
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

AB 2424 (Blanca Rubio) - Credit services organizations

Version: June 30, 2022

Urgency: No

Hearing Date: August 1, 2022

Policy Vote: JUD. 9 - 1

Mandate: Yes

Consultant: Matthew Fleming

Bill Summary: AB 2424 would impose new requirements and restrictions on Credit Services Organizations (CSO) including a requirement that CSO provide monthly statements to consumers, detailing the services performed. The bill would also require a CSO to perform services agreed upon within 180 days of contracting for those services.

Fiscal Impact:

- **DOJ:** The Department of Justice (DOJ) reports costs of \$311,000 in Fiscal Year (FY) 2023-24 and \$546,000 annually thereafter (Special Fund - Unfair Competition Law Fund).
- **DFPI:** The Department of Financial Protection and Innovation (DFPI) reports minor and absorbable costs to update policies (Financial Protection Fund).
- **Judicial Branch:** Unknown, potentially significant cost pressures due to increased court workload to adjudicate actions that are filed as a result of this measure (Special Fund – Trial Court Trust Fund, General Fund).

Background: Subject to the Credit Services Act of 1984 (Act), credit repair companies are organizations that offer to improve a consumer's credit profile in exchange for a fee. Companies covered by the Act are required to register with the Attorney General prior to engaging with California consumers and they must renew their registration annually.

Credit repair companies have been widely criticized for engaging in unfair and deceptive marketing and business practices and for charging high fees for services that consumers can often perform themselves. The Consumer Financial Protection Bureau (CFPB) has also taken enforcement actions against credit repair companies for violations of federal law, including against four 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. In May 2019, the CFPB filed suit against Lexington Law and CreditRepair.com. In the complaint, the CFPB alleges that Lexington Law relied on an expansive network of online lead generators that "used deceptive, bait advertising to generate referrals to Lexington Law's credit repair service." Late last year, Google announced that ads for credit repair services would no longer be allowed to serve on its advertising platform. In the updated policy, Google states that the company wants "consumers to make informed decisions about the services offered to help them address bad credit," and to protect users from harmful practices, an outright ban on credit repair advertisements is appropriate.

Credit repair companies are not the only financial products and services receiving consumer complaints. In fact, when examining the nearly 1.5 million consumer complaints received as of April 1, 2018, the CFPB reported that over 400,000 were the result of debt collection activity, 314,068 were associated with credit reporting, 20,152 were associated with payday loans, and 1,633 were associated with credit repair.

Proposed Law:

- Prohibits a CSO from calling or submitting any communication to a consumer credit reporting agency, creditor, debt collector, or debt buyer without the prior written authorization of the consumer. A relevant authorization in the agreement or contract between a consumer and a CSO is sufficient for this purpose.
- Prohibits a CSO from using the online electronic portal, electronic mail system, or telephone system of a credit reporting agency, creditor, debt collector, or debt buyer to submit a dispute of a consumer or to request disclosure without the prior written authorization of the consumer. A relevant authorization in the agreement or contract between a consumer and a CSO is sufficient for the purpose of compliance.
- Requires a CSO contract to inform the consumer that the contract can be canceled before midnight on the 5th working day after the consumer signs it.
- Extends prohibitions on counseling a consumer to make untrue statements to other specified parties.
- Prohibits a CSO from 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, removed from the consumer's credit report or from 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.
- Requires a consumer credit reporting agency, creditor, debt collector, or debt buyer that knows that a consumer is represented by a CSO to communicate with the CSO, and not the consumer, except as specified.
- Requires a CSO to redact specified information in certain written communications.
- Requires a CSO to maintain certain information on file for 4 years.
- Revises information that must be provided before a credit service contract is executed, including a notice regarding the filing of complaints with the Attorney General, and revises statements that a credit services contract must include.

Related Legislation: AB 1864 (Limon) Ch. 157, Stats. of 2020 enacted the California Consumer Financial Protection Law (CCFPL), which gave the Department of Financial Protection and Innovation (DFPI) authority to bring administrative and civil actions, issue subpoenas, promulgate regulations, hold hearings, issue publications, conduct investigations over a wide range of consumer products and services, including debt relief and credit repair.

Staff Comments:

- DOJ: AB 2424 would impose new restrictions and requirements CSOs related to consumer contracts and communications. The Consumer Protection Section within the DOJ's Public Rights Division is responsible for the enforcement of AB 2424. The DOJ reports that in order to address the increase in workload, it will require 1.0 additional Deputy Attorney General to enforce the new restrictions and requirements, 1.0 Associate Governmental Program Analyst to address the complaint review and other related work, and the legal complement of 1.0 Legal Secretary.
- Judicial Branch: It is unknown how many additional court actions would be brought as a result of the implementation of this bill. However, it generally costs about \$8,000 to operate a courtroom for one eight-hour day. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund and staff workload may create a need for increased funding for courts from the General Fund (GF) to perform existing duties. Numerous trial court operations are funded through the imposition and collection of criminal fines and fees. However, the Legislature has reduced and eliminated criminal fines and fees over the past five years. As a result, the 2022-23 budget includes an ongoing annual allocation of \$151.5 million and a one-time allocation of \$10.3 million backfill from the General Fund in order to address declining revenue to the Trial Court Trust Fund.

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