

By the Committee on Commerce and Economic Opportunities; and
Senator King

310-1238-02

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; revising the content
19 of such statement to conform to federal
20 provisions concerning the time period for
21 requesting review of certain
22 consumer-reporting-agency files; authorizing
23 the Attorney General to enforce the Credit
24 Repair Organizations Act; providing an
25 effective date.

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27 Be It Enacted by the Legislature of the State of Florida:

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29 Section 1. Section 817.7005, Florida Statutes, is
30 amended to read:

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1 817.7005 Prohibited acts.--A credit service
2 organization, its salespersons, agents, and representatives,
3 and independent contractors who sell or attempt to sell the
4 services of a credit service organization shall not do any of
5 the following:

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

23 (2) Charge or receive any money or other valuable
24 consideration solely for referral of the buyer to a retail
25 seller or to any other credit grantor, who will or may extend
26 credit to the buyer if the credit that is or will be extended
27 to the buyer is upon substantially the same terms as those
28 available to the general public;

29 (3) Make, or counsel or advise any buyer to make, any
30 statement that is false or misleading or that should be known
31 by the exercise of reasonable care to be false or misleading,

1 or omit any material fact to a consumer reporting agency or to
2 any person who has extended credit to a buyer or to whom a
3 buyer is applying for an extension of credit with respect to a
4 buyer's credit worthiness, credit standing, or credit
5 capacity; or

6 (4) Make or use any false or misleading
7 representations or omit any material fact in the offer or sale
8 of the services of a credit service organization or engage,
9 directly or indirectly, in any act, practice, or course of
10 business that operates or would operate as fraud or deception
11 upon any person in connection with the offer or sale of the
12 services of a credit service organization, notwithstanding the
13 absence of reliance by the buyer.

14 Section 2. Section 817.701, Florida Statutes, is
15 amended to read:

16 817.701 Surety bonds; exemption.--

17 (1) The credit service organization or any
18 salesperson, agent, or representative of the credit service
19 organization must obtain a surety bond in the amount of
20 \$10,000 which is issued by a surety company admitted to do
21 business in this state.

22 (2) Notwithstanding subsection (1),the requirement to
23 obtain a surety bond ~~and establish a trust account as provided~~
24 ~~in s. 817.7005(1)~~shall be waived for any salesperson, agent,
25 or representative of a credit service organization if where
26 the credit service organization obtains such a surety bond ~~and~~
27 ~~establishes such trust account.~~

28 Section 3. Section 817.702, Florida Statutes, is
29 amended to read:

30 817.702 Statement to buyer.--Upon execution of the
31 contract as provided in s. 817.704 or agreement between the

1 buyer and a credit service organization and before the receipt
2 by the credit service organization of any money or other
3 valuable consideration, ~~whichever occurs first,~~ the credit
4 service organization shall provide the buyer with a statement,
5 in writing, containing all the information required by s.
6 817.703. The credit service organization shall maintain on
7 file for a period of 5 years an exact copy of the statement,
8 personally signed by the buyer, acknowledging receipt of a
9 copy of the statement.

10 Section 4. Subsections (1), (5), and (6) of section
11 817.703, Florida Statutes, are amended to read:

12 817.703 Information statement.--The information
13 statement required under s. 817.702 shall include all of the
14 following:

15 (1)(a) A complete and accurate statement of the
16 buyer's right to review any file on the buyer maintained by
17 any consumer reporting agency, as provided under the Federal
18 Fair Credit Reporting Act, 15 U.S.C. ss. 1681-1681t;

19 (b) A statement that the buyer may review his or her
20 consumer reporting agency file at no charge if a request is
21 made to the consumer reporting agency within 60 ~~30~~ days after
22 receiving notice that credit has been denied; and

23 (c) The approximate price the buyer will be charged by
24 the consumer reporting agency to review his or her consumer
25 reporting agency file.

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

29 (6) The name and address of the surety company that
30 ~~which~~ issued the bond, ~~or the name and address of the~~

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1 ~~depository and the trustee and the account number of the trust~~
2 ~~account.~~

3 Section 5. Pursuant to 15 U.S.C. s. 1679h(c), the
4 Attorney General is authorized to enforce the provisions of
5 the Credit Repair Organizations Act codified in 15 U.S.C. ss.
6 1679 et seq.

7 Section 6. This act shall take effect upon becoming a
8 law.

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10 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
11 COMMITTEE SUBSTITUTE FOR
12 Senate Bill 330

13 The committee substitute makes the following changes to SB
14 330:

- 15 1. Conforms part III, ch. 817, F.S., to federal law to
16 provide consumers with the opportunity to review their credit
17 reports free of charge within 60 days after the denial of
18 credit.
19 2. Clarifies that the Attorney General is authorized to
20 enforce the provisions of the federal Credit Repair
21 Organizations Act.
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