

Date of Hearing: May 11, 2022

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

AB 2424 (Blanca Rubio) – As Amended April 25, 2022

Policy Committee:	Banking and Finance	Vote:	9 - 0
	Privacy and Consumer Protection		10 - 0

Urgency: No State Mandated Local Program: Yes Reimbursable: No

SUMMARY:

This bill shifts registration of credit service organizations (CSOs) from the Department of Justice (DOJ) to the Department of Financial Protection and Innovation (DFPI) and adds new regulations for CSOs. Specifically, this bill:

- 1) Prohibits a CSO from: (a) submitting any communication to a consumer credit reporting agency, creditor, debt collector or debt buyer without the prior written authorization of the consumer, (b) submitting a dispute to a consumer credit reporting agency, creditor, debt collector or debt buyer more than 180 days after the disputed account has been removed, and (c) failing to provide a consumer credit reporting agency sufficient information to investigate a disputed account.
- 2) Requires a consumer credit reporting agency, creditor, debt collector or debt buyer that knows a consumer is represented by a CSO to communicate with the CSO. However, such entities are not required to communicate with a CSO regarding a disputed account if the dispute has been paid or otherwise resolved or such entities reasonably determine the dispute is frivolous or irrelevant.
- 3) Requires a contract between the CSO and a consumer to detail the information appearing on the consumer's credit report that the CSO will seek to delete or modify and requires the information statement provided to a consumer prior to contract execution to include how they can file a complaint about the CSO's services to DFPI or DOJ.
- 4) Provides that a CSO can be liable to the consumer for a civil penalty between \$100 and \$1,000, as part of any existing action a consumer is already authorized to bring against a CSO in court.
- 5) Authorizes DFPI to periodically increase the \$100 fee charged for registration of CSOs.
- 6) Requires DFPI to maintain a publicly available internet website listing registered CSOs.

FISCAL EFFECT:

- 1) Costs of an unknown, but likely significant amount, in excess of \$1 million, to DFPI to register CSOs, provide expanded regulation of CSOs and maintain a public registry of CSOs, partially offset by absolving DOJ of CSO registration costs (special fund).

- 2) General Fund (GF) or Trial Court Trust Fund (TCTF) cost pressures of an unknown, but potentially significant, amount to the courts in additional workload, by expanding the violations under which a consumer may bring an action against a CSO for recovery of damages or injunctive relief. The estimated workload cost of one hour of court time is \$1,000. If additional 10 cases are filed statewide resulting in 20 hours of court time for each case, costs would be approximately \$200,000. Although courts are not funded on the basis of workload, increased pressure on the TCTF and staff workload may create a need for increased funding for courts from the GF to perform existing duties.

COMMENTS:

- 1) **Purpose.** According to the author, disclosures and descriptions of services rendered by CSOs must be updated for the modern marketplace. The author contends, “Too many consumers in California are purchasing an opaque service without truly understanding the impact, or lack thereof, that the service will have on their credit scores. AB 2424 seeks to bring much needed disclosure and transparency to the credit repair industry.”
- 2) **Support and Opposition.** This bill is sponsored by the California Association of Collectors (CAC) and supported by other financial services groups. According to CAC, “Often the services offered or provided are cookie cutter actions that a consumer could take without paying significant fees to a credit repair agency. In many circumstances, the activities may be counterproductive to a consumer’s credit report.” This bill is opposed by CSOs and community groups. For example, the Anti-Recidivism Coalition (ARC) states, “Without support, like [CSOs], returning citizens risk only receiving short-term successes....That is why ARC has partnered with a [CSO] to help our Members navigate through the important credit building process that can lead to financial responsibility and a successful reentry.”
- 3) **CSOs.** CSOs, also known as credit repair companies, offer to improve a consumer’s credit profile in exchange for a fee. The Credit Services Act of 1984 (Act) regulates businesses helping consumers obtain loans or other extensions of credit and requires CSOs to register with the DOJ. As of 2019, 53 entities registered with the DOJ as CSOs. Historically, state oversight of CSOs under the DOJ has been weak. Under the Act, the Attorney General does not have the authority to impose administrative fines or other sanctions against CSOs, nor the authority examine the books and records of CSOs to check for compliance with the law.

At the federal level, the Consumer Financial Protection Bureau (CFPB) issued consumer advisories in 2016 and 2019 warning consumers of high fees and deceptive marketing tactics used by CSOs “aimed at taking advantage when you’re just trying to get your financial life back on track.” The CFPB has also taken enforcement actions against CSOs, including opponents of this bill, for violations of federal law.

- 4) **DFPI and the California Consumer Financial Protection Law (CCFPL).** The Budget Act of 2020 enacted the CCFPL and reimagined a department tasked with overseeing financial services companies, including those not previously required to be licensed. The new DFPI will receive increased budget resources over the next three fiscal years, resulting in a 15% increase from fiscal year (FY) 2019-20 to FY 2022-23. CSOs are an example of a consumer financial service that DFPI now has the authority regulate under the CCFPL, even without a specific licensing structure in place.

- 5) **Consumer Protections.** Regardless of DFPI enforcement actions, this bill benefits consumers by adding more guardrails to CSO practices; for example, CSOs must provide an information statement of services performed and abide by strict timelines to perform such services. This bill also adds civil penalties to the damages a consumer may recover if they experience CSO violations, thus incentivizing private enforcement.

However, as noted in the Assembly Privacy and Consumer Protection Committee's analysis of this bill, "it is equally important that consumers have access to law-abiding and ethical professionals to assist them with their financial needs. Thus it is crucial that requirements imposed on CSOs...do not simply create operational burdens with no real consumer benefit..." While this bill seeks to establish needed oversight of CSOs, some of this bill's provisions also have the practical effect of reducing the resources a debt collector must expend in response to certain CSO business practices. For example, this bill permits a debt collector, consumer credit reporting agency or creditor to refuse to communicate with a CSO if such entities reasonably determine a dispute is frivolous or irrelevant. Authorizing a debt collector to make such a determination denies the consumer the benefit of the advocate hired specifically for the purpose of resolving disputes, thus undermining CSO services for consumers.

- 6) **Prior Legislation.** AB 1089 (Grayson), of this legislative session, would have established a licensing law for CSOs administered by DFPI. AB 1089 was held on this committee's Suspense File.

AB 699 (Grayson), of the 2019-20 Legislative Session, was substantially similar to this bill. AB 699 was referred to, but not set for hearing in, the Senate Judiciary Committee.

Analysis Prepared by: Irene Ho / APPR. / (916) 319-2081