

By Senator King

8-184-02

See HB 209

1 A bill to be entitled
2 An act relating to credit service
3 organizations; amending s. 817.7005, F.S.;
4 eliminating an exception to the prohibited
5 charging or receiving of money or valuable
6 consideration prior to complete performance of
7 specified services by a credit service
8 organization; eliminating a condition for the
9 establishment of a trust account; amending s.
10 817.701, F.S.; requiring credit service
11 organizations to obtain a surety bond in a
12 specified amount; conforming provisions;
13 amending s. 817.702, F.S.; revising provisions
14 relating to the issuance of an information
15 statement to a buyer of services of a credit
16 service organization; amending s. 817.703,
17 F.S., relating to information statement
18 requirements, to conform; providing an
19 effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Section 817.7005, Florida Statutes, is
24 amended to read:

25 817.7005 Prohibited acts.--A credit service
26 organization, its salespersons, agents, and representatives,
27 and independent contractors who sell or attempt to sell the
28 services of a credit service organization shall not do any of
29 the following:

30 (1) Charge or receive any money or other valuable
31 consideration prior to full and complete performance of the

1 services the credit service organization has agreed to perform
2 for the buyer, ~~unless the credit service organization has~~
3 ~~obtained a surety bond of \$10,000 issued by a surety company~~
4 ~~admitted to do business in this state and has established a~~
5 ~~trust account at a federally insured bank or savings and loan~~
6 ~~association located in this state; however, where a credit~~
7 ~~service organization has obtained a surety bond and~~
8 ~~established a trust account as provided herein, the credit~~
9 ~~service organization may charge or receive money or other~~
10 ~~valuable consideration prior to full and complete performance~~
11 ~~of the services it has agreed to perform for the buyer but~~
12 ~~shall deposit all money or other valuable consideration~~
13 ~~received in its trust account until the full and complete~~
14 ~~performance of the services it has agreed to perform for the~~
15 ~~buyer;~~

16 (2) Charge or receive any money or other valuable
17 consideration solely for referral of the buyer to a retail
18 seller or to any other credit grantor, who will or may extend
19 credit to the buyer if the credit that is or will be extended
20 to the buyer is upon substantially the same terms as those
21 available to the general public;

22 (3) Make, or counsel or advise any buyer to make, any
23 statement that is false or misleading or that should be known
24 by the exercise of reasonable care to be false or misleading,
25 or omit any material fact to a consumer reporting agency or to
26 any person who has extended credit to a buyer or to whom a
27 buyer is applying for an extension of credit with respect to a
28 buyer's credit worthiness, credit standing, or credit
29 capacity; or

30 (4) Make or use any false or misleading
31 representations or omit any material fact in the offer or sale

1 of the services of a credit service organization or engage,
2 directly or indirectly, in any act, practice, or course of
3 business that operates or would operate as fraud or deception
4 upon any person in connection with the offer or sale of the
5 services of a credit service organization, notwithstanding the
6 absence of reliance by the buyer.

7 Section 2. Section 817.701, Florida Statutes, is
8 amended to read:

9 817.701 Surety bonds; exemption.--

10 (1) The credit service organization or any
11 salesperson, agent, or representative of the credit service
12 organization must obtain a surety bond in the amount of
13 \$10,000 which is issued by a surety company admitted to do
14 business in this state.

15 (2) Notwithstanding subsection (1),the requirement to
16 obtain a surety bond ~~and establish a trust account as provided~~
17 ~~in s. 817.7005(1)~~shall be waived for any salesperson, agent,
18 or representative of a credit service organization if where
19 the credit service organization obtains such a surety bond ~~and~~
20 ~~establishes such trust account.~~

21 Section 3. Section 817.702, Florida Statutes, is
22 amended to read:

23 817.702 Statement to buyer.--Upon execution of the
24 contract as provided in s. 817.704 or agreement between the
25 buyer and a credit service organization and before the receipt
26 by the credit service organization of any money or other
27 valuable consideration, ~~whichever occurs first,~~the credit
28 service organization shall provide the buyer with a statement,
29 in writing, containing all the information required by s.
30 817.703. The credit service organization shall maintain on
31 file for a period of 5 years an exact copy of the statement,

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

3 Section 4. Subsections (5) and (6) of section 817.703,
4 Florida Statutes, are amended to read:

5 817.703 Information statement.--The information
6 statement required under s. 817.702 shall include all of the
7 following:

8 (5) A statement notifying the buyer of his or her
9 right to proceed against the bond ~~or trust account~~ required
10 under s. 817.701 ~~s. 817.7005~~.

11 (6) The name and address of the surety company that
12 ~~which~~ issued the bond, ~~or the name and address of the~~
13 ~~depository and the trustee and the account number of the trust~~
14 ~~account~~.

15 Section 5. This act shall take effect upon becoming a
16 law.

17
18 *****

19 HOUSE SUMMARY

20
21 With respect to pt. III of ch. 817, F.S., relating to
22 credit service organizations, eliminates an exception to
23 the prohibited charging or receiving of money or valuable
24 consideration prior to the full and complete performance
25 of services that a credit service organization has agreed
26 to perform for a buyer of such services. Eliminates a
27 condition for the establishment of a trust account.
28 Requires credit service organizations to obtain a surety
29 bond in the amount of \$10,000. Amends various provisions
30 to conform.
31