

## Assembly Bill No. 2424

### CHAPTER 965

An act to amend Sections 1789.11, 1789.12, 1789.13, 1789.14, 1789.15, 1789.16, 1789.19, 1789.21, and 1789.25 of, and to add Sections 1789.134 and 1789.135 to, the Civil Code, relating to consumer credit.

[Approved by Governor September 30, 2022. Filed with  
Secretary of State September 30, 2022.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2424, Blanca Rubio. Credit services organizations.

Existing law, the Credit Services Act of 1984, defines and regulates the activities of credit services organizations. Existing law generally defines a credit services organization as a person who, for payment, performs specified credit-related services, such as improving a buyer's credit record and obtaining loans, but excludes specified persons and institutions, including an attorney licensed to practice law in this state rendering services within the course and scope of the practice of law unless the attorney is an employee of, or otherwise directly affiliated with, a credit services organization. Existing law requires credit services organizations to obtain a surety bond, as specified, before conducting business and requires that they register with the Attorney General, subject to a fee of \$100.

Among other things, existing law prohibits a credit services organization from receiving money before full and complete performance of the service the organization has agreed to perform and from failing to perform services agreed upon within 6 months. Existing law requires that credit services be provided pursuant to a written contract, that is required to contain specified statements, and, before the execution of a contract, a credit services organization must provide a prescribed information statement. Existing law requires the contract to contain a notice informing the buyer that the contract can be canceled within 5 days from the date the contract is signed.

Existing law makes a violation of these prohibitions and requirements a misdemeanor. Existing law authorizes a buyer of services who is injured by a credit services organization's violation of the act, or its breach of contract, to bring an action for damages or injunctive relief, as specified. Existing law also authorizes any person, including a consumer credit reporting agency, to bring an action, as specified, for a violation of the act.

This bill would replace the term "buyer" with the term "consumer" for purposes of describing a person utilizing the services of a credit services organization and would prescribe other definitions in this regard. The bill would require a credit services organization to provide a consumer a monthly statement detailing the services performed, and would require the organization to perform services agreed upon within 180 days of contracting

for those services. Because the bill would expand the definition of a crime, it would impose a state-mandated local program.

This bill would require the information statement and contract to inform the consumer that the contract can be canceled before midnight on the 5th working day after the consumer signs it. The bill would extend prohibitions on counseling a consumer to make untrue statements to other specified parties. Among other things, the bill would prohibit a credit services organization from submitting a dispute to a consumer credit reporting agency, creditor, debt collector, or debt buyer more than 180 days after the disputed account has been removed from the consumer's credit report or from failing to provide along with its first written communication to a credit reporting agency or data furnisher sufficient information to investigate a dispute of an account. The bill would also require a consumer credit reporting agency, creditor, debt collector, or debt buyer that knows that a consumer is represented by a credit services organization to communicate with the credit services organization, except as specified. Because the bill would expand the definition of a crime, it would impose a state-mandated local program.

This bill would require a credit services organization to redact specified information in certain written communications. The bill would require a credit services organization to maintain certain information on file for 4 years. Because the bill would expand the definition of a crime, it would impose a state-mandated local program. The bill would revise information that must be provided before a credit services contract is executed, including a notice regarding the filing of complaints with the Attorney General. The bill would revise statements that a credit services contract must include.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1789.11 of the Civil Code is amended to read:

1789.11. The Legislature finds and declares that:

(a) The ability to obtain and use credit has become of great importance to consumers, who have a vital interest in establishing and maintaining their creditworthiness and credit standing. As a result, consumers who have experienced credit problems may seek assistance from credit services organizations which offer to obtain credit or improve the credit standing of those consumers.

Certain advertising and business practices of some credit services organizations have worked a financial hardship upon the people of this state, often those who are of limited economic means and inexperienced in credit matters. Credit services organizations have significant impact upon the economy and well-being of this state and its people.

(b) The purposes of this title are to provide prospective consumers of services of credit services organizations with the information necessary to make an intelligent decision regarding the purchase of those services and to protect the public from unfair or deceptive advertising and business practices.

(c) This title shall be construed liberally to achieve these purposes.

SEC. 2. Section 1789.12 of the Civil Code is amended to read:

1789.12. As used in this title:

(a) “Communication” means the conveyance of any information regarding a debt, credit record, credit history, or credit rating, directly or indirectly, to any person by any means or through any medium.

(b) “Consumer” means any natural person who is solicited to purchase or who purchases the services of a credit services organization.

(c) “Consumer credit reporting agency” has the same meaning as in Section 1785.3.

(d) “Credit services organization” means a person who, with respect to the extension of credit by others, sells, provides, or performs, or represents that the person can or will sell, provide, or perform, any of the following services, in return for the payment of money or other valuable consideration:

(1) Improving a consumer’s credit record, history, or rating.

(2) Obtaining a loan or other extension of credit for a consumer.

(3) Providing advice or assistance to a consumer with regard to either paragraph (1) or (2).

(e) “Credit services organization” does not include any of the following:

(1) Any person holding a license to make loans or extensions of credit pursuant to the laws of this state or the United States who is subject to regulation and supervision with respect to the making of those loans or extensions of credit by an official or agency of this state or the United States and whose business is the making of those loans or extensions of credit.

(2) Any bank, as defined in Section 103 of the Financial Code, or any savings institution, as specified in subdivision (a) or (b) of Section 5102 of the Financial Code, whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation.

(3) Any person licensed as a prorater by the Department of Financial Protection and Innovation when the person is acting within the course and scope of that license.

(4) Any person licensed as a real estate broker performing an act for which a real estate license is required under the Real Estate Law (Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code) and who is acting within the course and scope of that license.

(5) Any attorney licensed to practice law in this state, where the attorney renders services within the course and scope of the practice of law, unless the attorney is an employee of, or otherwise directly affiliated with, a credit services organization. This includes attorneys that regularly engage in litigation in furtherance of assisting consumers with credit issues.

(6) Any broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission where the broker-dealer is acting within the course and scope of the regulation.

(7) Any nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code that, according to a final ruling or determination by the Internal Revenue Service, is both of the following:

(A) Exempt from taxation under Section 501(a) of the Internal Revenue Code.

(B) Not a private foundation as defined in Section 509 of the Internal Revenue Code.

An advance ruling or determination of tax-exempt or foundation status by the Internal Revenue Service does not meet the requirements of this paragraph.

(f) “Data furnisher” has the same meaning as the term “furnisher” is defined in Section 660.2 of Title 16 of the Code of Federal Regulations.

(g) “Extension of credit” means the right to defer payment of debt or to incur debt and defer its payment, offered or granted primarily for personal, family, or household purposes.

(h) “Person” includes an individual, corporation, partnership, joint venture, or any business entity.

SEC. 3. Section 1789.13 of the Civil Code is amended to read:

1789.13. A credit services organization and its salespersons, agents, representatives, and independent contractors who sell or attempt to sell the services of a credit services organization shall not do any of the following:

(a) Charge or receive any money or other valuable consideration prior to full and complete performance of the services the credit services organization has agreed to perform for or on behalf of the consumer.

(b) Fail to perform the agreed services within 180 days following the date the consumer signs the contract for those services.

(c) Fail to provide a monthly statement to the consumer detailing the services performed.

(d) Charge or receive any money or other valuable consideration for referral of the consumer to a retail seller or other credit grantor who will or may extend credit to the consumer, if either of the following apply:

(1) The credit that is or will be extended to the consumer (A) is upon substantially the same terms as those available to the general public or (B) is upon substantially the same terms that would have been extended to the consumer without the assistance of the credit services organization.

(2) The money or consideration is paid by the credit grantor or is derived from the consumer’s payments to the credit grantor for costs, fees, finance charges, or principal.

(e) Make, or counsel or advise a consumer to make, a statement that is untrue or misleading and that is known, or that by the exercise of reasonable care should be known, to be untrue or misleading, to a consumer credit reporting agency or to a person who has extended credit to a consumer, to a data furnisher, or to any person with whom a consumer is applying for an extension of credit, such as statements concerning a consumer’s

identification, home address, creditworthiness, credit standing, or credit capacity.

(f) Remove, or assist or advise the consumer to remove, adverse information from the consumer's credit record that is accurate or not obsolete.

(g) Create, or assist or advise the consumer to create, a new credit record by using a different name, address, social security number, or employee identification number.

(h) Make or use untrue or misleading representations in the offer or sale of the services of a credit services organization, including either of the following:

(1) Guaranteeing or otherwise stating that the credit services organization is able to delete an adverse credit history, unless the representation clearly discloses, in a manner equally as conspicuous as the guarantee, that this can be done only if the credit history is inaccurate or obsolete and is not claimed to be accurate by the creditor who submitted the information.

(2) Guaranteeing or otherwise stating that the credit services organization is able to obtain an extension of credit, regardless of the consumer's previous credit problems or credit history, unless the representation clearly discloses, in a manner equally as conspicuous as the guarantee, the eligibility requirements for obtaining an extension of credit.

(i) Engage, directly or indirectly, in an act, practice, or course of business that operates or would operate as a fraud or deception upon a person in connection with the offer or sale of the services of a credit services organization.

(j) Advertise or cause to be advertised, in any manner, the services of the credit services organization, without being registered with the Department of Justice.

(k) Fail to maintain an agent for service of process in this state.

(l) Transfer or assign its certificate of registration.

(m) Call or submit any communication to a consumer credit reporting agency, creditor, debt collector, or debt buyer without the prior written authorization of the consumer. A relevant authorization in the agreement or contract between a consumer and a credit services organization is sufficient for the purpose of this subdivision.

(n) Submit a consumer's dispute to a consumer credit reporting agency, creditor, debt collector, or debt buyer more than 180 days after the account subject to the dispute has been removed from the consumer's credit report.

(o) Use the online electronic portal, electronic mail system, or telephone system of a consumer credit reporting agency, creditor, debt collector, or debt buyer to submit a dispute of a consumer or to request disclosure without the prior written authorization of the consumer. A relevant authorization in the agreement or contract between a consumer and a credit services organization is sufficient for the purpose of this subdivision.

(p) Directly or indirectly extend credit to a consumer.

(q) Refer a consumer to a credit grantor that is related to the credit services organization by a common ownership, management, or control, including a common owner, director, or officer.

(r) Refer a consumer to a credit grantor for which the credit services organization provides, or arranges for a third party to provide, services related to the extension of credit such as underwriting, billing, payment processing, or debt collection.

(s) Provide a credit grantor with an assurance that a portion of an extension of credit to a consumer referred by the credit services organization will be repaid, including providing a guaranty, letter of credit, or agreement to acquire a part of the credit grantor's financial interest in the extension of credit.

(t) Use a scheme, device, or contrivance to evade the prohibitions contained in this section.

(u) Fail to make a written communication sent on behalf of a consumer to any credit reporting agency, data furnisher, or legal counsel for either of the foregoing available to the consumer.

(v) Fail to provide along with its first written communication to a credit reporting agency or data furnisher any sufficient information to investigate an account.

(w) The seeking to obtain, or the obtaining of, a consumer's credit report and the performance of other services necessary to determine the needs of a consumer for the reinvestigation of any accounts shall not constitute services of a credit services organization for which a contract is required pursuant to subdivision (a) of Section 1789.16, if that activity is undertaken with the consumer's prior written, electronic, or recorded oral consent.

SEC. 4. Section 1789.134 is added to the Civil Code, to read:

1789.134. (a) A consumer credit reporting agency, creditor, debt collector, or debt buyer that knows that a consumer is represented by a credit services organization, and that also has knowledge of, or can readily ascertain the credit services organization's name and address shall communicate with the credit services organization unless either of the following circumstances apply:

(1) The credit services organization fails to respond within 30 days to a communication from a consumer credit reporting agency, creditor, debt collector, or debt buyer.

(2) The consumer expressly directs the consumer credit reporting agency, creditor, debt collector, or debt buyer not to communicate with the credit services organization.

(b) Notwithstanding subdivision (a), a consumer credit reporting agency, creditor, or debt collector shall not be required to communicate with a credit services organization concerning an account that is subject to a dispute if any of the following apply:

(1) The account subject to the dispute has been paid, settled, or otherwise resolved and has been reported as paid, settled, or otherwise resolved on the consumer's credit report.

(2) The account subject to the dispute has been removed from the consumer's credit report.

(3) The debt collector has provided to the credit services organization or to the consumer the verification information or documentation described in Section 1692g(b) of Title 15 of the United States Code regarding the account subject to dispute.

(4) The debt buyer has provided to the credit services organization or to the consumer the information or documentation described in subdivisions (a) and (b) of Section 1788.52 regarding the account subject to the dispute.

(5) The consumer credit reporting agency, creditor, or debt collector reasonably determines that the dispute is frivolous or irrelevant pursuant to Section 1681i(a)(3) or Section 1681s-2(a)(1)(F) of Title 15 of the United States Code.

SEC. 5. Section 1789.135 is added to the Civil Code, to read:

1789.135. To protect against fraud and identity theft, when a credit services organization sends a written communication by facsimile, electronic mail, United States mail, overnight courier, or other means that contains personal information of a consumer, the credit services organization shall redact the personal information to include only the last four digits of the social security number, taxpayer identification number, or state identification number, the last four digits of the financial account number, credit card number, or debit card number, or the month and year of the consumer's date of birth, unless the inclusion of the full number or date is otherwise required by law, or is legally permissible and required to achieve the desired objective. Redacting information pursuant to this subdivision shall not be considered a violation of subdivision (w) of Section 1789.13.

SEC. 6. Section 1789.14 of the Civil Code is amended to read:

1789.14. Before the execution of a contract or agreement between the consumer and a credit services organization, the credit services organization shall provide the consumer a statement in writing containing all the information required by Section 1789.15. The credit services organization shall maintain on file for a period of four years following the completion or termination of the credit services organization agreement with the consumer an exact copy of the statement.

SEC. 7. Section 1789.15 of the Civil Code is amended to read:

1789.15. The information statement shall include all of the following:

(a) A complete and detailed description of the services to be performed by the credit services organization for or on behalf of the consumer and the total amount the consumer will have to pay, or become obligated to pay, for the services.

(b) The consumer's right to proceed against the bond under the circumstances and in the manner set forth in Section 1789.18.

(c) The name and address of the surety company which issued the bond.

(d) A complete and accurate statement of the availability of nonprofit credit counseling services.

(e) The following notice: If you have a complaint about the services provided by this credit services organization or the fees charged by this

credit services organization, you may submit that complaint to the Attorney General's office, California Department of Justice, Attn: \_\_\_\_\_, P.O. Box 944255, Sacramento, CA 94244-2550.

The information statement shall be printed in at least 10-point boldface type and shall include the following statement:

“CONSUMER CREDIT FILE RIGHTS UNDER STATE AND  
FEDERAL LAW

You have a right to obtain a free copy of your credit report from a credit reporting agency. You may obtain this free copy of your credit report one time per year by visiting [www.AnnualCreditReport.com](http://www.AnnualCreditReport.com). You will be able to view your credit report, dispute alleged inaccuracies, and obtain additional information at no fee. If requested, the consumer credit reporting agency must provide someone to help you interpret the information in your credit file.

You have a right to dispute inaccurate information by contacting the consumer credit reporting agency directly. However, neither you nor any credit repair company or credit services organization has the right to have accurate, current, and verifiable information removed from your credit report. Under the Federal Fair Credit Reporting Act, the consumer credit reporting agency must remove accurate, negative information from your report only if it is over seven years old. Bankruptcy information can be reported for 10 years.

If you have notified a credit reporting agency in writing that you dispute the accuracy of information in your credit file, the consumer credit reporting agency must then reinvestigate and modify or remove inaccurate information. The consumer credit reporting agency may not charge a fee for this service. Any pertinent information and copies of all documents you have concerning an error should be given to the consumer credit reporting agency.

If the reinvestigation does not resolve the dispute to your satisfaction, you may send a brief statement to the consumer credit reporting agency to keep in your file, explaining why you think the record is inaccurate. The consumer credit reporting agency must include your statement about disputed information in any report it issues about you.

You have a right to cancel the contract with the credit services organization for any reason before midnight on the fifth working day after you signed it. If for any reason you cancel the contract during this time, you do not owe any money.

You have a right to sue a credit services organization if it misleads you.”

SEC. 8. Section 1789.16 of the Civil Code is amended to read:

1789.16. (a) A credit services organization shall not provide any service to a consumer except pursuant to a written contract that complies with this section. Every contract between the consumer and a credit services organization for the purchase of the services of the credit services organization shall identify the physical address, electronic mail address,



and facsimile number if applicable, of the credit services organization, shall be in writing, shall be dated, shall be signed by the consumer, and shall include all of the following:

(1) A conspicuous statement in size equal to at least 10-point boldface type, in immediate proximity to the space reserved for the signature of the buyer, as follows:

“You, the consumer, may cancel this contract at any time before midnight on the fifth working day after you sign it. See the attached notice of cancellation form for an explanation of this right.”

(2) The terms and conditions of payment, including the total of all payments to be made by the consumer, whether to the credit services organization or to some other person.

(3) A full and detailed description of the services to be performed by the credit services organization for the consumer, including a list of the information appearing on the consumer’s credit report that the credit services organization will seek a reasonable reinvestigation of, as described in Title 15 of Section 1681i of the United States Code, all guarantees and all promises of full or partial refunds, and the estimated length of time for performing the services, not to exceed 180 days, or a shorter period consistent with the purposes of this title as may be prescribed by the Department of Justice.

(4) The credit services organization’s principal business address and the name and address of its agent, other than the Secretary of State, in the State of California, authorized to receive service of process.

(b) The contract shall be accompanied by a completed form in duplicate, captioned “Notice of Cancellation,” which shall be attached to the contract and easily detachable, and which shall contain in type of at least 10-point the following statement written in the same language as used in the contract:

“Notice of Cancellation”

“You may cancel this contract, without any penalty or obligation, before midnight on the fifth working day after you sign it.

“If you cancel, any payment made by you under this contract must be returned within 15 days following receipt by the seller of your cancellation notice.

“To cancel this contract, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, to

\_\_\_\_\_ at  
(name of seller)

\_\_\_\_\_ (address of seller) (place of business)

not later than midnight \_\_\_\_\_ .  
(date)

“I hereby cancel this transaction.”

\_\_\_\_\_  
(date) (purchaser’s signature)

A copy of the fully completed contract and all other documents the credit services organization requires the buyer to sign shall be given to the consumer at the time they are signed.

SEC. 9. Section 1789.19 of the Civil Code is amended to read:

1789.19. (a) Any waiver by a consumer of the provisions of this title shall be deemed contrary to public policy and shall be void and unenforceable. Any attempt by a credit services organization to have a consumer waive rights given by this title shall constitute a violation of this title.

(b) In any proceeding involving this title, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

SEC. 10. Section 1789.21 of the Civil Code is amended to read:

1789.21. (a) Any consumer injured by a violation of this title or by the credit services organization’s breach of a contract subject to this title may bring any action for recovery of damages, or for injunctive relief, or both. Judgment shall be entered for actual damages, but in no case less than the amount paid by the consumer to the credit services organization, plus reasonable attorney’s fees and costs. An award, if the trial court deems it proper, may be entered for punitive damages.

(b) Any person, including, but not limited to, a consumer credit reporting agency, as defined in subdivision (d) of Section 1785.3, and any consumer of, or user of, a consumer credit report under the Consumer Credit Reporting Agencies Act (Title 1.6 (commencing with Section 1785.1)), and any furnisher of credit information under the Consumer Credit Reporting Agencies Act, may bring an action for the recovery of damages or for injunctive relief, or both, for a violation of this title. Any person bringing such an action who prevails in the action shall be entitled to reasonable attorney’s fees and costs.

SEC. 11. Section 1789.25 of the Civil Code is amended to read:

1789.25. (a) Every credit services organization shall file a registration application with, and receive a certificate of registration from, the Department of Justice before conducting business in this state. The Department of Justice shall not issue a certificate of registration until the bond required by Section 1789.18 has been filed with the Office of the Secretary of State and the department establishes that the organization seeking a certificate satisfies the requirements of subdivision (f). The application shall be accompanied by a registration fee of one hundred dollars (\$100). The registration application shall contain all of the following information:

(1) The name and address where business is actually conducted of the credit services organization.

(2) The names, addresses, and driver's license numbers of any and all persons who directly or indirectly own or control 10 percent or more of the outstanding shares of stock in the credit services organization.

(3) Either of the following:

(A) A full and complete disclosure of any litigation commenced against the credit services organization or any resolved or unresolved complaint that relates to the operation of the credit services organization and that is filed with the Attorney General, or any other governmental authority of this state, any other state, or the federal government. With respect to each resolved complaint identified by the disclosure, the disclosure shall include a brief description of the resolution.

(B) An acknowledged declaration, under penalty of perjury, stating that no litigation has been commenced and no unresolved complaint relating to the operation of the organization has been filed with the Attorney General, or any other governmental authority of this state, any other state, or the federal government.

(4) Other information that the Department of Justice requires, either at the time of application or thereafter.

(b) The Department of Justice may conduct an investigation to verify the accuracy of the registration application. If the application involves investigation outside this state, the applicant credit services organization may be required by the Department of Justice to advance sufficient funds to pay the actual expenses of the investigation. Any nonresident applying for registration under this section shall designate and maintain a resident of this state as the applicant's agent for the purpose of receipt of service of process.

(c) Each credit services organization shall notify the Department of Justice in writing within 30 days after the date of a change in the information required by subdivision (a), except that 30 days' advance notice and approval by the Department of Justice shall be required before changing the corporate name or address, or persons owning more than 10 percent of the shares of stock in the organization. Each credit services organization registering under this section may use no more than one fictitious or trade name and shall maintain a copy of the registration application in its files. The organization shall allow a buyer to inspect the registration application upon request.

(d) A certificate of registration issued pursuant to this section shall expire one year after it was issued, but may be renewed by filing a renewal application accompanied by a fee in an amount to be determined annually by the Department of Justice as is reasonable and necessary to satisfy its costs in complying with its duties under this title to regulate credit services organizations. The Department of Justice may, periodically, increase the fee, but the amount of the fee shall not exceed that which is reasonable and necessary to satisfy its costs in complying with its duties under this title to regulate credit services organizations.

(e) The credit services organization shall attach to the registration statement a copy of the contract or contracts which the credit services organization intends to execute with its customers and a copy of the required bond.

(f) The Department of Justice shall not issue a certificate of registration under this title to any person who has engaged in, or proposes to engage in, any activity that is in violation of Section 1789.13, any law prohibiting the use of untrue or misleading statements, or any law related to the extension of credit to persons for personal, family, or household purposes.

(g) The Department of Justice shall maintain on a publicly available internet website a list of the credit services organizations that are registered in this state.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.