

CHAPTER 314

CONSUMER AND COMMERCIAL TRANSACTIONS

HOUSE BILL 18-1057

BY REPRESENTATIVE(S) McKean, Becker J., Kennedy, Winkler;
also SENATOR(S) Coram.

AN ACT

**CONCERNING THE COLLECTION OF DEBTS, AND, IN CONNECTION THEREWITH, ALLOWING
COLLECTION AGENTS TO ADD CERTAIN EXPENSES TO AMOUNTS DUE FOR COLLECTION.**

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

SECTION 1. In Colorado Revised Statutes, **add** section 5-16-111.5 as follows:

5-16-111.5. Fees, costs, and costs of collection - limitation. (1) EXCEPT AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION, A PRIVATE COLLECTION AGENCY OR PRIVATELY RETAINED ATTORNEY COLLECTING ON ANY DEBT ARISING FROM PAST-DUE ORDERS, OBLIGATIONS, FINES, OR FEES DUE TO THE STATE, OR DUE TO ANY POLITICAL SUBDIVISION WITHIN THE STATE, MAY ADD TO THE AMOUNT DUE THAT HAS BEEN PLACED FOR COLLECTION ALL FEES, COSTS, AND COSTS OF COLLECTION, INCLUDING DESIGNATED CONTRACTUAL ATTORNEY FEES AND COSTS THAT ARE AWARDED BY A COURT OF COMPETENT JURISDICTION. EXCLUSIVE OF THE ACCRUAL OF INTEREST AND COURT COSTS, ANY FEES, COSTS, AND COSTS OF COLLECTION MAY NOT EXCEED EIGHTEEN PERCENT IN THE AGGREGATE UNLESS ADDITIONAL REASONABLE ATTORNEY FEES ARE AWARDED BY A COURT OF COMPETENT JURISDICTION.

(2) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY IF THE STATE OR POLITICAL SUBDIVISION OF THE STATE HAS SOLD THE DEBT TO A THIRD PARTY.

(3) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), ON OR BEFORE JANUARY 1, 2023, AND ON OR BEFORE JANUARY 1 EVERY FIVE YEARS THEREAFTER, THE STATE AUDITOR SHALL REVIEW THE RATE DESCRIBED IN SUBSECTION (1) OF THIS SECTION AND THE AGGREGATE FEE DESCRIBED IN SECTION 24-30-202.4 (8)(a) AND REPORT THE RESULTS OF HIS OR HER REVIEW TO THE FINANCE COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OR ANY SUCCESSOR COMMITTEES. THE

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

REPORT MAY INCLUDE ANY RECOMMENDATIONS OF THE STATE AUDITOR REGARDING RAISING OR LOWERING THE RATE OR THE AGGREGATE FEE.

SECTION 2. In Colorado Revised Statutes, 24-30-202.4, **amend** (8)(a) as follows:

24-30-202.4. Collection of debts due the state - controller's duties - creation of debt collection fund - definitions - reciprocal debt collection agreements.

(8) (a) The department of personnel may add a collection fee to the amount of a debt's principal and accruing interest referred to the state controller pursuant to this section except where other specific statutory authority, requirements under federal programs, or written agreement with the debtor provide otherwise. The department shall determine upon annual review the amount of the collection fee, which shall approximate the reasonable costs incurred by the controller in collecting debts. The collection fee may include a fee to recover the collection costs incurred by either the controller, private counsel, or private collection agencies, but in no case shall the aggregate fee for the controller or private collection agencies exceed ~~twenty-one~~ EIGHTEEN percent and in no case shall the aggregate fee for private counsel exceed twenty-five percent.

SECTION 3. Act subject to petition - effective date. This act takes effect July 1, 2019; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on July 1, 2019, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

Approved: May 29, 2018