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THIRD READING

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Bill No: AB 2424  
Author: Blanca Rubio (D), et al.  
Amended: 6/30/22 in Senate  
Vote: 21

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SENATE JUDICIARY COMMITTEE: 9-1, 6/28/22  
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern,  
Wieckowski, Wiener  
NOES: Jones  
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: 6-0, 8/11/22  
AYES: Portantino, Bradford, Jones, Laird, McGuire, Wieckowski  
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 71-0, 5/25/22 - See last page for vote

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**SUBJECT:** Credit services organizations

**SOURCE:** California Association of Collectors  
Financial Counseling Association of America

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**DIGEST:** This bill further regulates credit services organizations by amending the Act that currently regulates them, the Credit Services Act.

**ANALYSIS:**

Existing law:

- 1) Establishes the Credit Services Act of 1984 (Act) and regulates CSO activities. (Civ. Code § 1789.10 et seq.)
- 2) Explains that the purpose of the Act is to provide prospective consumers of CSOs with the information necessary to make an intelligent decision regarding

- the purchase of those services and to protect the public from unfair or deceptive advertising and business practices. (Civ. Code § 1789.11 (b).)
- 3) Defines a CSO as specified and clarifies that attorneys, as specified, and others, such as non-profit organizations, as specified, are not CSOs.
  - 4) Defines “buyer” as a natural person who is solicited to purchase or who purchases the services of a CSO. (Civ. Code § 1789.12 (c).)
  - 5) Requires CSOs to obtain a surety bond, as specified, before conducting business and to register with the Attorney General, subject to a fee of \$100. (Civ. Code § 1789.18 and § 1789.25.)
  - 6) Requires the Attorney General registration application to contain specified disclosures including a full and complete disclosure of any litigation commenced against the CSO or any resolved or unresolved complaint that relates to the operation of the CSO that is filed with the Attorney General or any other governmental authority of this state, any other state, or the federal government. Each resolved complaint identified must include a brief description of the resolution. The CSO must alternatively declare under penalty of perjury that no litigation has been commenced and there are no unresolved complaints. (Civ. Code § 1789.25.)
  - 7) Prohibits CSOs (and their salespersons, agents, representatives, and independent contractors) who sell or attempt to sell the services of a CSO from engaging in a series of activities including, among other things:
    - a) Charging or receiving any money or other valuable consideration prior to full and complete performance of the services the CSO has agreed to perform for or on behalf of the buyer;
    - b) Failing to perform the agreed services within six months following the date the consumer signs the contract for those services;
    - c) Submitting a consumer’s dispute to a consumer credit reporting agency without the consumer’s knowledge;
    - d) Using a consumer credit reporting agency’s telephone system or toll-free telephone number to represent the caller as the buyer in submitting a dispute of a consumer or requesting disclosure without prior authorization of the consumer;
    - e) Advertising CSO services without being registered with the Department of Justice;

- f) Engaging, directly or indirectly, in an act, practice, or course of business that operates or would operate as a fraud or deception upon a person in connection with the offer or sale of the services of a CSO;
  - g) Removing, or assisting or advising the consumer to remove, adverse information from their credit record which is accurate and not obsolete;
  - h) Making or using untrue or misleading representations in the offer or sale of the services of a CSO, as specified; and
  - i) Making or counseling or advising a consumer to make a statement that is untrue or misleading and that is known, or that by the exercise of reasonable care should be known, to be untrue or misleading, to a consumer credit reporting agency or to a person who has extended credit to a consumer or to whom a consumer is applying for an extension of credit, such as statements concerning a consumer's identification, home address, creditworthiness, credit standing, or credit capacity. (Civ. Code § 1789.13.)
- 8) Provides that prior to the execution of a contract or agreement between the consumer and CSO, the CSO shall provide the consumer a statement in writing, containing specified information. Requires the CSO to maintain an exact copy of the statement personally signed by the buyer that acknowledges receipt for a period of two years. (Civ. Code § 1789.14.)
- 9) States that required information statement shall be printed in at least 10-point boldface type and shall include all of the following:
- a) A complete and detailed description of the services to be performed by the CSO for or on behalf of the consumer and the total amount the consumer will have to pay, or become obligated to pay, for the services;
  - b) The consumer's right to proceed against the bond and the name and address of the company which issued the bond;
  - c) A complete and accurate statement of the availability of non-profit credit counseling services; and
  - d) A specified statement or alternative statement approved by the Department of Justice that indicates various consumer rights that includes, among other things:
    - i) That the consumer has a right to obtain a copy of their credit file from a consumer credit reporting agency;
    - ii) That they have a right to dispute inaccurate information by contacting the consumer credit reporting agency directly, but may not have accurate, current, and verifiable information removed from their credit report;

- iii) That under the Federal Fair Credit Reporting Act, the consumer credit reporting agency must remove accurate, negative information from their report only if it is over seven years old and bankruptcy information, as specified;
  - iv) That they have a right to cancel the contract with the CSO for any reason within five working days from the date it was signed; and
  - v) That the consumer has a right to sue the CSO if it misleads the consumer. (Civ. Code § 1789.15.)
- 10) Prohibits the CSO from providing any service to a consumer except pursuant to a written contract that is required to contain specified information including, among other things, the terms and conditions of payment with the total of all payments to be made by the consumer, and a full and detailed description of the services to be performed by the CSO for the consumer. (Civ. Code § 1789.16.)
- 11) Authorizes a buyer of services who is injured by a CSO's violation of the Act, or its breach of contract, to bring an action for damages or injunctive relief, as specified. (Civ. Code § 1789.17.)
- 12) Authorizes any person, including a consumer credit reporting agency, to bring an action to recover actual damages and to obtain injunctive relief due to a violation of the Act. A prevailing plaintiff may also recover reasonable attorney fees and costs. The trial court may also assess punitive damages. (Civ. Code § 1789.21.)
- 13) Provides that any person who violates any provision of the Act is guilty of a misdemeanor. Provides that the duty to institute actions for violation of the Act, including in equity proceedings to restrain and enjoin such violations, is vested in the Attorney General, district attorneys, and city attorneys. (Civ. Code § 1789.20.)
- 14) Provides that the provisions of the Act and remedies provided in the Act are not exclusive and do not relieve the parties from compliance with any other applicable provision of law or relief through other remedies. (Civ. Code § 1789.22.)
- 15) Establishes the Credit Repair Organizations Act (15 U.S.C. §§ 1679-1679j) which prohibits untrue or misleading representations and requires certain affirmative disclosures in the offering or sale of "credit repair" services.

This bill:

- 1) Replaces the term “buyer” with the term “consumer” for purposes of describing a person utilizing the services of a CSO and prescribes other definitions in this regard.
- 2) 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.
- 3) 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.
- 4) Provides that the CSO is in violation of the Act if they fail to make a written communication sent on behalf of a consumer to any credit reporting agency, data furnisher, or legal counsel available to the consumer, as specified.
- 5) Provides that the prohibition on CSOs counseling a consumer to make untrue statements also applies to other specified parties.
- 6) Revises disclosure that a CSO consumer contract must include and revises information that must be provided before a CSO contract is executed, including a notice regarding the filing of complaints with the Attorney General. Requires the information statement and contract to inform the consumer that the contract can be canceled before midnight on the fifth working day after the consumer signs it.
- 7) Prohibits a CSO from providing any service to a consumer except pursuant to a written contract that complies with various requirements, including that it contain a full detailed description of the services to be performed by the CSO for the consumer, including a list of the information appearing on the consumer’s credit report that the credit services organization will seek a reasonable reinvestigation as described in 15 U.S.C. Section 1681i.
- 8) Provides, however, that the seeking to obtain, or obtaining of, a consumer’s credit report and the performance of other services necessary to determine the needs of a consumer for the reinvestigation of any accounts shall not constitute

services of a CSO for which a contract is required pursuant to Civil Code section 1789.16(a), provided such activity is undertaken with the consumer's prior written electronic or recorded oral consent.

- 9) Requires a CSO to provide a consumer a monthly statement detailing the services performed, and requires the CSO to perform services agreed upon within 180 days of contracting for those services.
- 10) 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.
- 11) 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, except as specified.
- 12) Requires a CSO to redact specified information in certain written communications; requires a CSO to maintain certain information on file for four years; provides that the Department of Justice shall maintain a list of the CSOs that are registered in this state on a publicly available internet website; clarifies that attorneys that regularly engage in litigation in furtherance of assisting consumers with credit issues are not CSOs for purposes of the Act; and makes conforming and nonsubstantive changes to the Act.

## **Background**

Credit Services Organizations (CSOs) offer to improve a consumer's credit profile in exchange for a fee. CSOs are covered by the Credit Services Act of 1984 (Act). Companies covered by the Act are required to register with the California Department of Justice prior to engaging with California consumers and are required to, among other things, renew their registration annually.

There have been reports of for profit CSOs engaging in practices that negatively impact consumers. Consumers who hire CSOs are in distress. They are in positions of vulnerability as they owe money or are not receiving credit because they have erroneous entries on their credit reports.

## **Comments**

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 will bring much needed disclosure and transparency to the credit repair industry. Federal and State regulators continue to find that [CSOs] are overcharging consumers and not providing added value.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- *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).

**SUPPORT:** (Verified 8/11/22)

California Association of Collectors (co-source)  
 Financial Counseling Association of America (co-source)  
 California Bankers Association  
 California Chamber of Commerce  
 Encore Capital Group  
 GreenPath, Inc.  
 Money Management International, Inc.  
 National Foundation for Credit Counseling  
 USCB, Inc.

**OPPOSITION:** (Verified 8/11/22)

None received

**ASSEMBLY FLOOR:** 71-0, 5/25/22

**AYES:** Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson,

Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, Choi, Fong, Gallagher, O'Donnell, Luz Rivas, Seyarto

Prepared by: Margie Estrada / JUD. / (916) 651-4113  
8/13/22 11:26:07

\*\*\*\* END \*\*\*\*