

## Illinois Compiled Statutes

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### BUSINESS TRANSACTIONS

#### (815 ILCS 605/) Credit Services Organizations Act.

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

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

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

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

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

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

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

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

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

Sec. 3. As used in this Act:

(a) "Buyer" means an individual who is solicited to purchase or who purchases the services of a credit services organization.

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

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

(d) "Credit Services Organization" means a person who, with respect to the extension of credit by others and in return for the payment of money or other valuable consideration, provides, or represents that the person can or will provide, any of the following services:

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

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

(iii) providing advice or assistance to a buyer with regard to either subsection (i) or (ii).

"Credit Services Organization" does not include any of the following:

(i) a person authorized to make loans or extensions of credit under the laws of this State or the United States who is subject to regulation and supervision by this State or the United States, or a lender approved by the United States Secretary of Housing and Urban Development for participation in a mortgage insurance program under the National Housing Act (12 U.S.C. Section 1701 et seq.);

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

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

(iv) a nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, provided that such organization does not charge or receive any money or other valuable consideration prior to or upon the execution of a contract or other agreement between the buyer and the nonprofit organization;

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

(vi) a person licensed to practice law in this State acting within the course and scope of the person's practice as an attorney;

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

(viii) a consumer reporting agency; and

(ix) a residential mortgage loan broker or banker who is duly licensed under the Illinois Residential Mortgage License Act of 1987.

(e) "Person" means an individual, corporation, partnership, joint venture or any business entity.  
(Source: P.A. 88-120.)

(815 ILCS 605/4) (from Ch. 121 1/2, par. 2104)

Sec. 4. In construing this Act consideration shall be given to the interpretations of the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.).  
(Source: P.A. 85-1384.)

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

Sec. 5. No credit services organization, its salespersons,

agents or representatives, or any independent contractor who sells or attempts to sell the services of a credit services organization shall:

(1) Charge or receive any money or other valuable consideration prior to full and complete performance of the services the credit services organization has agreed to perform for or on behalf of the buyer, unless the credit services organization has, in conformity with Section 10 of this Act, obtained a surety bond issued by a surety company licensed to do business in this State. If a credit services organization is in compliance with this subsection the salespersons, agents, and representatives who sell the services of such organization shall not be required to obtain the surety bond provided for by this Act.

(2) Charge or receive any money or other valuable consideration solely for the referral of a buyer to a retail seller who will or may extend credit to the buyer if such extension of credit is in substantially the same terms as those available to the general public.

(3) Make, or advise any buyer to make, any statement that is untrue or misleading, or that should be known by the exercise of reasonable care to be untrue or misleading, with respect to a buyer's credit reporting agency or to any person who has extended credit to a buyer or to whom a buyer has made application for an extension of credit.

(4) Make or use any untrue or misleading representations in the offer or sale of the services of a credit services organization or engage, directly or indirectly, in any act, practice or course of business intended to defraud or deceive a buyer in connection with the office or sale of such services; including but not limited to: the amount or type of credit a consumer can expect to receive as a result of the performance of the services offered; the qualifications, training or experience of its personnel; or the amount of credit improvement the consumer can expect to receive as a result of the services.

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

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

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

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

(2) a statement that the buyer may review his consumer reporting agency file at no charge if a request therefor is made to such agency within 30 days after receipt by the buyer of notice that credit has been denied

and if such request is not made within the allotted time, the approximate charge to the buyer for such review;

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

(4) a complete and detailed description of the services to be performed by the credit services organization and the total cost to the buyer for such services;

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

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

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

The credit services organization shall maintain on file, for a period of 2 years after the date the statement is provided, an exact copy of the statement, signed by the buyer, acknowledging receipt of the statement.

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

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

Sec. 7. (a) Each contract between the buyer and a credit services organization for the purchase of the services of the credit services organization shall be in writing, dated, signed by the buyer, and shall include:

(1) a conspicuous statement in boldfaced type, in immediate proximity to the space reserved for the signature of the buyer, as follows:

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

(2) the terms and conditions of payment, including the total of all payments to be made by the buyer, whether to the credit services organization or to another person;

(3) a full and detailed description of the services to be performed by the credit services organization for the buyer, including all guarantees and all promises of full or partial refunds, and the estimated date by which the services are to be performed or the estimated length of time for performing the services; and

(4) the address of the credit services organization's principal place of business and the name and address of its

agent in the State authorized to receive service of process.

(b) The contract must have two easily detachable copies of a notice of cancellation. The notice must be in boldfaced type and in the following form:

"Notice of Cancellation"

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

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

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

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

I hereby cancel this transaction."

.....

(date)

(purchaser's signature)

(c) The credit services organization shall give to the buyer a copy of the completed contract and all other documents the credit services organization requires the buyer to sign at the time they are signed.

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

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

Sec. 8. Any contract for services which does not comply with applicable provisions of this article shall be void and unenforceable as contrary to public policy. Any waiver by a buyer of the provisions of this Act shall be deemed void and unenforceable by a credit services organization as contrary to public policy. Any attempt by a credit services organization to have a buyer waive rights granted by this Act shall constitute a violation of this Act.

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

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

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

(1) the name and address of the credit services organization;

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

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

(4) the name, numbers, and location of the surety company

issuing a surety bond maintained as required by Section 10 of this Act.

(b) The registration statement must also contain either:

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

(2) a notarized statement that states that there has been no litigation or unresolved complaint filed with a governmental authority of this State, any other state or the United States relating to the operation of the credit services organization.

(c) The credit services organization shall update such statement not later than the 90th day after the date on which a change in the information required in the statement occurs.

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

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

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

(815 ILCS 605/10) (from Ch. 121 1/2, par. 2110)

Sec. 10. If a credit services organization is required to obtain a surety bond pursuant to paragraph (1) of Section 5 of this Act, the following procedures shall be applicable:

(a) If a bond is obtained, a copy of it shall be filed with the Office of the Secretary of State.

(b) The required bond shall be in favor of the State of Illinois for the benefit of any person who is damaged by any violation of this Act. The bond shall also be in favor of any person damaged by such practices. Any person claiming against the bond for a violation of this Act may maintain an action at law against the credit services organization and against the surety. The surety shall be liable only for actual damages and not the punitive damages permitted under Section 11(b) of this Act. The aggregate liability of the surety to all persons damaged by a credit services organization's violation of this Act shall in no event exceed the amount of the bond.

(c) The bond shall be in the amount of \$100,000 and shall be maintained for a period of 2 years after the date that the credit services organization ceases operations.

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

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

Sec. 11. Any person injured by a violation of this Act or by the credit services organization's breach of a contract

entered into pursuant to Section 7 of this Act, may bring any action for recovery of actual damages. Such person may also be awarded punitive damages, reasonable attorney's fees and court costs.

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

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

Sec. 12. A. The Attorney General, the State's Attorney of any county, or a buyer may bring an action in a circuit court to enjoin a violation of this Act. In addition to any injunction, the Attorney General or any State's Attorney or any county, in the name of the People of the State of Illinois, may seek to recover damages pursuant to this Act.

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

(815 ILCS 605/13) (from Ch. 121 1/2, par. 2113)

Sec. 13. Any person, as defined under this Act, violating any provision of this Act except breach of contract, upon conviction for the first offense, is guilty of a Class A misdemeanor. Upon conviction of a second or subsequent offense the violator is guilty of a Class 4 felony.

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

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

Sec. 14. In an action under this Act the burden of proving an exemption under paragraph (d) of Section 3 is on the person claiming the exemption.

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

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

Sec. 15. The remedies provided by this Act are in addition to other remedies provided by law. A violation of this Act shall also constitute a violation of the Consumer Fraud and Deceptive Business Practices Act.

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

(815 ILCS 605/16) (from Ch. 121 1/2, par. 2116)

Sec. 16. This Act shall be liberally construed to effect the purposes thereof.

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