



Rep. Debbie Meyers-Martin

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10300HB3461ham001

LRB103 25804 SPS 59605 a

1 AMENDMENT TO HOUSE BILL 3461

2 AMENDMENT NO. _____. Amend House Bill 3461 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by changing Section 2Z as follows:

6 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

7 Sec. 2Z. Violations of other Acts. Any person who
8 knowingly violates the Automotive Repair Act, the Automotive
9 Collision Repair Act, the Home Repair and Remodeling Act, the
10 Dance Studio Act, the Physical Fitness Services Act, the
11 Hearing Instrument Consumer Protection Act, the Illinois Union
12 Label Act, the Installment Sales Contract Act, the Job
13 Referral and Job Listing Services Consumer Protection Act, the
14 Travel Promotion Consumer Protection Act, the Credit Repair
15 ~~Services~~ Organizations Act, the Automatic Telephone Dialers
16 Act, the Pay-Per-Call Services Consumer Protection Act, the

1 Telephone Solicitations Act, the Illinois Funeral or Burial
2 Funds Act, the Cemetery Oversight Act, the Cemetery Care Act,
3 the Safe and Hygienic Bed Act, the Illinois Pre-Need Cemetery
4 Sales Act, the High Risk Home Loan Act, the Payday Loan Reform
5 Act, the Predatory Loan Prevention Act, the Mortgage Rescue
6 Fraud Act, subsection (a) or (b) of Section 3-10 of the
7 Cigarette Tax Act, subsection (a) or (b) of Section 3-10 of the
8 Cigarette Use Tax Act, the Electronic Mail Act, the Internet
9 Caller Identification Act, paragraph (6) of subsection (k) of
10 Section 6-305 of the Illinois Vehicle Code, Section 11-1431,
11 18d-115, 18d-120, 18d-125, 18d-135, 18d-150, or 18d-153 of the
12 Illinois Vehicle Code, Article 3 of the Residential Real
13 Property Disclosure Act, the Automatic Contract Renewal Act,
14 the Reverse Mortgage Act, Section 25 of the Youth Mental
15 Health Protection Act, the Personal Information Protection
16 Act, or the Student Online Personal Protection Act commits an
17 unlawful practice within the meaning of this Act.

18 (Source: P.A. 100-315, eff. 8-24-17; 100-416, eff. 1-1-18;
19 100-863, eff. 8-14-18; 101-658, eff. 3-23-21.)

20 Section 10. The Credit Services Organizations Act is
21 amended by changing Sections 1, 2, 3, 5, 6, 7, 8, 9, 11, 12,
22 14, and 15 and by adding Sections 5.4, 5.5, 7.1, 17, 17.5, 18,
23 19, 20, 21, 22, 23, and 24 as follows:

24 (815 ILCS 605/1) (from Ch. 121 1/2, par. 2101)

1 Sec. 1. This Act shall be known and may be cited as the
2 "Credit Repair ~~Services~~ Organizations Act".

3 (Source: P.A. 85-1384.)

4 (815 ILCS 605/2) (from Ch. 121 1/2, par. 2102)

5 Sec. 2. The General Assembly finds and declares that:

6 (a) The ability to obtain and use credit has become of
7 great importance to consumers who have a vital interest in
8 establishing and maintaining their credit worthiness and
9 credit standing. As a result, consumers who have experienced
10 credit problems may seek assistance from credit repair ~~service~~
11 businesses which offer to improve the credit standing of such
12 consumers. Certain advertising and business practices of some
13 companies engaged in the business of credit repair ~~services~~
14 have worked a financial hardship upon the people of this
15 State, often on those who are of limited economic means and
16 inexperienced in credit matters.

17 (b) The purpose of this Act is to provide prospective
18 consumers of credit repair organizations ~~services~~ ~~companies~~
19 with the information necessary to make an informed decision
20 regarding the purchase of those services and to protect the
21 public from unfair or deceptive advertising and business
22 practices.

23 (Source: P.A. 85-1384.)

24 (815 ILCS 605/3) (from Ch. 121 1/2, par. 2103)

1 Sec. 3. As used in this Act:

2 (a) "Buyer" or "consumer" means an individual who is
3 solicited to purchase or who purchases the services of a
4 credit repair services organization. "Buyer" or "consumer"
5 includes an individual for whom the services of a credit
6 repair organization are purchased.

7 (b) "Consumer reporting agency" has the meaning assigned
8 by Section 603(f), Fair Credit Reporting Act (15 U.S.C.
9 Section 1681a(f)).

10 (c) "Extension of Credit" means the right to defer payment
11 of a debt or to incur a debt and defer its payment that is
12 offered or granted primarily for personal, family, or
13 household purposes.

14 (d) "Credit Repair Services Organization" means any a
15 person who sells, provides, performs, or represents that such
16 person can or will sell, provide, or perform any service, with
17 respect to the extension of credit by others and in return for
18 the payment of money or other valuable consideration, for
19 provides, or represents that the express or implied purpose of
20 person can or will provide, any of the following services:

21 (i) improving a buyer's credit record, history, or
22 rating;

23 (ii) (blank); or obtaining an extension of credit for
24 a buyer; or

25 (iii) providing advice or assistance to a buyer with
26 regard to activity or service described in item either

1 ~~subsection (i) or (ii).~~

2 "Credit repair organization ~~Services Organization~~" does
3 not include any of the following:

4 (i) any creditor, with respect to any consumer, a
5 ~~person authorized to the extent make loans or extensions~~
6 ~~of credit under the creditor is assisting laws of this~~
7 ~~State or the consumer United States who is subject to~~
8 restructure an extension of credit owed ~~regulation and~~
9 ~~supervision by this State or the consumer to the creditor~~
10 ~~United States, or a lender approved by the United States~~
11 ~~Secretary of Housing and Urban Development for~~
12 ~~participation in a mortgage insurance program under the~~
13 ~~National Housing Act (12 U.S.C. Section 1701 et seq.);~~

14 (ii) a bank or savings and loan association whose
15 deposits or accounts are eligible for insurance by the
16 Federal Deposit Insurance Corporation or the Federal
17 Savings and Loan Insurance Corporation, or a subsidiary of
18 such a bank or savings and loan association;

19 (iii) a credit union doing business in this State;

20 (iv) a bona fide nonprofit organization exempt from
21 taxation under Section 501(c)(3) of the Internal Revenue
22 Code of 1986, provided that such organization does not
23 charge or receive any money or other valuable
24 consideration for assisting ~~prior to or upon the execution~~
25 ~~of a specific contract or other agreement between the~~
26 ~~buyer and the nonprofit organization;~~

1 (v) a person licensed as a real estate broker by this
2 state if the person is acting within the course and scope
3 of that license;

4 (vi) a person licensed to practice law in this State
5 solely when engaged in the practice of law ~~acting within~~
6 ~~the course and scope of the person's practice as an~~
7 ~~attorney;~~

8 (vii) a broker-dealer registered with the Securities
9 and Exchange Commission or the Commodity Futures Trading
10 Commission acting within the course and scope of that
11 regulation;

12 (viii) a consumer reporting agency; ~~and~~

13 (ix) a licensed debt management service:

14 (1) providing debt management services, as defined
15 in the Debt Management Service Act;

16 (2) acting within the course and scope of its debt
17 management service license;

18 (3) that does not charge any fee for the services
19 of a credit repair organization; and

20 (4) that does not hold itself out as providing the
21 services of a credit repair organization;

22 (x) a licensed debt settlement provider:

23 (1) providing debt settlement services, as defined
24 in the Debt Settlement Consumer Protection Act;

25 (2) acting within the course and scope of its debt
26 settlement service license;

1 (3) that does not charge any fee for the services
2 of a credit repair organization; and

3 (4) that does not hold itself out as providing the
4 services of a credit repair organization; and

5 (xi) a residential mortgage loan broker or banker who
6 is duly licensed under the Illinois Residential Mortgage
7 License Act of 1987 and acting within the course and scope
8 of that regulation.

9 (e) "Person" means an individual, sole proprietorship,
10 corporation, partnership, joint venture, or any business
11 entity.

12 (f) "Consumer report" has the meaning assigned by Section
13 1681a(d) of the Fair Credit Reporting Act (15 U.S.C. Section
14 1681a(d)).

15 (g) "Contract start date" means the date the consumer
16 entered into a contract with a credit repair organization.

17 (h) "Creditor" has the meaning assigned by Section 103 of
18 the Truth in Lending Act (15 U.S.C. Section 1602(g)).

19 (i) "Department" means the Department of Financial and
20 Professional Regulation.

21 (i) "Permanent change" means any removal of negative items
22 from a consumer's credit report or any change that turns a
23 negative item on a consumer's credit report into a neutral or
24 positive item change to the consumer's credit report that
25 remains in place for at least 6 months.

26 (k) "Secretary" means the Secretary of Financial and

1 Professional Regulation or the Secretary's designee.

2 (Source: P.A. 88-120.)

3 (815 ILCS 605/5) (from Ch. 121 1/2, par. 2105)

4 Sec. 5. No credit repair ~~services~~ organization, its
5 salespersons, agents or representatives, or any independent
6 contractor who sells or attempts to sell the services of a
7 credit repair ~~services~~ organization shall:

8 (1) Charge or receive any money or other valuable
9 consideration prior to: ~~full and complete performance~~

10 (A) achieving a permanent change for a buyer;

11 (B) demonstrating achievement of the permanent
12 change by providing the buyer with:

13 (i) a copy of the buyer's credit report pulled
14 on or before the contract start date;

15 (ii) a second copy of the buyer's credit
16 report, pulled after the contract start date, that
17 shows the change for which the buyer is to be
18 charged if the change persists for 6 months; and

19 (iii) a third copy of the buyer's credit
20 report, pulled 6 months after the issuance of the
21 copy described in item (ii), that shows the
22 persistence of the change described in item (ii).

23 ~~of the services the credit services organization~~
24 ~~has agreed to perform for or on behalf of the~~
25 ~~buyer, unless the credit services organization~~

1 ~~has, in conformity with Section 10 of this Act,~~
2 ~~obtained~~

3 (C) obtaining a surety bond in compliance with
4 Section 5.4 of this Act ~~issued by a surety company~~
5 ~~licensed to do business in this State. If a credit~~
6 ~~services organization is in compliance with this~~
7 ~~subsection the salespersons, agents, and~~
8 ~~representatives who sell the services of such~~
9 ~~organization shall not be required to obtain the~~
10 ~~surety bond provided for by this Act.~~

11 (1.5) Fail to contemporaneously provide a buyer with a
12 copy of all communications sent to a credit reporting
13 agency on a buyer's behalf.

14 (2) Charge, pay, offer, or receive any money,
15 discount, or receive any money, discount, or other
16 valuable consideration ~~solely~~ for the referral of a buyer
17 to or from a credit repair organization ~~a retail seller~~
18 ~~who will or may extend credit to the buyer if such~~
19 ~~extension of credit is in substantially the same terms as~~
20 ~~those available to the general public.~~

21 (2.5) Represent changes that do not meet the
22 definition of permanent change as successful results in
23 advertisements.

24 (3) Make, or advise any buyer to make, any statement
25 that is untrue or misleading, or that should be known by
26 the exercise of reasonable care to be untrue or

1 misleading, with respect to a buyer's credit reporting
2 agency or to any person who has extended credit to a buyer
3 or to whom a buyer has made application for an extension of
4 credit.

5 (4) Make or use any untrue or misleading
6 representations in the advertising, offer, or sale of the
7 services of a credit repair ~~services~~ organization ~~or~~
8 engage.

9 (5) Engage, directly or indirectly, in any act,
10 practice or course of business reasonably likely ~~intended~~
11 to defraud or deceive a buyer in connection with the
12 officer ~~office~~ or sale of such services; including but not
13 limited to: the amount or type of credit a consumer can
14 expect to receive as a result of the performance of the
15 services offered; the qualifications, training or
16 experience of its personnel; or the amount of credit
17 improvement the consumer can expect to receive as a result
18 of the services.

19 (Source: P.A. 85-1384.)

20 (815 ILCS 605/5.4 new)

21 Sec. 5.4. Surety bond. Every credit repair organization
22 shall maintain a surety bond or electronic surety bond in the
23 principal sum of \$100,000 issued by a bonding company
24 authorized to do business in this State and approved by the
25 Secretary. The bond shall run to the Secretary and shall be for

1 the benefit of any consumer who incurs damages as a result of
2 any violation of this Act or rules adopted under this Act.

3 (815 ILCS 605/5.5 new)

4 Sec. 5.5. Duties of the Secretary.

5 (a) The Secretary shall oversee the activities of credit
6 repair organizations and compliance with this Act.

7 (b) A credit repair organization shall submit a report
8 every 6 months to the Secretary, in a form and manner as the
9 Secretary may prescribe, containing the following information:

10 (1) the number of buyers under contract with the
11 credit repair organization during the reporting term;

12 (2) the number of credit report items questioned for
13 each buyer under contract through a dispute, a complaint,
14 or some other documented action by the credit repair
15 organization since the contract start date;

16 (3) the number of items successfully removed from each
17 buyer's credit report;

18 (4) the number of items reinserted in a buyer's credit
19 reports within 6 months;

20 (5) the number of items that stayed off a buyers'
21 credit reports for 6 or more months; and

22 (6) any additional information as determined by the
23 Secretary.

24 (c) A credit repair organization shall file with the
25 Secretary, every 6 months, statistical proof that confirms the

1 information used to demonstrate successful results in
2 advertisements, including, but not limited to, advertisements
3 sent by mail, posted on the Internet, printed in newspapers or
4 other publications, and sent electronically by text or e-mail.

5 (d) The Secretary may issue reports to the General
6 Assembly and the general public, that includes a compilation
7 of the statistical proof received from credit repair
8 organizations described in paragraph (4) of Section 5 and an
9 assessment of the quality of services provided by credit
10 repair organizations to consumers.

11 (815 ILCS 605/6) (from Ch. 121 1/2, par. 2106)

12 Sec. 6. Before the execution of a contract or other form of
13 agreement between a buyer and a credit repair ~~services~~
14 organization or before the credit repair organization receives
15 ~~receipt by any such organization of~~ money or other valuable
16 consideration, whichever occurs first, such organization shall
17 provide the buyer with a statement, in writing, containing the
18 following:

19 (1) a complete and accurate statement of the buyer's
20 right to review any file on the buyer maintained by a
21 consumer reporting agency, as provided under the Fair
22 Credit Reporting Act (15 U.S.C. Section 1681 et seq.);

23 (2) a statement that the buyer may review his consumer
24 reporting agency file at no charge if a request therefor
25 is made to such agency within 30 days after receipt by the

1 buyer of notice that credit has been denied and if such
2 request is not made within the allotted time, the
3 approximate charge to the buyer for such review;

4 (3) a complete and accurate statement of the buyer's
5 right to dispute the completeness or accuracy of any item
6 contained in any file on the buyer maintained by a
7 consumer reporting agency;

8 (4) (blank); ~~a complete and detailed description of~~
9 ~~the services to be performed by the credit services~~
10 ~~organization and the total cost to the buyer for such~~
11 ~~services;~~

12 (5) a statement notifying the buyer that: (i) credit
13 reporting agencies have no obligation to remove
14 information from credit reports unless the information is
15 erroneous, cannot be verified or is more than 7 years old;
16 and (ii) credit reporting agencies have no obligation to
17 remove information concerning bankruptcies unless such
18 information is more than 10 years old;

19 (6) a statement asserting the buyer's right to proceed
20 against the surety bond required under Section 5.4 ~~10~~; and

21 (7) the name and business address of any such surety
22 company together with the name and the number of the
23 account.

24 The credit repair ~~services~~ organization shall maintain on
25 file, for a period of 2 years after the date the statement is
26 provided, an exact copy of the statement, signed by the buyer,

1 acknowledging receipt of the statement.

2 (Source: P.A. 91-357, eff. 7-29-99.)

3 (815 ILCS 605/7) (from Ch. 121 1/2, par. 2107)

4 Sec. 7. (a) Each contract between the buyer and a credit
5 repair services organization for the purchase of the services
6 of the credit repair ~~services~~ organization shall be in
7 writing, dated, signed by the buyer and an authorized employee
8 of the credit repair organization, and shall include:

9 (1) (blank); ~~a conspicuous statement in boldfaced type, in~~
10 ~~immediate proximity to the space reserved for the signature of~~
11 ~~the buyer, as follows:~~

12 ~~"You, the buyer, may cancel this contract at any time~~
13 ~~before midnight of the third day after the date of the~~
14 ~~transaction. See the attached notice of cancellation form for~~
15 ~~an explanation of this right";~~

16 (2) a complete and detailed description of the terms and
17 conditions of payment consistent with Section 5 of this Act,
18 ~~including the total of all payments to be made by the buyer,~~
19 ~~whether to the credit repair organization ~~credit services~~~~
20 ~~organization or to another person;~~

21 (A) If a buyer seeks to stop using the services of a
22 credit repair organization, the buyer shall submit a
23 request to the credit repair organization to cancel the
24 contract. A credit repair organization shall allow
25 submission of a cancellation request electronically.

1 ~~"You may cancel this contract, without any penalty or~~
2 ~~obligation, within three days after the date the contract is~~
3 ~~signed.~~

4 ~~If you cancel, any payment made by you under this contract~~
5 ~~will be returned within 10 days after the date of receipt by~~
6 ~~the seller of your cancellation notice.~~

7 ~~To cancel this contract, mail or deliver a signed, dated~~
8 ~~copy of this cancellation notice, or other written notice to:~~

9 ~~(name of seller) at (address of seller) (place of~~
10 ~~business) not later than midnight (date)~~

11 ~~I hereby cancel this transaction."~~

12
13 ~~(date) (purchaser's signature)~~

14 (c) The credit repair ~~services~~ organization shall give to
15 the buyer a copy of the completed contract and all other
16 documents the credit repair ~~services~~ organization requires the
17 buyer to sign at the time they are signed. A credit repair
18 organization shall not unreasonably deny a buyer's request for
19 an additional copy of the contract or any other document the
20 buyer signed.

21 (Source: P.A. 85-1384.)

22 (815 ILCS 605/7.1 new)

23 Sec. 7.1. Recordkeeping. The credit repair organization
24 shall maintain on file, for a period of 2 years after the date
25 the statement required in Section 7 is provided, an exact copy

1 of the statement, signed by the buyer, acknowledging receipt
2 of the statement.

3 (815 ILCS 605/8) (from Ch. 121 1/2, par. 2108)

4 Sec. 8. (a) Any contract for services which does not
5 comply with applicable provisions of this article shall be
6 void and unenforceable as contrary to public policy. Any
7 waiver by a buyer of the provisions of this Act shall be deemed
8 void and unenforceable ~~by a credit services organization~~ as
9 contrary to public policy. Any attempt by a credit repair
10 ~~services~~ organization to have a buyer waive rights granted by
11 this Act shall constitute a violation of this Act.

12 (b) The provisions of this Act shall apply to any person
13 who seeks to evade its application by any device, subterfuge,
14 or pretense, including, without limitation:

15 (1) instructing or suggesting that a buyer make
16 payments into an account controlled by a third party;

17 (2) using any agents, affiliates, or subsidiaries in
18 an attempt to avoid the application of the provisions of
19 this Act; or

20 (3) having any affiliation or other business
21 arrangement with an entity that is exempt from the
22 provisions of this Act for the purpose of evading the
23 provisions of this Act.

24 (c) A violation of this Section shall constitute a
25 violation of this Act.

1 (Source: P.A. 85-1384.)

2 (815 ILCS 605/9) (from Ch. 121 1/2, par. 2109)

3 Sec. 9. (a) A credit repair ~~services~~ organization shall
4 file a registration statement with the Secretary of State
5 before conducting business in this State. The registration
6 statement shall contain:

7 (1) the name and address of the credit repair ~~services~~
8 organization;

9 (2) the name and address of the registered agent
10 authorized to accept service of process on behalf of the
11 credit repair ~~services~~ organization;

12 (3) the name and address of any person who directly or
13 indirectly owns or controls 10 percent or more of the
14 outstanding shares of stock in the credit repair ~~services~~
15 organization; and

16 (4) the name, numbers, and location of the surety
17 company issuing a surety bond maintained as required by
18 Section 5.4 ~~10~~ of this Act.

19 (b) The registration statement must also contain either:

20 (1) a full and complete disclosure of any litigation
21 or unresolved complaint filed with a governmental
22 authority of this State, any other state or the United
23 States relating to the operation of the credit repair
24 ~~services~~ organization; or

25 (2) a notarized statement that states that there has

1 been no litigation or unresolved complaint filed with a
2 governmental authority of this State, any other state or
3 the United States relating to the operation of the credit
4 repair services organization.

5 (c) The credit repair services organization shall update
6 such statement not later than 30 days ~~the 90th day~~ after the
7 date on which a change in the information required in the
8 statement occurs.

9 (d) Each credit repair services organization registering
10 under this Section shall maintain a copy of the registration
11 statement in their files. The credit repair services
12 organization shall allow a buyer to inspect the registration
13 statement on request.

14 (e) The Department Secretary of State may charge ~~each~~
15 ~~credit services organization that files~~ a registration
16 ~~statement a reasonable fee not to exceed \$100 to cover the cost~~
17 ~~of filing.~~

18 (Source: P.A. 85-1384.)

19 (815 ILCS 605/11) (from Ch. 121 1/2, par. 2111)

20 Sec. 11. Any person injured by a violation of this Act or
21 by the credit repair services organization's breach of a
22 contract entered into pursuant to Section 7 of this Act, may
23 bring any action for recovery of actual damages and statutory
24 damages of \$5,000 for the first offense and \$10,000 for a
25 second and any subsequent offense. Such person may also be

1 awarded punitive damages, reasonable attorney's fees and court
2 costs.

3 Where the buyer demonstrates actual or statutory damages,
4 proof of reliance shall not be required to pursue a claim based
5 on misrepresentation, false statements, or the omission of any
6 material fact.

7 (Source: P.A. 85-1384.)

8 (815 ILCS 605/12) (from Ch. 121 1/2, par. 2112)

9 Sec. 12. A. Nothing in this Act shall be construed to
10 restrict the exercise of powers or the performance of the
11 duties of the Attorney General, a State's Attorney, or federal
12 law enforcement. The Attorney General, the State's Attorney of
13 any county, or a buyer may bring an action in a circuit court
14 to enjoin a violation of this Act. In addition to any
15 injunction, the Attorney General or any State's Attorney or
16 any county, in the name of the People of the State of Illinois,
17 may seek to recover damages pursuant to this Act or any other
18 relief permitted by law. The Attorney General may enforce a
19 violation of this Act as an unlawful practice under the
20 Consumer Fraud and Deceptive Business Practices Act.

21 (Source: P.A. 85-1384.)

22 (815 ILCS 605/14) (from Ch. 121 1/2, par. 2114)

23 Sec. 14. Construction.

24 (a) For purposes of carrying out the objectives of this

1 Act:

2 (1) This Act shall be liberally construed.

3 (2) This Act shall be construed as a consumer
4 protection law.

5 (3) All exclusions from the definition of the credit
6 repair organization, as described in subsection (g) of
7 Section 3, shall be construed narrowly and the burden of
8 proving an exclusion from the definition of credit repair
9 organization definition exemption under subsection (g) of
10 Section 3 is on the person claiming the exemption.

11 (b) It is the intent of the General Assembly for this Act
12 to apply to the conduct of attorneys when not engaged in the
13 practice of law.

14 (c) In construing this Act consideration shall be given to
15 the interpretations of the Fair Credit Reporting Act (15
16 U.S.C. Section 1681 et seq.)~~In an action under this Act the~~
17 ~~burden of proving an exemption under paragraph (d) of Section~~
18 ~~3 is on the person claiming the exemption.~~

19 (Source: P.A. 85-1384.)

20 (815 ILCS 605/15) (from Ch. 121 1/2, par. 2115)

21 Sec. 15. The remedies provided by this Act are in addition
22 to other remedies provided by law. A violation of this Act
23 shall also constitute a violation of the Consumer Fraud and
24 Deceptive Business Practices Act. A violation of the
25 Telemarketing and Consumer Fraud and Abuse Prevention Act (15

1 U.S.C. Section 6101 et seq.), and its implementing
2 regulations, 16 CFR 310.1 et seq., or of the credit repair
3 organizations Act (15 U.S.C. Section 1679 et seq.) shall also
4 be a violation of this Act.

5 (Source: P.A. 85-1384.)

6 (815 ILCS 605/17 new)

7 Sec. 17. Rulemaking.

8 (a) In addition to powers granted to the Department this
9 Act, the Department may adopt rules consistent with the
10 purposes of this Act, including, but not limited to:

11 (1) rules in connection with the activities of credit
12 repair organizations as may be necessary and appropriate
13 for the protection of consumers in this State;

14 (2) rules as may be necessary and appropriate to
15 define and deter improper or fraudulent business practices
16 in connection with the activities of credit repair
17 organizations;

18 (3) rules that define the terms used in this Act and as
19 may be necessary and appropriate to interpret and
20 implement the provisions of this Act; and

21 (4) rules to prevent evasion of this Act; and

22 (5) rules as may be necessary for the enforcement and
23 administration of this Act.

24 (b) The Secretary is may make specific rulings, demands,
25 and findings that the Secretary deems necessary for the proper

1 conduct of any credit repair organization.

2 (815 ILCS 605/17.5 new)

3 Sec. 17.5. Regulatory assessment.

4 (a) Every credit repair organization shall annually pay to
5 the Department its pro rata share of the cost for
6 administration of the Act, as estimated by the Department, for
7 the current year and for any deficit actually incurred in the
8 administration of the Act in prior years. Every credit repair
9 organization's pro rata share shall be the percentage that the
10 number of buyers under contract with the credit repair
11 organization bears to the total buyers under contract with all
12 credit repair organizations in the previous year, or any other
13 method of pro rata fee assessment as established by rule.

14 (b) The Secretary may establish other fees by rule as
15 necessary to administer and enforce this Act.

16 (c) All fees received under this Section shall be
17 nonrefundable.

18 (815 ILCS 605/18 new)

19 Sec. 18. Evasion. Any agreement, contract, or transaction
20 that is structured to evade this Act shall be deemed to covered
21 by this Act.

22 (815 ILCS 605/19 new)

23 Sec. 19. Examination and reports.

1 (a) The Secretary may examine the business affairs of a
2 credit report organization for compliance with this Act as
3 often as the Secretary deems necessary and proper. The
4 Department may adopt rules with respect to the frequency and
5 manner of examination. The Secretary shall appoint a suitable
6 person to perform an examination. The Secretary and his or her
7 appointees may examine under oath the entire books, records,
8 documents, and operations of each credit repair organization
9 and its subsidiary, affiliate, or agent, and may examine any
10 of the credit repair organization's or the officers,
11 directors, employees, and agents of its subsidiaries,
12 affiliates, or agents.

13 (b) Affiliates of a credit repair organization shall be
14 subject to examination by the Secretary on the same terms as
15 the credit repair organization.

16 (c) The expenses of any examination of the credit repair
17 organization and affiliates shall be borne by the licensee and
18 assessed by the Secretary as established by rule.

19 (d) In addition to any reports required under this Act,
20 every licensee shall file any other report that the Secretary
21 requires.

22 (815 ILCS 605/20 new)

23 Sec. 20. Violations. It is a violation of this Act for a
24 credit repair organization, or other person subject to this
25 Act to:

1 (1) directly or indirectly employ any scheme, device,
2 or artifice to defraud or mislead any person, including,
3 but not limited to, engaging in bait and switch
4 advertising or sales practices;

5 (2) directly or indirectly engage in any unfair or
6 deceptive act or practice toward any person, including,
7 but not limited to, any false or deceptive statement about
8 fees or other terms of the contract with a buyer;

9 (3) directly or indirectly obtain property by fraud or
10 misrepresentation;

11 (4) knowingly make, publish, or disseminate any false,
12 deceptive, or misleading information;

13 (5) fail to make any report or statement lawfully
14 required by the Secretary or other public official;

15 (6) demonstrate, by course of conduct, negligence or
16 incompetence in performing any act directly or indirectly
17 relating to activities covered by this Act;

18 (7) violate the Consumer Fraud and Deceptive Business
19 Practices Act; and

20 (8) fail to comply with the provisions of this Act or
21 with any lawful order, agreement, or rule made or issued
22 under the provisions of this Act.

23 (815 ILCS 605/21 new)

24 Sec. 21. Enforcement.

25 (a) In order to enforce this Act, the Department may:

1 (1) take any action authorized by this Act against a
2 credit repair organization or other person subject to this
3 Act for any violation of this Act;

4 (2) order relief under this Section which may include,
5 but is not limited to, any of the following:

6 (A) rescission or reformation of contracts;

7 (B) refund of moneys or return of real property;

8 (C) restitution;

9 (D) disgorgement or compensation for unjust
10 enrichment, with any disgorged amounts returned to the
11 affected consumers, to the extent practicable;

12 (E) payment of damages or other monetary relief;

13 (F) public notification regarding the violation,
14 including the costs of notification;

15 (G) limits on the activities or functions of the
16 person; and

17 (F) monetary penalties, as set forth more fully in
18 paragraph (1) of subsection (d);

19 (3) compromise, modify, or remit any penalty that may
20 be assessed or has already been assessed; and

21 (4) impose penalties to deter future violations by any
22 person subject to this Act.

23 (b) In any administrative action brought under this Act,
24 the following penalties shall apply:

25 (1) Any person that violates any provision of this
26 Act, through any act or omission, to forfeit and pay a

1 penalty as follows:

2 (A) For any violation of this Act, rule, order, or
3 condition imposed in writing by the Department, a
4 penalty may not exceed the greater of either \$5,000
5 for each day during which the violation or failure to
6 pay continues or \$2,500 for each act or omission in
7 violation of this subparagraph.

8 (B) For any reckless violation by a person of this
9 Act, rule, order, or condition imposed by the
10 Department, a penalty may not exceed the greater of
11 \$25,000 for each day during which the violation
12 continues or \$10,000 for each act or omission in
13 violation of this subparagraph.

14 (C) For any knowing violation, by a person of this
15 Act, rule, order, or condition imposed by the
16 Department, a penalty may not exceed the lesser of 1%
17 of the person's total assets or \$1,000,000 for each
18 day during which the violation continues, but in no
19 circumstances may be less than or \$25,000 for each act
20 or omission in violation of this subparagraph.

21 (2) In determining the amount of any penalty assessed
22 under this Act, the Department shall take into account
23 mitigating factors and the appropriateness of the penalty
24 with respect to all of the following:

25 (A) the amount of financial resources of the
26 person charged;

1 (B) the good faith of the person charged;

2 (C) the gravity of the violation;

3 (D) the severity of the risks to or losses of the
4 consumer, which may take into account the number of
5 products or services sold or provided;

6 (E) the history of previous violations; and

7 (G) other facts and circumstances as justice may
8 require.

9 (815 ILCS 605/22 new)

10 Sec. 22. Confidential supervisory information.

11 (a) Reports of investigation and examination, other
12 reports rendered under this Act, and correspondence and
13 memoranda concerning or arising out of an investigation,
14 examination, or report, including any copies thereof, in the
15 possession of the Secretary shall be confidential
16 communications, shall not be subject to disclosure under the
17 Freedom of Information Act, and shall not be made public
18 unless the Secretary finds that the ends of justice and the
19 public advantage will be served by the disclosure. Upon such
20 finding, the Secretary may disclose, in whole or in part, any
21 report or other material referred to in this Section in the
22 manner he considers proper.

23 (b) The Secretary may release any of the information
24 described in subsection (a) to any agency of this State,
25 another state, or the United States.

1 (c) Any information provided by a credit repair
2 organization under subsections (a) and (b) and Section 5.5,
3 other than personal identifiable information of a buyer, shall
4 be a public record subject to disclosure under the Freedom of
5 Information Act.

6 (815 ILCS 605/23 new)

7 Sec. 23. Judicial review. All final administrative
8 decisions of the Department under this Act, all amendments and
9 modifications of final administrative decisions, and any rules
10 adopted by the Department under this Act, shall be subject to
11 judicial review under the provisions of the Administrative
12 Review Law.

13 (815 ILCS 605/24 new)

14 Sec. 24. Superiority of this Act. To the extent this Act
15 conflicts with any other State laws, this Act is superior and
16 supersedes those laws.

17 (815 ILCS 605/4 rep.)

18 (815 ILCS 605/10 rep.)

19 Section 15. The Credit Services Organizations Act is
20 amended by repealing Sections 4 and 10.

21 Section 99. Effective date. This Act takes effect January
22 1, 2024."