

Regular Session, 2003

HOUSE BILL NO. 515

BY REPRESENTATIVE PINAC

CREDIT/CONSUMER: Prohibits the business of credit repair services in the state

1 AN ACT

2 To enact R.S. 14:331.1 and to repeal Part XV of Chapter 2 of Code Title XII
3 of Title 9 of the Louisiana Revised Statutes of 1950, comprised of R.S.
4 9:3573.1 through 3573.16, relative to credit repair services; to prohibit
5 the business of credit repair services in the state; to provide for
6 exceptions; to provide for penalties for violations; to provide relative
7 to the Office of Financial Institutions; to repeal licensing and regulatory
8 requirements; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 14:331.1 is hereby enacted to read as follows:

11 §331.1. Prohibition of conducting credit repair services when
12 conducted for compensation

13 A. Except as otherwise provided herein, no person shall engage
14 in the business of conducting credit repair services.

15 B. As used in this Section, the following words and phrases
16 shall have the following meanings, unless the context clearly indicates
17 otherwise:

1 (1) "Buyer" means an individual who is solicited to purchase or
2 who purchases credit repair services.

3 (2) "Credit repair services" means providing or representing that
4 one can or will, directly or indirectly, provide to a buyer any of the
5 following services in return for the payment of money or other valuable
6 consideration, directly or indirectly:

7 (a) Improving a buyer's credit record, history, or rating.

8 (b) Advice or assistance to a buyer with regard to improving a
9 buyer's credit record, history, or rating.

10 (3) "Person" means an individual, corporation, partnership,
11 trust, association, joint venture pool, syndicate, sole proprietorship,
12 unincorporated organization, limited liability company, or any other
13 form of entity not specifically listed herein.

14 C. The provisions of this Section shall not apply to the
15 following:

16 (1) A person licensed to practice law in this state while acting
17 within the course and scope of the person's practice as an attorney, and
18 when such attorney is not actively and principally engaged in credit
19 repair services and such attorney's credit repair services are ancillary to
20 the providing of other legal services.

21 (2) A consumer reporting agency.

22 (3) Certified public accountants licensed to practice their
23 profession in the state of Louisiana, while acting within the course and
24 scope of their practice as a certified public accountant, and when such
25 certified public accountant is not actively and principally engaged in

1 credit repair services and such certified public accountant's credit repair
2 services are ancillary to the providing of other accounting services.

3 D. The provisions of this Section shall not apply to the
4 following, as long as such persons or entities are providing credit repair
5 services for no compensation:

6 (1) A licensed lender or other person authorized to make loans
7 or extensions of credit under the laws of this state or the United States,
8 who is subject to regulation and supervision by this state or the United
9 States, or a lender approved by the United States Secretary of Housing
10 and Urban Development for participation in a mortgage insurance
11 program under the National Housing Act (12 U.S.C. Section 1701 et
12 seq.).

13 (2) A bank or savings association whose deposits or accounts
14 are federally insured or a wholly owned subsidiary of such a bank or
15 savings association.

16 (3) A credit union doing business in this state.

17 (4) A nonprofit or charitable corporation or association engaged
18 in debt adjusting which is exempt from the provisions of R.S. 14:331.

19 E. Whoever shall engage in the business of credit repair services
20 shall be guilty of a misdemeanor and upon conviction thereof shall be
21 fined not more than five hundred dollars or imprisoned for not more
22 than six months, or both.

23 Section 2. Part XV of Chapter 2 of Code Title XII of Title 9 of the
24 Louisiana Revised Statutes of 1950, comprised of R.S. 9:3573.1 through
25 3573.16, is hereby repealed in its entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Pinac

HB No. 515

Abstract: Prohibits a person from engaging in the business of conducting credit repair services for compensation. Repeals licensing and regulatory provisions governing credit repair services organizations.

Proposed law prohibits a person from engaging in the business of conducting credit repair services for compensation. It further defines "buyer", "credit repair services", and "person". It excludes attorneys acting within the course and scope of their practice, consumer reporting agencies, and certified public accountants while acting within the course and scope of their practice.

Proposed law further excludes the following, as long as such persons or entities are providing such services for no compensation:

- (1) Licensed lenders or other persons authorized to make loans under the laws of this state or the U.S., or a lender who is approved by the U.S. Secretary of Housing and Urban Development for participation in a mortgage insurance program.
- (2) A bank or savings association.
- (3) A credit union doing business in the state.
- (4) Nonprofit or charitable corporations who engage in debt adjusting.

Proposed law provides that a violation shall be a misdemeanor and shall be punishable by a fine of not more than \$500 or imprisonment for not more than six months, or both.

Present law requires credit repair services organizations to file a registration statement with the Office of Financial Institutions before conducting business in the state and submit a filing fee. It further prohibits such organizations from doing the following:

- (1) Charging a buyer money or other consideration unless the organization has obtained a surety bond or has established a trust account.
- (2) Using a false representation in the sale of credit repair services.
- (3) Engaging in a fraudulent act in connection with the sale of credit repair services.
- (4) Making or advising a buyer to make a statement with respect to a buyer's credit worthiness that is false.
- (5) Advertising the services of a credit repair services organization without filing a registration statement.
- (6) Making nonessential requests for credit information.

Present law requires a credit repair services organization to provide a buyer with a disclosure statement before entering into a contract. It further provides for minimum requirements of a contract between a buyer and an organization.

Present law allows the commissioner to examine books and records of an organization, revoke or suspend a registration, and issue subpoenas.

Present law allows a buyer injured by a violation to bring an action for recovery of actual damages plus attorney fees and court costs. The commissioner or buyer may bring an action to enjoin a violation. It further provides for criminal and civil penalties for violations.

Proposed law repeals present law in its entirety.

(Adds R.S. 14:331.1; Repeals R.S. 9:3573.1-3573.16)