consumer. A written request to cease communication will not prohibit the debt collector or collection agency from taking any other action authorized by law to collect the debt." If the notification is placed on the back of the written communication, there shall be a statement on the front notifying the consumer of such fact.

(4) For the purpose of this section, "consumer" includes the consumer's spouse, parent (if the consumer is a minor), guardian, executor, or administrator.

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

**12-14-106. Harassment or abuse.**

(1) A debt collector or collection agency shall not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt, including, but not limited to, the following conduct:

(a) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person;

(b) The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader;

(c) The publication of a list of consumers who allegedly refuse to pay debts, except to a consumer reporting agency or to persons meeting the requirements of 15 U.S.C. sec. 1681b (a) (3) and section 12-14.3-103 (1) (c);

(d) The advertisement for sale of any debt to coerce payment of the debt or agreeing to do so for the purpose of solicitation of claims;

(e) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number;

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

**12-14-107. False or misleading representations.**

(1) A debt collector or collection agency shall not use any false, deceptive, or misleading representation or means in connection with the collection of any debt, including, but not limited to, the following conduct:

(a) The false representation or implication that the debt collector or collection agency is vouched for, bonded by, or affiliated with the United States government or any state government, including the use of any misleading name, badge, uniform, or facsimile thereof;

(b) The false representation of:

(I) The character, amount, or legal status of any debt; or

(II) Any services rendered or compensation which may be lawfully received by any debt collector for the collection of a debt;

(c) The false representation or implication that any individual is an attorney or that any communication is from an attorney;

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

(e) The threat to take any action that cannot legally be taken or that is not intended to be taken;

(f) The false representation or implication that a sale, referral, or other transfer of any interest in a debt shall cause the consumer to:

(I) Lose any claim or defense to payment of the debt; or

(II) Become subject to any practice prohibited by this article;

- (g) The false representation or implication that the consumer committed any crime;
- (h) The false representation or implication that the consumer has engaged in any disgraceful conduct;
- (i) Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed;
- (j) The use or distribution of any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by any court, official, or agency of the United States or any state or which creates a false or misleading impression as to its source, authorization, or approval;
- (k) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer;
- (l) Except as otherwise provided for communications to acquire location information under section 12-14-104, the failure to disclose clearly, in the initial written communication made to collect a debt or obtain information about a consumer and also, if the initial communication with the consumer is oral, in the initial oral communication, that the debt collector or collection agency is attempting to collect a debt and that any information obtained will be used for that purpose, and, in subsequent communications, that the communication is from a debt collector or collection agency; except that this paragraph (l) shall not apply to a formal pleading made in connection with a legal action;
- (m) The false representation or implication that accounts have been turned over to innocent purchasers for value;
- (n) The false representation or implication that documents are legal process;
- (o) The use of any business, company, or organization name other than the true name of the collection agency's business, company, or organization;
- (p) The false representation or implication that documents are not legal process forms or do not require action by the consumer;
- (q) The false representation or implication that a debt collector or collection agency operates or is employed by a consumer reporting agency.

**12-14-108. Unfair practices.**

(1) A debt collector or collection agency shall not use unfair or unconscionable means to collect or attempt to collect any debt, including, but not limited to, the following conduct:

- (a) The collection of any amount, including any interest, fee, charge, or expense incidental to the principal obligation, unless such amount is expressly authorized by the agreement creating the debt or permitted by law;

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

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

(d) Depositing or threatening to deposit any postdated check or other postdated payment instrument prior to the date on such check or instrument;

(e) Causing charges to be made to any person for communications by concealment of the true purpose of the communication. Such charges include, but are not limited to, collect telephone calls and telegram fees.

(f) Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property if:

(I) There is no present right to possession of the property claimed as collateral through an enforceable security interest;

(II) There is no present intention to take possession of the property; or

(III) The property is exempt by law from such dispossession or disablement;

(g) Communicating with a consumer regarding a debt by postcard;

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

(i) Failing to comply with the provisions of section 13-21-109, C.R.S., regarding the collection of checks, drafts, or orders not paid upon presentment;

(j) Communicating credit information to a consumer reporting agency earlier than thirty days after the initial notice to the consumer has been mailed, unless the consumer's last-known address is known to be invalid. This paragraph (j) shall not apply to checks, negotiable instruments, or credit card drafts.

**12-14-109. Validation of debts.**

(1) Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector or collection agency shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice with the disclosures specified in paragraphs (a) to (e) of this subsection (1). If such disclosures are placed on the back of the notice,

the front of the notice shall contain a statement notifying consumers of that fact. Such disclosures shall state:

(a) The amount of the debt;

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

(c) That, unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector or collection agency;

(d) That, if the consumer notifies the debt collector or collection agency in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector or collection agency will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector or collection agency;

(e) That upon the consumer's written request within the thirty-day period, the debt collector or collection agency will provide the consumer with the name and address of the original creditor, if different from the current creditor.

(f) and (g) (Deleted by amendment, L. 2003, p. 1866, 4, effective May 21, 2003.)

(2) If the consumer notifies the debt collector or collection agency in writing within the thirty-day period described in paragraph (c) of subsection (1) of this section that the debt, or any portion thereof, is disputed or that the consumer requests the name and address of the original creditor, the debt collector or collection agency shall cease collection of the debt, or any disputed portion thereof, until the debt collector or collection agency obtains verification of the debt or a copy of a judgment or the name and address of the original creditor and mails a copy of such verification or judgment or name and address of the original creditor to the consumer.

(3) The failure of a consumer to dispute the validity of a debt under this section shall not be construed by any court as an admission of liability by the consumer.

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

**12-14-110. Multiple debts.**

If any consumer owes multiple debts and makes any single payment to any collection agency with respect to such debts, such collection agency shall not apply such payment to any debt which is disputed by the consumer and when so informed shall apply such payment in accordance with the consumer's directions.

**12-14-111. Legal actions by collection agencies.**

(1) Any debt collector or collection agency who brings any legal action on a debt against any consumer shall:

(a) In the case of an action to enforce an interest in real property securing the consumer's obligation, bring such action only in a judicial district or similar legal entity in which such real property is located; or

(b) In the case of an action not described in paragraph (a) of this subsection (1), bring such action only in the judicial district or similar legal entity in which:

(I) Such consumer signed the contract sued upon;

(II) Such consumer resides at the commencement of the action; or

(III) Such action may be brought pursuant to article 13 or 13.5 of title 26, C.R.S., section 14-14-104, C.R.S., or article 4 or 6 of title 19, C.R.S., if the action is by a private collection agency acting on behalf of a delegate child support enforcement unit.

**12-14-112. Deceptive forms.**

(1) It is unlawful for any person to design, compile, and furnish any form knowing that such form would be used to create the false belief in a consumer that a person other than the creditor of such consumer is participating in the collection or in the attempted collection of a debt that such consumer allegedly owes such creditor when in fact such person is not so participating.

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

(3) This section shall apply if the person supplying or using the forms or the consumer receiving the forms is located within this state.

**12-14-113. Civil liability.**

(1) In addition to administrative enforcement pursuant to section 12-14-114 and subject to section 12-14-134 and the limitations provided by subsection (9) of this section, and except as otherwise provided by this section, any debt collector or collection agency who fails to comply with any provision of this article or private child support collector, as defined in section 12-14.1-102 (9), who fails to comply with any provision of this article or article 14.1 of this title, with respect to a consumer is liable to such consumer in an amount equal to the sum of:

(a) Any actual damage sustained by such consumer as a result of such failure;

(b) (I) In the case of any action by an individual, such additional damages as the court may allow, but not to exceed one thousand dollars;

(II) In the case of a class action, such amount for each named plaintiff as could be recovered under subparagraph (I) of this paragraph (b) and such amount as the court may

allow for all other class members, without regard to a minimum individual recovery, not to exceed five hundred thousand dollars or one percent of the net worth of the debt collector or collection agency, whichever is the lesser; and

(c) In the case of any successful action to enforce such liability, the costs of the action, together with such reasonable attorney fees as may be determined by the court.

(1.5) In the case of any unsuccessful action brought under this section, the plaintiff shall be liable to each defendant in an amount equal to that defendant's cost incurred in defending the action, together with such reasonable attorney fees as may be determined by the court.

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

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

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

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

(4) An action to enforce any liability created by the provisions of this article may be brought in any court of competent jurisdiction within one year from the date on which the violation occurs.

(5) No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any advisory opinion of the administrator, notwithstanding that, after such act or omission has occurred, such opinion is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(6) The policy of this state is not to award double damages under this article and the federal "Fair Debt Collection Practices Act", 15 U.S.C. sec. 1692 et seq. No damages under this section shall be recovered if damages are recovered for a like provision of said federal act.

(7) Notwithstanding subsection (1) of this section, harassment of the employer or the family of a consumer shall be considered an invasion of privacy and a civil action may be brought which is not subject to the damage limitations of said subsection (1).

(8) It shall be an affirmative defense to any action based upon failure of a debt collector, private child support collector, as defined in section 12-14.1-102 (9), or collection agency to comply with this section that the debt collector or collection agency believed, in good faith, that the debtor was other than a natural person.

(9) There shall be no private cause of action under this section for any alleged violation of section 12-14-128 (4) (a). Violations of section 12-14-128 (4) (a) may be prosecuted only through administrative enforcement pursuant to section 12-14-114.

(10) (a) No provision of this section imposing any liability shall apply to any efforts by a state agency or state employee to recover moneys owed to the state as provided in section 24-30-202.4, C.R.S.

(b) If the state controller, or such designee as he or she designates to recover moneys owed to the state, fails to comply with any provision of this article, the controller, or such designee, shall be subject to disciplinary action as specified in the rules promulgated by the executive director of the department of personnel pursuant to article 4 of title 24, C.R.S.

**12-14-114. Administrative enforcement - rules.**

Compliance with this article shall be enforced by the administrator. The administrator may make reasonable rules for the administration and enforcement of this article, including standards of conduct for licensees and collection notices and forms.

**12-14-115. License - registration - unlawful acts.**

(1) It is unlawful for any person to:

(a) Conduct the business of a collection agency or advertise or solicit, either in print, by letter, in person, or otherwise, the right to make collection or obtain payment of any debt on behalf of another without having obtained a license under this article; or

(b) Conduct the business of a collection agency under any name other than that under which licensed.

(2) and (3) Repealed.

(3.5) It is unlawful for a person to act as a collections manager without having complied with sections 12-14-119 and 12-14-122.

(4) It is unlawful for any person to employ any person as a solicitor, collections manager, or debt collector under this article without complying with this section.

**12-14-116. Collection agency board - created.**

(1) For the purpose of carrying out the provisions of this article subject to section 12-14-117 (1), the governor shall appoint five members to the collection agency board, which board is hereby created. The members of the board serving on July 1, 2003, shall continue to serve their appointed terms, and their successors shall be appointed for three-year terms. Upon the death, resignation, or removal of any member of the board, the governor shall appoint a member to fill the unexpired term. Any member of the board may be removed by the governor for misconduct, neglect of duty, or incompetence. No member may serve more than two consecutive terms without first a lapse of at least one term before being appointed to any additional terms.

(2) No person shall be appointed as a member of such board unless such person is a bona fide resident of the state of Colorado. Effective July 1, 2000, board appointments shall ensure that three members of the board have been engaged in the collection business within the state of Colorado, either as a collections manager, owner, or part owner of a licensed collection agency. Two members of the board shall be representatives of the general public and not engaged in the collection business.

(3) Each member of the board shall be allowed a per diem compensation of fifty dollars and actual expenses for each day of active service, payable from the moneys appropriated to the board.

(4) The board shall meet annually for the purpose of organization by electing a chairman, a vice-chairman, and a secretary of the board for the ensuing year.

(5) The board shall meet regularly at such times and places as the business of the board may necessitate upon full and timely notice to each of the members of the board of the time and place of such meeting. A majority of said board shall constitute a quorum of said board.

**12-14-117. Powers and duties of the administrator.**

(1) Any provision of this article to the contrary notwithstanding, the board, created by section 12-14-116, is under the supervision and control of the administrator, who may exercise any of the powers granted to the board.

(2) Repealed.

(3) The administrator is authorized to approve or deny any application submitted pursuant to this article and to issue any license authorized by this article.

(4) Any complaint received by the administrator regarding violations of this article by an attorney shall be forwarded to the supreme court's attorney regulation counsel.

(5) The administrator shall enforce the provisions of article 14.1 of this title pursuant to section 12-14.1-111.

**12-14-118. Collection agency license - required.**

Any person acting as a collection agency must possess a valid license issued by the administrator in accordance with this article and any rules and regulations adopted pursuant thereto.

**12-14-119. Collection agency license - requirements - application - fee - expiration.**

(1) As requisites for licensure, the applicant for a collection agency license shall:

(a) (I) Be owned by, or employ as collections manager or an executive officer of the agency, at least one individual who has been engaged in a responsible position in an established collection agency for a period of at least two years.

(II) Notwithstanding the requirements of subparagraph (I) of this paragraph (a), the administrator may substitute other business experience for such requirements where such business experience has provided comparable experience in collections.

(b) (I) Employ a collections manager who shall:

(A) (Deleted by amendment, L. 2008, p. 1729, 7, effective July 1, 2008.)

(B) Be responsible for the actions of the debt collectors in that office.

(II) The collections manager may be the same individual specified in paragraph (a) of this subsection (1) if the collections manager also meets the qualifications of said paragraph (a).

(c) File a bond in the amount and manner specified in section 12-14-124;

(d) If a foreign corporation, comply fully with the laws of this state so as to entitle it to do business within the state.

(2) Each applicant for a collection agency license shall submit an application providing all information in the form and manner the administrator shall designate, including, but not limited to:

(a) The location, ownership, and, if applicable, the previous history of the business and the name, address, age, and relevant debt-collection experience of each of the principals of the business;

(b) A duly verified financial statement for the previous year;

(c) If a corporation, the name of the shareholder and the number of shares held by any shareholder owning ten percent or more of the stock; and

(d) For the principals and the collections manager of the applicant:

(I) The conviction of any felony or the acceptance by a court of competent jurisdiction of a plea of guilty or nolo contendere to any felony;

(II) The denial, revocation, or suspension of any license issued to any collection agency which employed or was owned by such persons, in whole or in part, directly or indirectly, and a statement of their position and authority at such collection agency:

(A) For any license issued pursuant to this article; or

(B) For any comparable license issued by any other jurisdiction;

(III) The taking of any other disciplinary or adverse action or the existence of any outstanding complaints against any collection agency which employed or was owned in whole or in part, directly or indirectly, by such persons, and a statement of their position and authority at such collection agency:

(A) For any license issued pursuant to this article; or

(B) When such action was taken by any other jurisdiction or such complaint exists in any other jurisdiction, whether or not a license was issued by that jurisdiction;

(IV) The suspension or termination of approval of any collections manager under this article or any other disciplinary or adverse action taken against the applicant, principal, or collections manager in any jurisdiction.

(3) At the time the application is submitted, the applicant shall pay a nonrefundable investigation fee in an amount to be determined by the administrator.

(4) When the administrator approves the application, the applicant shall pay a nonrefundable license fee in an amount to be determined by the administrator.

(5) The administrator shall establish procedures for the maintenance of license lists and the establishment of initial and renewal license fees and schedules. The administrator may change the renewal date of any license issued pursuant to this article to the end that approximately the same number of licenses are scheduled for renewal in each month of the year. Where any renewal date is so changed, the fee for the license shall be proportionately increased or decreased, as the case may be. Every licensee shall pay the administrator a license fee to be determined and collected pursuant to section 12-14-121 and subsection (4) of this section, and shall obtain a license certificate for the current license period. Notwithstanding any other provision of this section, a licensee, at any time, may voluntarily surrender the license to the administrator to be cancelled, but such surrender shall not affect the licensee's liability for violations of this article that occurred prior to the date of surrender.

(6) (Deleted by amendment, L. 2003, p. 1868, 8, effective May 21, 2003.)

(7) A collection agency must obtain a license for its principal place of business, but its branch offices, if any, need not obtain separate licenses. A collection agency with branch offices must notify the administrator in writing of the location of each branch office within thirty days after the branch office commences business.

**12-14-120. License - issuance - grounds for denial - appeal - contents.**

(1) Upon the approval of the license application by the administrator and the satisfaction of all application requirements, the administrator shall issue the applicant a license to operate as a collection agency.

(2) The administrator may deny any application for a license or its renewal if any grounds exist that would justify disciplinary action under section 12-14-130, for failure to meet the requirements of section 12-14-119, or if the applicant, the applicant's principals, or the applicant's collections manager have fraudulently obtained or attempted to obtain a license.

(3) If any application for a license or its renewal is denied, the applicant may appeal the decision pursuant to section 24-4-104, C.R.S.

(4) The license shall state the name of the licensee, location by street and number or office building and room number, city, county, and state where the licensee has his principal place of business, together with the number and date of such license and the date of expiration of the license, and shall further state that it is issued pursuant to this article and that the licensee is duly authorized under this article.

(5) Repealed.

(6) The administrator may deny any application for a license or its renewal if the collection agency has failed to perform the duties enumerated in section 12-14-123.

(7) The administrator may deny any application for a license or its renewal if the collection agency does not have a positive net worth.

**12-14-121. Collection agency license - renewals.**

Each licensee shall make an application to renew its license in the form and manner prescribed by the administrator. The application shall be accompanied by a nonrefundable renewal fee in an amount determined by the administrator.

**12-14-122. Collection agency license - notification of change and reapplication requirements.**

(1) (a) Upon any of the following changes, the licensee shall notify the administrator in writing of such change within thirty days after its occurrence:

(I) Change of business name or address;

(II) If a corporation or limited liability company, change in ownership of ten or more percent but less than fifty percent of the corporate stock or ownership interest.

(b) If the licensee fails to provide such written notification, the license shall automatically expire on the thirtieth day following such change.

(2) (a) Upon any of the changes specified in paragraph (c) of this subsection (2), the licensee shall apply for a new license within thirty days of said change. The administrator shall have twenty-five days to review the application and issue or deny the new license. If the administrator denies the license, the administrator shall provide to the licensee a written statement stating why the application for the license was denied, and the licensee shall have fifteen days to cure any defects in said application. The administrator shall approve or deny the resubmitted application within fifteen days.

(b) If the licensee fails to file an application for a new license, the license shall expire on the thirtieth day following the change which necessitated the new license application. If the application is denied and the licensee fails to resubmit the application within fifteen days of said denial, the license shall expire on the fifteenth day following the denial.

(c) The changes which require a new license application are:

(I) In a sole proprietorship or partnership, any change in the persons owning the collection agency;

(II) In a corporation or limited liability company, any change of ownership of fifty percent or more of the stock or ownership interest in any one transaction or a cumulative change of ownership of fifty percent or more from the date of the issuance of the license or from the date of the latest renewal of the license;

(III) Any change of ownership structure, including but not limited to a change to or from a sole proprietorship, partnership, limited liability company, or corporation. No investigation fee shall be required in the event of such a change and the application required may be more abbreviated than that required for an initial license, as determined by the administrator.

(3) (a) Upon a change of collections manager, the licensee shall notify the administrator in the form and manner designated by the administrator. The licensee shall appoint a new collections manager within thirty days of such change.

(b) The administrator, within fifteen days, shall approve or disapprove the qualifications of the new collections manager.

(c) The licensee may continue to operate as a collection agency unless and until the administrator disapproves the qualifications of the new collections manager.

(4) Any licensee which has submitted an application for a new license may continue to operate as a collection agency until the final decision of the administrator.

(5) The licensee may appeal the final decision of the administrator pursuant to section 24-4-104, C.R.S.

**12-14-123. Duties of collection agencies - repeal.**

(1) A licensee shall:

(a) Maintain, at all times, liquid assets in the form of deposit accounts in the total sum of not less than two thousand five hundred dollars more than all sums due and owing to all of its clients;

(b) (I) (A) Maintain, at all times, an office within this state that is open to the public during normal business hours, is staffed by at least one full-time employee, keeps a record of all moneys collected and remitted by the agency for residents of Colorado, and accepts payments physically made at the office for any debt the agency is attempting to collect.

(B) Notify, in each written communication, the consumer from whom the agency is attempting to collect a debt of the address and telephone number of the local office required by this subparagraph (I).

(II) Maintain, at all times, a toll-free telephone number that shall be available to any consumer who needs to make a toll call to reach the licensee in connection with a debt.

(c) Maintain, at all times, a trust account for the benefit of its clients which shall contain, at all times, sufficient funds to pay all sums due or owing to all of its clients. The trust account shall be maintained in a commercial bank, industrial bank, or savings and loan association account in this state or accessible in a branch in this state until disbursed to the creditor. Such account shall be clearly designated as a trust account and shall be used only for such purposes and not as an operating account. A deposit of all funds received to a trust account followed by a transfer of the agency share of the collection to an operating account is not a violation of this section.

(d) Within thirty days after the last day of the month in which any collections are made for a client, account to the client for all collections made during that month and remit to the client all moneys owed to the client pursuant to the agreement between the client and the collection agency;

(e) Upon written demand of the administrator, within five days of receipt of such demand, produce a complete set of all form notices or form letters used by the licensee in the collection of accounts;

(f) Be responsible, pursuant to this article, for violations of this article that are caused by its collections manager, debt collectors, or solicitors.

(2) (a) No collection agency shall employ any collections manager, debt collector, or solicitor who has been convicted of or who has entered a plea of guilty or nolo contendere to any crime specified in part 4 of article 4, in part 1, 2, 3, 5, 7, or 9 of article 5, or in article 5.5 of title 18, C.R.S., or any similar crime under the jurisdiction of any federal court or court of another state.

(b) No collection agency shall be owned or operated by the following persons who have been convicted of or who have entered a plea of guilty or nolo contendere to any crime specified in part 4 of article 4, in part 1, 2, 3, 5, 7, or 9 of article 5, or in article 5.5 of title 18, C.R.S., or any similar crime under the jurisdiction of any federal court or court of another state:

- (I) The owner of a sole proprietorship;
- (II) A partner of a partnership;
- (III) A member of a limited liability company; or
- (IV) An officer or director of a corporation.

(3) Paragraphs (a), (c), and (d) of subsection (1) of this section do not apply to a person collecting or attempting to collect a debt owned by the person collecting or attempting to collect such debt.

**12-14-124. Bond.**

(1) Each licensee shall maintain at all times and each applicant shall file, prior to the issuance of any license to such applicant, a bond in the sum of twelve thousand dollars plus an additional two thousand dollars for each ten thousand dollars or part thereof by which the average monthly sums remitted or owed to all of its clients during the previous year exceed fifteen thousand dollars; or, in the alternative, an applicant or licensee shall present evidence of a savings account, deposit, or certificate of deposit of the same sum and meeting the requirements of section 11-35-101, C.R.S. The total amount of the bond shall not exceed twenty thousand dollars and shall be in favor of the attorney general of the state of Colorado for use of the people of the state of Colorado and the administrator. Such bond shall be executed by the applicant or licensee as principal and by a corporation that is licensed by the commissioner of insurance to transact the business of fidelity and surety insurance as surety. If any such surety, during the life of the bond, cancels the bond or reduces the penal sum of the bond, the surety immediately shall notify the administrator in writing. The administrator shall give notice to the licensee that the bond has been cancelled or reduced and that the licensee's license shall automatically expire unless a new or increased bond with proper sureties is filed within thirty days after the date the administrator received the notice, or on such later date as is stated in the surety's notice.

(2) The bond shall include a condition that the licensee shall, upon demand in writing made by the administrator, pay over to the administrator for the use of any client from whom any debt is taken or received for collection by the licensee the proceeds of such collection, less the charges for collection in accordance with the terms of the agreement made between the licensee and the client.

(3) A client may file with the administrator a duly verified claim as to money due such client for money collected by a licensee. If the administrator makes a preliminary determination that a claim meets the requirements of this section, the administrator shall make a demand for the amount claimed. Such demand may be made on the licensee, the surety, or both.

(4) If a receiver has been appointed by any court of competent jurisdiction in the state of Colorado to take charge of the assets of any licensee, such receiver, upon the written consent of the administrator, may demand and receive payment on the bond from the surety and, upon order of the court, may bring suit upon the bond in the name of such receiver, without joining the administrator as a party to the action.

(5) If a client has filed a duly verified claim with the administrator, who has refused to make demand upon the licensee or surety, the client may bring suit against the licensee or surety on the bond for the recovery of money due from such licensee without assignment of such bond to the client. Nothing in this section shall preclude a client from making a demand on both the licensee and the surety.

(6) (a) Said bond shall include a condition that the licensee shall, upon written demand, turn over to the client any and all notes, valuable papers, or evidence of indebtedness which may have been deposited with said licensee by the client, but such licensee shall not be required to return any such papers, notes, or evidence of indebtedness on debts in process of collection, unless reimbursed by the client for the services performed on the debt so evidenced.

(b) "Debts in process of collection" means any debts which have been in said licensee's hands for less than nine months, debts on which payments are being made, or on which payments have been promised, debts on which suit has been brought, and claims which have been forwarded to any other collection agency or attorney.

(7) Such bond shall cover all matters placed with the licensee during the term of the license granted and any renewal, except as provided in this section. Such bond may be enforced in the manner described in this section, by a receiver appointed to take charge of the assets of any licensee, or by any client if the administrator refuses to act. The aggregate liability of the surety, for any and all claims that may arise under such bond, shall not exceed the penalty of such bond.

(8) Any licensee, at any time, may file a new bond with the administrator. Any surety may file with the administrator notice of withdrawal as surety on the bond of any licensee. Upon filing of such new bond or on expiration of thirty days after the filing of notice of withdrawal as surety by the surety, the liability of the former surety for all future acts of the licensee shall terminate, except as provided in subsection (9) of this section. The administrator shall cancel the bond given by any surety company upon being advised its license to transact the business of fidelity and surety insurance has been revoked by the commissioner of insurance and shall notify the licensee.

(9) No action shall be brought upon any bond required to be given and filed, after the expiration of two years from the surrender, revocation, or expiration of the license issued thereunder. After the expiration of said period of two years, all liability of the surety upon the said bond shall cease if no action has been commenced upon said bond before the expiration of the period.

(10) In lieu of an individual surety bond, the administrator may authorize a blanket bond covering qualifying licensees in the sum of two million dollars in favor of the attorney general of the state of Colorado for use of the people of the state of Colorado and the administrator. Each new and renewal applicant shall pay a fee in an amount determined by the administrator to offset the applicant's share of the blanket bond. Conditions and procedures regarding the bond shall be as set forth in this section for individual bonds.

(11) This section does not apply to a person collecting or attempting to collect a debt owned by the person collecting or attempting to collect such debt.

**12-14-125. Debt collectors - registration required.**

(1) Repealed.

(2) (Deleted by amendment, L. 95, p. 1237, 19, effective July 1, 1995.)

**12-14-126. Solicitor - registration required. (Repealed)**

**12-14-127. Debt collectors and solicitors - certificates of registration - application - expiration - notification of change required. (Repealed)**

**12-14-128. Unlawful acts.**

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

(a) To refuse or fail to comply with section 12-14-104, 12-14-105, 12-14-106, 12-14-107, 12-14-108, 12-14-109, 12-14-110, 12-14-118, 12-14-119 (1), or 12-14-123 (1) (b) to (1) (e) or (2);

(b) To aid or abet any person operating or attempting to operate in violation of this article, including but not limited to section 12-14-115; except that nothing in this article shall prevent any licensed collection agency from accepting, as forwarder, claims for collection from any collection agency or attorney whose place of business is outside this state;

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

(2) It is unlawful and a violation of this article for any licensee or any attorney representing a licensee to invoke a cognovit clause in any note so as to confess judgment.

(3) It is unlawful and a violation of this article for any licensee to render or to advertise that it will render legal services; except that a licensee may solicit claims for collection and take assignments and pursue the collection thereof subject to the provisions of law concerning the unauthorized practice of law.

(4) It is unlawful and a violation of this article for any licensee, collections manager, debt collector, or solicitor:

(a) To refuse or fail to comply with a rule adopted pursuant to this article or any lawful order of the administrator; or

(b) To aid or abet any person in such refusal or failure.

(5) It is unlawful and a violation of this article for any person to falsify any information or make any misleading statements in any application authorized under this article.

(6) Any officer or agent of a corporation who personally participates in any violation of this article shall be subject to the penalties prescribed in section 12-14-129 for individuals.

**12-14-129. Criminal penalties.**

Any person who violates any provision of section 12-14-128 (1), (2), (3), or (4) commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

**12-14-130. Complaint - investigations - powers of administrator - sanctions.**

(1) Upon the filing with the administrator by any interested person of a written complaint charging any person with a violation of this article, any rule adopted pursuant to this article, or any lawful order of the administrator, the administrator shall conduct an investigation thereof.

(2) For reasonable cause, the administrator may, on its own motion, conduct an investigation of the conduct of any person concerning compliance with this article. The administrator may also issue subpoenas to require the attendance of witnesses or the production of documents, which subpoenas may be issued to any person, whether located in this state or elsewhere, who has engaged in or is engaging in any violation of this article; administer oaths; conduct hearings in aid of any investigation or inquiry necessary to administer the provisions of this article; and apply to the appropriate court for an appropriate order to effect the purposes of this article.

(3) If any licensee or one of its principals or collections managers is convicted of or enters a plea of guilty or nolo contendere to any crime specified in part 4 of article 4, in part 1, 2, 3, 5, 7, or 9 of article 5, or in article 5.5 of title 18, C.R.S., or any similar crime under the jurisdiction of any federal court or court of another state, the conviction or plea shall constitute grounds for disciplinary action under this section.

(4) In any proceeding held under this section, the administrator may accept as prima facie evidence of grounds for disciplinary or adverse action any disciplinary or adverse action taken against a licensee, the licensee's principals, debt collector, solicitor, or collections manager by another jurisdiction that issues professional, occupational, or business licenses, if the conduct that prompted the disciplinary or adverse action by that jurisdiction would be grounds for disciplinary action under this section.

(5) For reasonable cause, the administrator or the administrator's designee has the right, during normal business hours without resort to subpoena, to examine the books, records, and files of any licensee. If the books, records, and files are located outside Colorado, the licensee shall bear all expenses in making them available.

(6) (a) For reasonable cause, the administrator may require the making and filing, by any licensee, at any time, of a written, verified statement of the licensee's assets and liabilities, including, if requested, a detailed statement of amounts due claimants. The administrator may also require an audited statement when cause has been shown that an audited statement is needed.

(b) Any financial statement of any applicant or licensee required to be filed with the administrator shall not be a public record but may be introduced in evidence in any court action or in any administrative action involving the applicant or licensee.

(7) For the purpose of any proceeding under this article, the administrator may subpoena witnesses and compel them to give testimony under oath. If any subpoenaed witness fails or refuses to appear or testify, the subpoenaing authority may petition the district court, and, upon proper showing, the court may order the witness to appear and testify. Disobedience of the order of court may be punished as a contempt of court.

(8) The administrator may appoint an administrative law judge pursuant to part 10 of article 30 of title 24, C.R.S., to conduct any proceedings authorized under this article.

(9) If the administrator finds cause to believe a licensee or collections manager has violated this article, the rules adopted pursuant to this article, or any lawful order of the administrator, the administrator shall so notify the licensee or collections manager and hold a hearing. Any proceedings conducted pursuant to this section shall be in accordance with article 4 of title 24, C.R.S.

(10) (a) If the administrator or the administrative law judge finds that the licensee or collections manager has violated this article, the rules adopted pursuant to this article, or any lawful order of the administrator, or if the licensee fraudulently obtained a license, the administrator may issue letters of admonition; deny, revoke, or suspend the license of such licensee or approval of the collections manager; place such licensee or collections manager on probation; or impose administrative fines in an amount up to one thousand five hundred dollars per violation on the licensee or collections manager.

(b) The administrator may issue letters of admonition pursuant to paragraph (a) of this subsection (10) without a hearing; except that the licensee or collections manager receiving the letter of admonition may request a hearing before the administrator to appeal the issuance of the letter.

(c) A letter of admonition may be issued to a licensee or collections manager whether or not a license or approval has been surrendered prior to said issuance.

(d) No person whose license has been revoked shall be licensed again under the terms of this article for five years. No person hired as a collections manager whose approval has been terminated by the administrator for a violation of this article shall be hired again as a collections manager for five years.

(11) The court of appeals shall have jurisdiction to review all final actions and orders that are subject to judicial review of the administrator. Such proceedings shall be conducted in accordance with section 24-4-106 (11), C.R.S.

(12) Members of the collection agency board, the administrator, expert witnesses, and consultants shall be immune from civil suit when they perform any duties in connection with any proceedings authorized under this section in good faith. Any person who files a complaint in good faith under this section shall be immune from civil suit.

**12-14-130.1. Debt collectors for the department of personnel - complaint - disciplinary procedures.**

(1) Any interested person may file a written complaint with the executive director of the department of personnel charging a debt collector in the employ of the department of personnel with a violation of:

(a) This article or a rule promulgated pursuant thereto;

(b) A lawful order of the state board of ethics; or

(c) The standards of conduct set forth in the code of conduct developed by the department of personnel for such debt collectors.

(2) Each complaint filed pursuant to this section shall be referred to the executive director of the department of personnel who shall conduct an investigation to determine if a violation of subsection (1) of this section occurred. If the executive director makes a determination that a violation did occur, the debt collector who is the subject of the complaint shall be subject to the disciplinary procedures set forth in rules adopted by the state personnel board. If a determination made pursuant to this subsection (2) is unsatisfactory to any party, an appeal may be made to the board of ethics for the executive branch of state government in the office of the governor.

(3) If the executive director of the department of personnel, or the board of ethics in the case of an appeal, makes a determination that a debt collector in the employ of the department of personnel has acted in violation of this article or a rule promulgated pursuant thereto, a lawful order of the state board of ethics, or the code of conduct described in paragraph (c) of subsection (1) of this section, such determination shall be made a part of the personnel file of the debt collector against whom the complaint was filed.

**12-14-131. Records.**

The administrator shall keep a suitable record of all license applications and bonds required to be filed. Such record shall state whether a license has been issued under such application and bond and, if revoked, the date of the filing of the order of revocation. The administrator shall keep a list of each person who has had a license revoked or has been terminated as a collections manager for a violation of this article. In such record, all licenses issued shall be indicated by their serial numbers and the names and addresses of the licensees. This section shall apply to renewal applications and renewal licenses. Such record shall be open for inspection as a public record in the office of the administrator.

**12-14-132. Jurisdiction of courts.**

County courts shall have concurrent jurisdiction with the district courts of this state in all criminal prosecutions for violations of this article.

**12-14-133. Duty of district attorney.**

It is the duty of the district attorney to prosecute all violations of the provisions of this article occurring within his district.

**12-14-134. Remedies.**

The remedies provided in this article are in addition to and not exclusive of any other remedies provided by law.

**12-14-135. Injunction - receiver.**

The district court in and for the city and county of Denver, upon application of the administrator, may issue an injunction or other appropriate order restraining any person from any violation of this article and may appoint a receiver or award other relief to effectuate the provisions of this article; order restitution for consumers or creditors for violations of this article; impose civil penalties up to one thousand five hundred dollars per violation of this article; and award reasonable costs and attorney fees to the administrator if the administrator prevails in an action brought under this article. This provision shall be in addition to any other remedy and shall not prohibit the enforcement of any other law. The administrator shall not be required to show irreparable injury or to post a bond.

**12-14-136. Disposition of fees and fines.**

(1) (a) All revenue, except fines, collected pursuant to this article shall be collected by the administrator and transmitted to the state treasurer, who shall credit the same to the collection agency cash fund, which fund is hereby created. The general assembly shall make annual appropriations from such fund for the uses and purposes of this article. All revenue credited to such fund, including earned interest, shall be used for the administration and enforcement of this article.

(b) Notwithstanding any provision of paragraph (a) of this subsection (1) to the contrary, on March 27, 2002, the state treasurer shall deduct four hundred sixty-two thousand dollars from the collection agency cash fund and transfer such sum to the general fund.

(c) Notwithstanding any provision of paragraph (a) of this subsection (1) to the contrary, on March 5, 2003, the state treasurer shall deduct one hundred twenty thousand dollars from the collection agency cash fund and transfer such sum to the general fund.

(2) All fines collected pursuant to this article, including but not limited to fines collected pursuant to section 12-14-130, shall be collected by the administrator and transmitted to the state treasurer, who shall credit the same to the general fund.

**12-14-137. Repeal of article.**

This article is repealed, effective July 1, 2017.

## **RELATED LAWS**

### **6-20-201 Definitions [Notification of debt by a health care provider]**

For the purposes of this part 2, unless the context otherwise requires:

(1) "Collection activity" means only those activities provided or performed by a licensed collection agency, using a business name other than the name of the health care provider, for purposes of collecting a debt. The term does not include any standard billing procedures used by the health care provider or its agent in the normal course of business on current, nondelinquent accounts.

(2) "Collection agency" shall have the same meaning as in section 12-14-103 (2), C.R.S.

(3) "Health care provider" includes a health care facility licensed pursuant to article 3 of title 25, C.R.S., and any other health care provider.

### **6-20-202 Notice to patient of debt [by a health care provider]**

1) (a) When a person has health benefit coverage to provide payment for care or treatment rendered by a health care provider and the person has notified the health care provider of coverage within thirty days after the date the care or treatment was rendered, and if the health coverage plan, as defined in section 10-16-102 (34), C.R.S., pays only a portion of the debt, prior to the assignment of the debt to a licensed collection agency, the health care provider shall mail written notice to the last-known address of the person responsible for payment of the debt at least thirty days before any collection activity on any amount due and owing the health care provider.

(b) The notice required of health care providers by paragraph (a) of this subsection (1) shall include the amount due and owing; the name, address, and telephone number of the health care provider; where payment may be made; the date of service; and the last date or number of days after the date of the notice the health care provider will accept payment prior to the debt being submitted to a collection agency or reporting adverse information to a consumer reporting agency for the debt for which notice was provided.

(2) (a) If the health care provider fails to provide the person with notice of such debt and all other information required by subsection (1) of this section, the health care provider shall not pursue any rights to collect such outstanding amount either through a collection agency or by any further efforts of the health care provider to collect the debt. In addition, the health care provider may not report adverse information to a consumer reporting agency for the debt for which notice was provided without providing notice to the person pursuant to subsection (1) of this section. The health care provider shall assist the person in correcting any adverse credit information because of the health care provider's failure to provide notice pursuant to subsection (1) of this section.

(b) Notwithstanding any provision of this section to the contrary, a health care provider may remedy a failure to give notice by providing a written report to the collection agency to withhold any collection activity and withholding any of the health care provider's own collection efforts until the provider complies with the notice and time requirements pursuant to subsection (1) of this section.

(c) Nothing in this subsection (2) shall be construed to require a health care provider to perform additional attempts to notify a person of the person's portion of the debt other than mailing the notice required pursuant to subsection (1) of this section to the person's last-known address and maintaining a record of such mailing.

(d) The failure of a health care provider or its agent to provide the notice required by subsection (1) of this section shall not create a cause of action or remedy against a collection agency under the "Colorado Fair Debt Collection Practices Act", article 14 of title 12, C.R.S.

### **13-21-109 Recovery of damages for checks, drafts or orders not paid upon presentment**

(1) Any person who obtains money, merchandise, property, or other thing of value, or who makes any payment of any obligation other than an obligation on a consumer credit transaction as defined in section 5-1-301, C.R.S., by means of making any check, draft, or order for the payment of money upon any bank, depository, person, firm, or corporation which is not paid upon its presentment is liable to the holder of such check, draft, or order or any assignee for collection for one of the following amounts, at the option of the holder or such assignee:

(a) The face amount of the check, draft, or order plus actual damages determined in accordance with the provisions of the "Uniform Commercial Code", title 4, C.R.S.; or

(b) An amount equal to the face amount of the check, draft, or order and:

(I) The amount of any reasonable posted or contractual charge not exceeding twenty dollars; and

(II) If the check, draft, or order has been assigned for collection to a person licensed as a collection agency pursuant to article 14 of title 12, C.R.S., as costs of collection, twenty percent of the face amount of the check, draft, or order but not less than twenty dollars; or

(c) An amount as provided in subsection (2) of this section.

(2) (a) If notice of nonpayment on presentment of the check, draft, or order has been given in accordance with the provisions of subsections (3) and (4) of this section and the total amount due as set forth in the notice has not been paid within fifteen days after such notice is given, instead of the amounts set forth in paragraph (a) or (b) of subsection (1)

of this section, the person shall be liable to the holder or any assignee for collection for three times the face amount of the check but not less than one hundred dollars.

(b) The person, also referred to in this section as the "maker", shall not be liable in accordance with the provisions of paragraph (a) of this subsection (2) if he establishes any one of the following

(I) That the account contained sufficient funds or credit to cover the check, draft, or order at the time the check, draft, or order was made, plus all other checks, drafts, and orders on the account then outstanding and unpaid;

(II) That the check, draft, or order was not paid because a paycheck, deposited in the account in an amount sufficient to cover the check, draft, or order, was not paid upon presentment;

(III) That funds sufficient to cover the check, draft, or order were garnished, attached, or set off and the maker had no notice of such garnishment, attachment, or setoff at the time the check, draft, or order was made;

(IV) That the maker of the check, draft, or order was not competent or of full age to enter into a legal contractual obligation at the time the check, draft, or order was made;

(V) That the making of the check, draft, or order was induced by fraud or duress;

(VI) That the transaction which gave rise to the obligation for which the check, draft, or order was given lacked consideration or was illegal.

(3) Notice that a check, draft, or order has not been paid upon presentment shall be in writing and given in person and receipted for, or by personal service, or by depositing the notice by certified mail, return receipt requested and postage prepaid, or by regular mail supported by an affidavit of mailing sworn and retained by the sender, in the United States mail and addressed to the recipient's most recent address known to the sender. If the notice is mailed and not returned as undeliverable by the United States postal service, notice shall be conclusively presumed to have been given on the date of mailing. For the purpose of this subsection (3), "undeliverable" does not include unclaimed or refused.

(4) The notice given pursuant to subsection (3) of this section shall include the following information regarding the unpaid check, draft, or order:

(a) The date the check, draft, or order was issued;

(b) The name of the bank, depository, person, firm, or corporation on which it was drawn;

(c) The name of the payee;

(d) The face amount;

(e) A statement of the total amount due, which shall be itemized and shall not exceed the amount permitted under paragraph (a) or (b) of subsection (1) of this section;

(f) A statement that the maker has fifteen days from the date notice was given to make payment in full of the total amount due; and

(g) A statement that, if the total amount due is not paid within fifteen days after the date notice was given, the maker may be liable in a civil action for three times the face amount of the check but not less than one hundred dollars and that, in such civil action, the court may award court costs and reasonable attorney fees to the prevailing party.

(5) No holder or assignee for collection shall assert that any maker has liability for any amount set forth under subsection (2) of this section unless such liability has been determined by entry of a final judgment by a court of competent jurisdiction.

(6) In any civil action brought under this section, the prevailing party may recover court costs and reasonable attorney fees. In addition, in an action brought under paragraph (b) of subsection (1) of this section, if the holder or assignee for collection prevails, actual costs of collection may be recovered by the holder or assignee for collection if such actual costs of collection are greater than the costs of collection provided under such paragraph (b).

(7) Nothing in this section shall be deemed to apply to any check, draft, or order on which payment has been stopped by the maker by reason of a dispute relating to the money, merchandise, property, or other thing of value obtained by the maker.

(8) Nothing in this section applies to any criminal case or affects eligibility or terms of probation.

(9) Any limitation on a cause of action under this section, except a cause of action under subsection (2) of this section, shall be governed by the provisions of section 13-80-103.5. Any limitation on a cause of action under subsection (2) of this section shall be governed by the provisions of section 13-80-102.

**RULES OF THE ADMINISTRATOR,  
COLORADO FAIR DEBT COLLECTION PRACTICES ACT  
4 Code of Colorado Regulations 903-1**

**Scope of Rules**

These rules apply to all collection agencies and debt collectors, whether or not exempt from licensing under the Colorado Fair Debt Collection Practices Act, unless the rule is limited to “licensees” or “applicants.” The words “client” and “creditor” have the same meaning throughout these rules.

**Chapter 1  
Licensing and Disciplinary Matters**

**Rule 1.01      Collections Manager**

- (1) Whenever an applicant or licensee designates a new collections manager, it shall notify the Administrator by filing a collections manager application form. The collections manager shall meet the qualifications of sections 12-14-119, 12-14-123(2), and the other applicable provisions of the Colorado Fair Debt Collection Practices Act.
- (2) Pursuant to section 12-14-122(3)(a), C.R.S., an application filed due to a change of collections manager shall be filed within thirty days of the change. The temporary absence of an approved collections manager does not constitute a change requiring designation of a new manager.

**Rule 1.02      Licensure**

- (1) No license shall issue until all necessary documents and information have been filed, all fees paid, and the designated collection manager's qualifications to collect debts has been determined. No debts may be collected nor creditor accounts solicited until a license has been issued.
- (2) Within ninety (90) days after notice from the Administrator that the application is incomplete, the applicant must complete the application for licensure by providing all necessary documents, information, and fees specified. If the licensure application is not completed within that time, the application shall be null and void and the applicant must then reapply for licensure, including payment of all fees.

**Rule 1.03      Aliases**

- (1) Licensees must retain records reflecting the true name of all debt collectors and, if applicable, the one alias used by each debt collector. These records shall be retained for two (2) years after the debt collector

leaves the licensee's employment. The Administrator may require a licensee to submit these records at any time.

- (2) No debt collector may use more than one alias. The alias must consist of both a first and last name. Debt collectors employed by a licensee may not use the same alias.

**Rule 1.04     Letters of Admonition**

- (1) Any letter of admonition issued against a licensee or collections manager shall be mailed by first-class certified mail.
- (2) A licensee or collections manager receiving a letter of admonition may appeal the admonishment by filing a written request within forty (40) days after the date of the letter. Upon receipt of a timely appeal, a hearing will be held. While an appeal is pending, the letter of admonition shall be vacated until conclusion of a hearing held pursuant to Rule 1.04(3).
- (3) Any hearing held following a request to appeal the issuance of a letter of admonition shall be conducted pursuant to the State Administrative Procedure Act, title 24, article 4, of the Colorado Revised Statutes. If a violation of the Colorado Fair Debt Collection Practices Act, the rules adopted pursuant thereto, or a lawful order has occurred, or the licensee fraudulently obtained a license, the licensee, collections manager, or both, as applicable, may be disciplined as provided in § 12-14-130(10), C.R.S.
- (4) If the Administrator determines that a violation is minor or technical, the Administrator has the discretion to issue an advisory letter in lieu of a letter of admonition.

**Rule 1.05     Termination of License**

- (1) Upon the termination of a license by revocation, expiration, denial, or surrender, the licensee must immediately cease collection activities. All client accounts must be returned to the clients within thirty (30) days unless the licensee has written authorization from the client to transfer or assign the accounts to another collection agency for collection. No later than the end of the thirty day period, the licensee must file a notarized affidavit with the Administrator of the Collection Agency Board stating its compliance with this rule and providing the names and addresses of all clients for whom it was attempting to collect debts.
- (2) The licensee shall not charge or retain any fee or commission for the return or transfer of client accounts made pursuant to Rule 1.05(1).

- (3) All consumer payments received after the revocation, expiration, or surrender of a license shall be immediately forwarded in full to the applicable client without the licensee's retention of any fee or commission.
- (4) This rule does not prohibit the bulk sale of the licensee's business, assets, and goodwill as a unit, including the provision of information to enable the purchaser to solicit reassignment of client accounts directly from the client after termination of a license. A licensee may not purchase the right to collect client accounts from another licensee but only the right to solicit their reassignment from the client.
- (5) This rule does not apply to any license voluntarily surrendered in conjunction with the simultaneous issuance of a new license due to any of the changes listed in § 12-14-122(2)(c), C.R.S.

**Rule 1.06**     **License Renewals**

Collection agency licenses shall be valid from the date of issuance to the following July 1. In order to renew its license, a licensee must file its completed renewal application and renewal fee on or before July 1 of each year or its license shall automatically expire.

**Rule 1.07**     **Address Changes**

A collection agency's obligation to provide written notice to the administrator within thirty days after an address change pursuant to section 12-14-122(1)(a), C.R.S. applies to both the local Colorado office and the principal place of business printed on the collection agency's license, and may be provided by facsimile, electronic mail, U.S. mail, or any other delivery method.

**Rule 1.08**     **Abbreviated Applications**

- (1) A licensee filing an abbreviated license application upon a change of ownership structure pursuant to section 12-14-122(2)(c)(III), C.R.S. is not required to submit the following:
  - (a) Investigation fee;
  - (b) List of currently employed debt collectors and solicitors;
  - (c) License verification forms from other states that license the applicant; and,
  - (d) If there has been no change in any of the documentation on file with the administrator:
    - (i) Personal affidavits of owners, officers, members/managers, and partners;
    - (ii) Collections manager application; and
    - (iii) List of branch offices.

**Rule 1.09**     **Local Colorado Office**

- (1) A collection agency may satisfy the local Colorado office requirement of section 12-14-123(1)(b), C.R.S. by contracting with a third-party if the third-party:
  - (a) maintains an office in Colorado open to the public during normal business hours that may be a shared office location if signs or directories are posted or displayed listing all collection agencies for whom the third-party provides a local Colorado office;
  - (b) maintains at that office records, or free and easy access to records, of all moneys collected and remitted for Colorado residents;
  - (c) accepts payments physically made at that office for any debt the agency is attempting to collect;
  - (d) staffs that office with a full time employee who may be a shared employee;
  - (e) provides a telephone number that may be a shared telephone number, that rings to the local Colorado office, and is answered in a manner that does not mislead consumers; and,
  - (f) complies with all applicable provisions of the Colorado Fair Debt Collection Practices Act.
  
- (2) A collection agency that uses a third-party to provide a local Colorado office is responsible for actions of the third-party that violate the Colorado Fair Debt Collection Practices Act.

**Chapter 2**  
**Consumer Protections**

**Rule 2.01**     **Notices**

- (1) The consumer rights information required to be in the initial written communication and the validation of debts notice may be printed on two (2) separate pages provided that the first page contains language referring the consumer to the second page and the two (2) pages are attached together.
  
- (2) Every collection notice mailed or delivered by a licensee must contain the collection agency's name, mailing address, toll-free telephone number, and the address and telephone number of its local Colorado office. The collection agency's address(es) may not be printed only on any portion of the collection notice designed to be returned to the agency with the consumer's communication or payment. "Toll-free" means a call made at no cost to the consumer.

**Rule 2.02      Payment Agreements and Schedules**

No collection agency shall engage in unnecessary, additional collection activities on a debt while a consumer is complying with the terms of a payment agreement or schedule agreed to by the collection agency and consumer concerning the debt. “Unnecessary, additional collection activities” shall not include the mailing of payment coupons or reminders, the mailing of receipts, any communications requested by the consumer that do not contain demands for collection, or the filing or notification of post judgment liens.

**Rule 2.03      Costs of Collection**

- (1) No collection agency shall add, collect, or attempt to collect a charge for costs of collection unless such costs are expressly authorized by statute or by the contract, agreement, note, or other instrument creating the debt and are not otherwise prohibited by law.
- (2) No licensee shall advise, suggest, or request that a client add collection costs to any existing debt unless such costs are specifically authorized by statute.
- (3) If a statute, contract, agreement, note, or other instrument specifically authorizes the addition of collection costs and such costs are collected, the licensee may retain only those collection costs exclusive of attorney fees and court costs as its fee or commission for the collection of the debt, unless otherwise agreed to in writing with the assignor.
- (4) No collection agency shall add, collect, or attempt to collect costs of collection pursuant to § 13-21-109(1)(b) (II), C.R.S. on any dishonored check, draft, or payment order payable to it unless the check is assigned for collection to another collection agency not owned in whole or in part by the payee collection agency.

**Rule 2.04      Overpayment**

If a collection agency has received final payment of any debt which overpays the debt by more than five dollars (\$5.00), it shall issue a refund to the consumer of the amount of the overpayment within thirty (30) days after the end of the month in which the payment was received unless otherwise required by law or as directed by court order.

**Rule 2.05      Cash Payments**

A collection agency shall provide the consumer with a receipt for all payments made in cash or by any other means which does not in and of itself provide evidence of payment. The receipt shall be provided to the consumer within five

(5) business days after the payment is received. A “business day” does not include Sundays or legal holidays.

**Rule 2.06**     **Account Statements**

- (1) Subject to the payment record retention requirements of Rule 3.03, a collection agency shall provide the consumer with a written statement of the consumer’s payments for as long as the collection agency has had assignment of the debt within ten (10) days after the consumer makes a written request. The statement shall include the consumer’s name, the creditor’s name, the amounts paid, the dates on which payments were received, the allocation of each payment to, as applicable, principal, interest, court costs, attorney fees, other costs, the interest rate, and the current balance due. Account statements shall be provided upon request without charge once during any twelve (12) month period. If additional statements are requested, they may be provided upon payment of a reasonable fee not to exceed five dollars (\$5.00) per statement.
- (2) After a debt has been paid or settled in full, a collection agency shall provide a written statement or receipt that the debt has been paid or settled in full within ten (10) business days after request by the consumer. Such a statement shall be provided free of charge. A “business day” does not include Sundays or legal holidays.

**Rule 2.07**     **Consumer Communication Records**

Collection agencies shall maintain accurate summaries or records of all communication in connection with the collection or attempted collection of a debt with consumers, a consumer’s attorney or representative, the consumer’s employer, consumer reporting agencies, and persons contacted to obtain location information, for two (2) years following the date of the communication.

**Rule 2.08**     **Business Cards**

- (1) No collection agency shall use a business card in obtaining or attempting to obtain location information about a consumer or in communicating or attempting to communicate with a consumer unless:
  - (a) The business card does not indicate in any way that the collection agency is in the business of collections or is attempting to collect a debt, or,
  - (b) The business card is placed in a sealed envelope which contains the consumer's name and does not indicate by means of name, symbol, or any marking, that the envelope is from a collection agency.

**Rule 2.09**     **Attorney Letters**

- (1) During the time that a licensee is in possession of a creditor account, the licensee shall not use or deliver any communication from an attorney unless the creditor has previously provided specific written authorization to commence legal action to collect the debt.
- (2) This rule does not prohibit any direct communication from an attorney if the attorney is authorized to collect the debt.

**Rule 2.10**     **Dual Collections**

No collection agency may knowingly collect a debt that is being collected by another collection agency or attorney.

**Rule 2.11**     **Office Location**

A collection agency may share an office location with another business as long as signs, directories, and other business identification information clearly contain the collection agency's name.

**Rule 2.12**     **Consumer Payments**

- (1) All accepted consumer payments must be credited to a consumer's account to reflect payment no later than the next business day following the date payment was received unless the delay will result in any economic harm to the consumer or the payment is by post-dated check. Post-dated checks shall be credited to the consumer's account to reflect payment as of the date of deposit in the collection agency's trust account.
- (2) This rule does not prohibit subsequent adjustments to a consumer's account to reflect dishonored checks, drafts, or other payment instruments.

**Rule 2.13**     **Checks Not Paid Upon Presentment**

A collection agency collecting a check, draft, or order not paid upon presentment shall send the consumer its validation of debts notice required by § 12-14-109, C.R.S. at least fifteen (15) days prior to the mailing or service of the notice of nonpayment required by § 13-21-109(2)(a) and (3), C.R.S.

**Rule 2.14**     **Payment Authorization by Telephone**

- (1) if a consumer's authorization for payment of a debt is provided orally, the licensee must also:
  - (a) Obtain the consumer's written authorization for the payment prior to the date of payment, or

- (b) If permitted by law, record by audio tape or other digital means the consumer's verbal authorization and retain the recording, or
  - (c) Transfer the consumer's telephone call to a manager or another debt collector to verify the amount, means, and verbal authorization for payment.
- (2) If a collection agency does not comply with section (1) of this rule and the consumer denies or disputes the purported oral payment authorization within sixty days of the payment, the collection agency must refund the payment amount within five (5) business days of receipt of good funds. A "business day" does not include Sundays or legal holidays.

**Rule 2.15     Disclosure of Contact Information**

upon the request of a consumer or person contacted for location information, a licensee shall provide the address of its principal place of business and mailing address, its toll-free telephone number, the address and telephone number of its local Colorado office, and, if applicable, its facsimile number.

**Rule 2.16     Debt Collector Obligations**

Except as otherwise provided, all references in this Chapter 2 to collection agencies shall apply to debt collectors.

**Chapter 3**  
**Creditor Protections**

**Rule 3.01     Trust Accounts**

- (1) A licensee shall maintain the trust account required by section 12-14-123(1)(c), C.R.S., but need not maintain the account in a Colorado bank or financial institution if the licensee maintains one or more trust accounts in other states for the benefit of its clients, including its Colorado clients, and it executes and files annual written authorization with the Administrator on an approved form acknowledging the account(s) may be attached upon order of a Colorado court.
- (2) If any of the trust account information in a licensee's license or renewal application changes, the licensee must file a new bank authorization form within thirty (30) days of the date of the change.
- (3) No trust account is required if the licensee does not receive nor have access to any consumer payments because they are made directly to the client according to all of the licensee's contracts or agreements.

- (4) A licensee, other than one that only collects debts it owns, shall maintain in its trust account the minimum liquid assets referred to in section 12-14-123(1)(a), C.R.S.

**Rule 3.02 Unidentified Accounts**

- (1) If a licensee receives a consumer payment but is unable to identify the client account on whose behalf the payment is made, the licensee shall return the entire payment to the consumer within thirty (30) days after the end of the month in which the payment was received.
- (2) No amount may be retained by a licensee as fee or commission from any consumer payment made on an unidentified account.
- (3) If a licensee is able to identify, but cannot locate, a client on whose behalf payment is made, the licensee shall comply with applicable state laws on unclaimed property.

**Rule 3.03 Payment Records**

- (1) Licensees shall maintain a record of all consumer payments for two (2) years following the date the payment was received.
- (2) Records of consumer payments shall include the consumer's name, the client's name, the amounts paid, the dates on which payments were received, the allocation of each payment to, as applicable, principal, interest, court costs, attorney fees, other costs, the interest rate, the current balance due, and the date of deposit of the payment to the trust account.

**Rule 3.04 Bonds**

- (1) The bond required of each licensee shall be in the form and manner prescribed by statute, and shall be filed with the Administrator.
- (2) As an alternative to the bond, a licensee may present a savings account, deposit, or certificate of deposit.
  - (a) The savings account, deposit, or certificate of deposit shall be in a federally insured bank or savings and loan association doing business and located in this state or accessible in a branch in this state.
  - (b) The savings account, deposit, or certificate of deposit shall be assigned to the Attorney General of the State of Colorado for the use of the People of the State of Colorado in the form and manner prescribed by the Administrator. The assignment shall be for a period ending two (2) years after the revocation, expiration, or surrender of a license or on such earlier date as may be determined by the Administrator.

- (c) As far as practical, the procedure used to determine claims against a bond shall be used for claims against a savings account, deposit, or certificate of deposit.

**Rule 3.05**     **Return of Accounts**

- (1) If a licensee may retain accounts in the process of collection, as defined in section 12-14-124(6), C.R.S., it must disclose that information to its clients at the time it initially accepts accounts for collection.
- (2) This Rule 3.05 takes effect May 1, 2009 and applies to all of the licensee's current and future clients.

**Rule 3.06**     **Licensee Obligations**

Except as otherwise provided, all references in this Chapter 3 to licensees shall apply to applicants.