

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-0739.01 Kristen Forrestal

HOUSE BILL 11-1221

HOUSE SPONSORSHIP

Fields, Hullinghorst, Solano, Pabon, Lee, Levy, Ryden, Labuda, Duran, Schafer S., Williams
A.

SENATE SPONSORSHIP

White, Guzman, Giron, Roberts

House Committees

Economic and Business Development

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING LEGAL REMEDIES FOR CONSUMER CREDIT LAWS**
102 **ENFORCED BY THE ADMINISTRATOR OF THE "UNIFORM**
103 **CONSUMER CREDIT CODE".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill adds legal remedies to the consumer credit laws that are enforced by the administrator of the "Uniform Consumer Credit Code" as follows:

! **Section 1** allows the administrator to assess a penalty of up

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- to \$1,000 for each violation of the "Refund Anticipation Loans Act";
- ! **Section 2** allows the administrator to assess a penalty of up to \$1,000 for each violation of the "Colorado Rental Purchase Agreement Act";
- ! **Sections 3 and 4** allow the administrator to assess a penalty of up to \$1,000 for each violation of the "Uniform Consumer Credit Code" and transfers the money to the general fund;
- ! **Section 5** allows the administrator to require a person licensed to operate a collection agency to refund or reimburse money to which the agency is not entitled to a consumer;
- ! **Section 6** allows the district court for the city and county of Denver to order restitution for consumers or creditors for violations of the "Colorado Fair Debt Collection Practices Act" (act) and to impose civil penalties per violation and award reasonable costs and attorney fees to the administrator if the administrator prevails in an action brought under the act;
- ! **Section 7** allows restitution and penalties for violations of the "Colorado Credit Services Organization Act".

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 5-9.5-107 (1) (d), Colorado Revised Statutes, is
 3 amended to read:

4 **5-9.5-107. Enforcement - investigation - penalties.** (1) The
 5 administrator shall enforce this article. To carry out this responsibility,
 6 the administrator is authorized to:

7 (d) Bring a civil action to restrain a person from violating this
 8 article and for other appropriate relief in the same manner as set forth in
 9 sections 5-6-111 to 5-6-114 AND ASSESS A CIVIL PENALTY OF UP TO ONE
 10 THOUSAND DOLLARS PER VIOLATION; and

11 **SECTION 2.** 5-10-801 (1) (e), Colorado Revised Statutes, is
 12 amended to read:

13 **5-10-801. Administrator responsibility.** (1) The administrator

1 shall enforce this article. To carry out this responsibility, the
2 administrator shall be authorized to:


3 (e) Bring a civil action to restrain a person from violating this
4 article and for other appropriate relief in the same manner as set forth in
5 sections 5-6-111 to 5-6-114 AND FOR A CIVIL PENALTY OF UP TO ONE
6 THOUSAND DOLLARS PER VIOLATION; and

7 **SECTION 3.** 5-6-114 (1) (a), Colorado Revised Statutes, is
8 amended to read:

9 **5-6-114. Civil actions by administrator.** (1) (a) The
10 administrator may bring a civil action against a creditor for making or
11 collecting charges in excess of those permitted by this code, violating any
12 of the provisions of this code applying to limitations on the schedule of
13 payments or loan term for supervised loans or authority to make
14 supervised loans, or for disclosure violations. An action may relate to
15 transactions with more than one consumer. If it is found that an excess
16 charge has been made, the court shall order the respondent to refund to
17 the consumer the amount of the excess charge and to pay a penalty to the
18 consumer as provided in sections 5-5-201 and 5-5-202. IN ADDITION, THE
19 COURT MAY ASSESS A CIVIL PENALTY OF UP TO ONE THOUSAND DOLLARS
20 FOR EACH VIOLATION OF THIS CODE.

21 **SECTION 4.** 5-6-204, Colorado Revised Statutes, is amended BY
22 THE ADDITION OF A NEW SUBSECTION to read:

23 **5-6-204. Cash fund created.** (4) NOTWITHSTANDING
24 SUBSECTION (1) OF THIS SECTION, THE STATE TREASURER SHALL TRANSFER
25 THE PENALTIES COLLECTED PURSUANT TO SECTION 5-6-114 (1) (a) TO THE
26 GENERAL FUND.

27 

1 **SECTION 5.** 12-14-135, Colorado Revised Statutes, is amended
2 to read:

3 **12-14-135. Injunction - receiver.** The district court in and for
4 the city and county of Denver, upon application of the administrator, may
5 issue an injunction or other appropriate order restraining any person from
6 ~~any~~ A violation of this article and may appoint a receiver or award other
7 relief to effectuate the provisions of this article; ORDER RESTITUTION FOR
8 CONSUMERS OR CREDITORS FOR VIOLATIONS OF THIS ARTICLE; IMPOSE
9 CIVIL PENALTIES UP TO ONE THOUSAND FIVE HUNDRED DOLLARS PER
10 VIOLATION OF THIS ARTICLE; AND AWARD REASONABLE COSTS AND
11 ATTORNEY FEES TO THE ADMINISTRATOR IF THE ADMINISTRATOR PREVAILS
12 IN AN ACTION BROUGHT UNDER THIS ARTICLE. This provision shall be in
13 addition to any other remedy and shall not prohibit the enforcement of
14 any other law. The administrator shall not be required to show irreparable
15 injury or to post a bond.

16 **SECTION 6.** 12-14.5-110 (2), Colorado Revised Statutes, is
17 amended to read:

18 **12-14.5-110. Criminal penalties and injunctive relief.** (2) The
19 administrator of the uniform consumer credit code, designated pursuant
20 to section 5-6-103, C.R.S., or the district attorney of any judicial district
21 may maintain an action to enjoin violations of this part 1 AND FOR
22 RESTITUTION AND PENALTIES IN AN AMOUNT NOT TO EXCEED ONE
23 THOUSAND FIVE HUNDRED DOLLARS PER VIOLATION. **THE STATE**
24 **TREASURER SHALL TRANSFER THE PENALTIES COLLECTED PURSUANT TO**
25 **THIS SUBSECTION (2) TO THE GENERAL FUND.**

26 **SECTION 7. Effective date.** This act shall take effect July 1,
27 2011.

1 **SECTION 8. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.