

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 28.
COMMERCIAL INSTRUMENTS AND
TRANSACTIONS.

CHAPTER 46.
CONSUMER CREDIT SERVICE ORGANIZATIONS.

2001 Edition

DISTRICT OF COLUMBIA OFFICIAL CODE
CHAPTER 46. CONSUMER CREDIT SERVICE
ORGANIZATIONS.

TABLE OF CONTENTS

[§ 28-4601. Definitions.](#)

[§ 28-4602. Registration statement.](#)

[§ 28-4603. Prohibited acts.](#)

[§ 28-4604. Bond requirements.](#)

[§ 28-4605. Disclosure; written agreement required.](#)

[§ 28-4606. Enforcement.](#)

[§ 28-4607. Penalties.](#)

[§ 28-4608. Rulemaking.](#)

CHAPTER 46. CONSUMER CREDIT SERVICE ORGANIZATIONS.

§ 28-4601. DEFINITIONS.

For the purposes of this chapter the term:

(1) "Consumer" means any person who is solicited to purchase or who purchases the services of a consumer credit service organization.

(2)(A) "Consumer credit service organization" means any person who, with respect to the extension of credit by others, sells, provides, performs, or represents that he or she can sell, provide, or perform, in return for the payment of money or other valuable consideration, any of the following services:

(i) Improvement of a consumer's credit record, history, or rating;

(ii) Obtain an extension of credit for a consumer; or

(iii) Provide advice or assistance to a consumer regarding any matter related to the consumer's personal, household, or family credit.

(B) A consumer credit service organization shall include a salesperson, agent, or representative of a consumer credit service organization.

(C) A consumer credit service organization shall include an independent agent who sells or attempts to sell the services of a consumer credit service organization.

(D) A consumer credit service organization does not include:

(i) Any person authorized to make a loan or extension of credit under the laws of the District of Columbia ("District") or the United States who is subject to regulation and supervision by the District or the United States, or a lender approved by the United States Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act, approved June 27, 1934 (48 Stat. 1246; 12 U.S.C. 1701 et seq.);

(ii) Any bank, savings bank, or savings and loan institution 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 any bank, savings bank, or savings and loan institution with deposits or accounts that are eligible for insurance by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Corporation;

(iii) Any credit union doing business in the District pursuant to the Federal Credit Union Act, approved August 1, 1964 (78 Stat. 377; § 26-501 et seq.);

(iv) Any nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 3; 26 U.S.C. 1 et seq.);

(v) Any person who operates a collection agency pursuant to the laws of the District;

(vi) Any person licensed to practice law in the District if the person renders consumer credit services within the course and scope of his or her practice;

(vii) Any broker-dealer registered with the United States Securities and Exchange Commission or the United States Commodity Futures Trading Commission if the broker-dealer is acting within the scope of the applicable federal securities or commodity futures laws and regulations; or

(viii) Any consumer reporting agency as defined in the Federal Fair Credit Reporting Act ("Fair Credit Reporting Act"), approved October 26, 1970 (84 Stat. 1128; 15 U.S.C. sec. 1681-1681t).

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

(4) "Person" means any individual, corporation, firm, agency, company, joint venture, association, organization, partnership, society, or joint stock company.

(Mar. 8, 1991, D.C. Law 8-236, § 2, 38 DCR 306.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 28-4601.

Legislative History of Laws

Law 8-236, the "Consumer Credit Service Organizations Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-70, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-319 and transmitted to both Houses of Congress for its review.

References in Text

The "Federal Savings and Loan Insurance Corporation", referred to in (2)(D)(ii), has been abolished. For provisions relating to the abolition of the Federal Savings and Loan Insurance Corporation and the transfer of functions, personnel and property of that agency, see §§ 401 to 406 of Pub.L. 101-73, set out as a note under 12 U.S.C. § 1437.

§ 28-4602. REGISTRATION STATEMENT.

(a) A consumer credit service organization that operates in the District shall:

(1) Register with the Mayor by filing, on a form prescribed by the Mayor, a registration statement and paying a registration fee of \$300; and

(2) Pay an annual fee of \$200 before April 2 of each subsequent year or at any other time established by regulation.

(b) If there is a change in any of the information provided in the registration statement, the registrant shall report the change in writing to the Mayor within 10 days of the change.

(c) If, in the opinion of the Mayor, the registration statement fails to disclose sufficient information required by this chapter or the rules issued pursuant to this chapter, the registrant shall file in writing any additional information requested by the Mayor. The Mayor shall not accept the registration statement until all the requested information is furnished.

(Mar. 8, 1991, D.C. Law 8-236, § 3, 38 DCR 306; Apr. 9, 1997, D.C. Law 11-255, § 27(ff), 44 DCR 1271; Oct. 3, 2001, D.C. Law 14-28, § 3302, 48 DCR 6981.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 28-4602.

Effect of Amendments

D.C. Law 14-28 rewrote subsec. (a) which had read as follows:

"(a) A consumer credit service organization that operates in the District shall:

"(1) Register with the Mayor; and

"(2) On a form prescribed by the Mayor, file a registration statement with the Mayor."

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 3002 of Fiscal Year 2002 Budget Support Emergency Act of 2001 (D.C. Act 14-124, August 3, 2001, 48 DCR 7861).

Legislative History of Laws

For legislative history of D.C. Law 8-236, see Historical and Statutory Notes following § 28-4601.

Law 11-255, the "Second Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

Law 14-28, the "Fiscal Year 2002 Budget Support Act of 2001", was introduced in Council and assigned Bill No. 14-144, which was referred to the Committee Of the Whole. The Bill was adopted on first and second readings on May 1, 2001, and June 5, 2001, respectively. Signed by the Mayor on June 29, 2001, it was

assigned Act No. 14-85 and transmitted to both Houses of Congress for its review. D.C. Law 14-28 became effective on October 3, 2001.

§ 28-4603. PROHIBITED ACTS.

A consumer credit service organization shall not:

- (1) Charge or receive money or other valuable consideration prior to completion of the services the consumer credit service organization has agreed to perform for a consumer, unless the consumer credit service organization has obtained a surety bond or established a trust account as required by § 28-4604;
- (2) Charge or receive money or other valuable consideration solely for referral of a consumer to a retail seller who may extend credit to the consumer if the credit that is to be extended to the consumer is based upon substantially the same terms as credit available to the general public;
- (3) Make any statement or counsel or advise a consumer to make any statement regarding the consumer's creditworthiness, credit standing, or credit capacity that the consumer credit service organization knows or reasonably should have known is false or misleading to the following:
 - (A) A credit reporting agency;
 - (B) A person who has extended credit to a consumer; or
 - (C) A person to whom a consumer is applying for an extension of credit;
- (4) In connection with the offer or sale of the services:
 - (A) Make or use a false or misleading representation;
 - (B) Fail to disclose a material fact, policy, or method; or
 - (C) Directly or indirectly engage in an act or course of business to defraud or deceive a consumer;
- (5) Make or use as a part of its trade name, or employ in any communication, correspondence, notice, advertisement, circular, or other writing or publication, the word "repair" in a manner that reasonably conveys the impression or belief that the organization is able to provide a consumer with an immediate correction or rehabilitation of the consumer's credit problem;
- (6) Attempt to waive any provision of this chapter or coerce, influence, or direct a consumer to waive any provision of this chapter or any rule issued pursuant to this chapter; or
- (7) Fail or refuse to comply with any provision of this chapter or any rule issued pursuant to this chapter.

(Mar. 8, 1991, D.C. Law 8-236, § 4, 38 DCR 306; Apr. 9, 1997, D.C. Law 11-255, § 27(gg), 44 DCR 1271.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 28-4603.

Legislative History of Laws

For legislative history of D.C. Law 8-236, see Historical and Statutory Notes following § 28-4601.

For legislative history of D.C. Law 11-255, see Historical and Statutory Notes following § 28-4602.

§ 28-4604. BOND REQUIREMENTS.

- (a) A consumer credit service organization that charges or receives money or other valuable consideration prior to completion of services under a contract or agreement shall obtain a surety bond or establish a trust account that guarantees a refund to a consumer of any money or other valuable consideration paid by the consumer. The bond shall be in the amount of \$25,000 and issued by a surety company legally allowed to do business in the District. A trust account established to guarantee a refund to a consumer shall have a minimum balance of \$25,000 and be deposited at a federally insured bank or savings and loan association located in the District.
- (b) Funds from the bank account or surety bond shall be used to refund payment to a consumer who cancels a contract, to pay any damages assessed against a consumer credit service organization in an action arising from a violation of this chapter, or to settle a consumer complaint filed with the Mayor against a consumer credit service organization.

(Mar. 8, 1991, D.C. Law 8-236, § 5, 38 DCR 306.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

For legislative history of D.C. Law 8-236, see Historical and Statutory Notes following § 28-4601.

§ 28-4605. DISCLOSURE; WRITTEN AGREEMENT REQUIRED.

(a) Prior to the execution of a contract or agreement between a consumer and a consumer credit service organization or prior to the receipt by the consumer credit service organization of any money or other valuable consideration, whichever occurs first, the consumer credit service organization shall provide the consumer with a statement that contains the information required pursuant to subsection (b) of this section. The consumer credit service organization shall maintain for 3 years a copy of the statement signed by the consumer acknowledging receipt of the statement required by subsection (b) of this section.

(b) The information statement shall include the following:

(1) A complete and accurate statement of a consumer's right to review any file relating to the consumer that is maintained by the consumer credit reporting agency, as provided under the Fair Credit Reporting Act (15 U.S.C. 1681-1681t);

(2) A statement that a consumer may review his or her consumer credit reporting agency's file at no charge if a request is made to the consumer credit reporting agency within 30 days after receiving notice that credit has been denied;

(3) The approximate amount that the consumer credit service organization will charge a consumer to review his or her consumer credit reporting agency's file if a request has not been made within 30 days after receiving notice that credit has been denied;

(4) A statement of a consumer's right to dispute the completeness or accuracy of any information contained in any file on the consumer maintained by a consumer credit service organization as allowed by applicable District or federal law;

(5) A complete and detailed description of the services to be performed by the consumer credit service organization for a consumer and the total amount the consumer will be charged for the services;

(6) A statement that asserts a consumer's right to recover under a bond or trust account established pursuant to this chapter;

(7)(A) The name and address of the trust account depository and the trustee and the account number of the trust account; or

(B) The name and address of the surety company that issued the bond and the account number and date of the surety bond; and

(8) A statement that asserts a consumer's right to file a dispute directly with the consumer credit reporting agency in accordance with the provisions of the Fair Credit Reporting Act.

(c) Any contract between a consumer and the consumer credit service organization for the purchase of the services of the consumer credit service organization shall be in writing, dated, signed by the consumer, and include the following:

(1) The terms and conditions of payment, including the total of all the payments to be made by the consumer, regardless of whether the payments are to be made to the consumer credit service organization or to another person;

(2) A full and detailed description of the services to be performed by the consumer credit service organization for the consumer, including:

(A) A statement concerning the specific detrimental information with respect to a consumer's credit that the credit service organization proposes to remedy;

(B) Any guarantee or promise of full or partial refund; and

(C) The estimated completion date or estimated length of time necessary for completion of the services; and

(3) The address of the consumer credit service organization's principal place of business and the name and address of the organization's registered agent authorized to receive service of process.

(d) The contract shall be accompanied by a notice of cancellation that shall include the following:

(1) Notice of a consumer's right to cancel a contract within 5 calendar days of signing the contract;

(2) A provision that states that a consumer may cancel by personally delivering a copy of a signed and dated cancellation notice or by sending a notice of a cancellation by certified mail, return receipt requested, to the consumer credit service organization; and

(3) A provision that a consumer is entitled to receive a reimbursement within 10 days of receipt of the cancellation notice.

(e) The consumer credit service organization shall provide a consumer with a copy of the information statement, contract, disclosure statement, notice of cancellation, and any other document required by this chapter or the rules issued pursuant to this chapter.

(Mar. 8, 1991, D.C. Law 8-236, § 6, 38 DCR 306.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 28-4605.

Legislative History of Laws

For legislative history of D.C. Law 8-236, see Historical and Statutory Notes following § 28-4601.

§ 28-4606. ENFORCEMENT.

(a) Except as provided in this chapter, no registration pursuant to section 3 [§ 28-4602] shall be suspended or revoked without a hearing pursuant to title 1 of the District of Columbia Administrative Procedure Act ("APA"), approved October 21, 1968 (82 Stat. 1204; § 2-501 et seq.).

(b) In any proceeding pursuant to this chapter, the burden of proving an exemption or exception is upon the person who claims the exemption or exception.

(c) This section does not prohibit the enforcement by any person of a right provided by this chapter or any other applicable District or federal law, rule, or regulation.

(Mar. 8, 1991, D.C. Law 8-236, § 7, 38 DCR 306.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 28-4606.

Legislative History of Laws

For legislative history of D.C. Law 8-236, see Historical and Statutory Notes following § 28-4601.

§ 28-4607. PENALTIES.

(a) Any person who violates any provision of this chapter shall be fined not more than \$500 per violation, imprisoned for not more than 1 year, or both.

(b) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this act [this chapter] or the rules authorized by this chapter, pursuant to subchapters I and II of Chapter 18 of Title 2.

(c) Any consumer injured by a violation of this chapter may bring an action for recovery of damages within 3 years after the signing of the contract. Judgment shall be entered for actual damages and shall in no case be less than the amount paid by the consumer to the consumer credit service organization, plus reasonable attorney's fees and actual costs incurred to recover the damages. An award may also be entered for punitive damages.

(d) The remedies provided pursuant to this chapter are in addition to the remedies available pursuant to any other law.

(Mar. 8, 1991, D.C. Law 8-236, § 8, 38 DCR 306.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 28-4607.

Legislative History of Laws

For legislative history of D.C. Law 8-236, see Historical and Statutory Notes following § 28-4601.

§ 28-4608. RULEMAKING.

(a) The Mayor shall issue proposed rules, pursuant to subchapter I of Chapter 5 of Title 2, to implement the

provisions of this chapter. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved. Nothing in this section shall affect any requirements imposed upon the Mayor by subchapter I of Chapter 5 of Title 2.

(b) The proposed rules shall include, but not be limited to the following:

- (1) Registration requirements;
- (2) Sample disclosure provisions;
- (3) Contract and notice of cancellation forms; and
- (4) A schedule of civil fines.

(c) The Mayor may issue emergency rules without prior Council approval, which shall be effective for not more than 90 days and are consistent with subchapter I of Chapter 5 of Title 2.

(Mar. 8, 1991, D.C. Law 8-236, § 10, 38 DCR 306; Apr. 9, 1997, D.C. Law 11-255, § 27(hh), 44 DCR 1271.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 28-4608.

Legislative History of Laws

For legislative history of D.C. Law 8-236, see Historical and Statutory Notes following § 28-4601.

For legislative history of D.C. Law 11-255, see Historical and Statutory Notes following § 28-4602.