

ASSEMBLY THIRD READING
AB 2424 (Blanca Rubio)
As Amended April 25, 2022
Majority vote

SUMMARY

Requires the Department of Financial Protection and Innovation (DFPI) to register and regulate credit services organizations (CSOs), imposes certain obligations on CSOs, and provides civil penalties for willful and knowing violations of these provisions.

Major Provisions

- 1) Requires a CSO to provide a monthly statement to the consumer showing each service performed.
- 2) Prohibits a CSO from specified activities, such as:
 - a) Failing to provide a monthly statement to the consumer detailing the services performed.
 - b) Seeking to remove adverse information from the consumer's credit record that is known to be accurate and not obsolete.
 - c) Calling or submitting any communication to a consumer credit reporting agency, creditor, debt collector, or debt buyer without the consumer's prior written authorization, which may be located in the agreement or contract between the CSO and the consumer.
 - d) Submitting a consumer's dispute to a consumer credit reporting agency, creditor, debt collector, or debt buyer more than 180 days after the account subject to the dispute has been removed.
 - e) Failing to provide along with its first written communication to a credit reporting agency or data furnisher sufficient information to investigate a dispute of an account.
- 3) Require a consumer credit reporting agency, creditor, debt collector, or debt buyer to communicate with a CSO unless the CSO fails to respond within 30 days to a communication from a consumer credit reporting agency, creditor, debt collector, or debt buyer or the consumer expressly directs them not to communicate with the CSO.
- 4) Specifies that a consumer credit reporting agency, creditor, debt collector, or debt buyer is not required to communicate with a CSO concerning an account that is subject to a dispute if specified conditions apply.
- 5) Requires a contract between a CSO and consumer to include specified information, including a list of information appearing on the consumer's credit report that the CSO will seek to delete or modify.
- 6) Provides for a civil penalty in the amount of at least \$100 and no greater than \$1,000 for a willful and knowing violation of the law by a CSO, which is in addition to any damages awarded pursuant to existing law.

- 7) Requires DFPI to maintain on a publicly available internet website a list of registered CSOs along with any complaints submitted by consumers regarding each CSO.

COMMENTS

Credit repair companies, also referred to as CSOs, offer to improve a consumer's credit profile in exchange for a fee. In 2016 the federal Consumer Financial Protection Bureau (CFPB) issued a consumer advisory, which was updated in December 2019, related to credit repair companies. The advisory warns consumers that credit repair companies "developed creative marketing tactics to target you. Sometimes this marketing includes confusing and misleading messaging aimed at taking advantage when you're just trying to get your financial life back on track." The advisory states that credit repair companies often charge high fees for services that consumers can often perform themselves, and some companies make false or misleading statements about the services they offer.

The CFPB has also taken enforcement actions against credit repair companies and entities supporting credit repair companies for violations of federal law, including against a number of California-based companies. The CFPB actions are not limited to fines, but also include shutting companies down and banning them from providing any credit repair services.

AB 2424 would impose a number of new requirements on CSOs and strengthen state oversight over their activities. This bill aims to benefit 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.

The California Association of Collectors (CAC), the state's largest organization of debt collectors, is AB 2424's sponsor. While the connection between debt collectors and CSOs may not be obvious, CSO activities have a material impact on the day-to-day operations of a debt collector. This is because debt collectors, as data furnishers, provide information related to a consumer's credit history to consumer credit reporting agencies like Equifax, Transunion, and Experian. When a data furnisher receives a dispute from a consumer, the furnisher is required under the Fair Credit Reporting Act (FCRA) to conduct a reasonable investigation, report results to the consumer within 30 days, and notify each credit reporting agency to which the furnisher provided inaccurate information if the investigation finds the information was inaccurate. Thus, the services that a CSO provides, by design, generate significant workload issues and complications for a debt collector.

According to the Author

"Under current law, disclosures and descriptions of services to be rendered by a Credit Repair Organization are insufficient for the modern marketplace. 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."

Arguments in Support

The California Association of Collectors, this bill's sponsor, writes: "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. For example, the primary service provided to consumers consists of simply generating robo letters, sent purportedly from the consumer and without disclosing the identity of the real sender. In reality, these letters, which claim to have consumers' signatures, are not actually signed by consumers, they do not include a valid credit dispute, and they raise financial privacy and data security concerns. The Consumer Financial Protection Bureau (CFPB) has issued a warning about credit repair agencies and has shut down certain California credit repair companies for lying to consumers"

Arguments in Opposition

A number of CSOs oppose AB 2424. Progrexion, one such CSO, argues: "While we are confident that the author's intent in introducing this measure is merely to enhance consumer protections, we remain concerned both about the unintended consequences of this measure as written, and about the underlying intent of the sponsor of this bill. We fear those unintended consequences will prevent consumers from getting effective, professional, and very real help. This is due-to the fact that such help ultimately diminishes the bottom line of the debt collector sponsors, and instead keeps money in the pockets of consumers. To put it succinctly, in a complicated system seemingly set up to keep debt laden consumers in an endless cycle, this bill will result in eliminating one of the few tools consumers have at their disposal."

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 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.

VOTES

ASM BANKING AND FINANCE: 9-0-3

YES: Grayson, Chen, Bauer-Kahan, Cervantes, Mike Fong, Gabriel, Cristina Garcia, Petrie-Norris, Stone

ABS, ABST OR NV: Choi, Nguyen, Wicks

ASM PRIVACY AND CONSUMER PROTECTION: 10-0-1

YES: Gabriel, Kiley, Bauer-Kahan, Bennett, Berman, Cunningham, Mike Fong, Irwin, Valladares, Wilson

ABS, ABST OR NV: Wicks

ASM APPROPRIATIONS: 14-0-2

YES: Holden, Bigelow, Bryan, Calderon, Carrillo, Davies, Mike Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Wilson

ABS, ABST OR NV: Megan Dahle, Fong

UPDATED

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CONSULTANT: Luke Reidenbach / B. & F. / (916) 319-3081

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