HOUSE BILL 11-1221

BY REPRESENTATIVE(S) Fields, Hullinghorst, Solano, Pabon, Lee, Levy, Ryden, Labuda, Duran, Schafer S., Williams A., Pace, Tyler; also SENATOR(S) Spence, Guzman, Giron, Roberts, Aguilar, Bacon, Carroll, Heath, Jahn, Steadman.

CONCERNING LEGAL REMEDIES FOR CONSUMER CREDIT LAWS ENFORCED BY THE ADMINISTRATOR OF THE "UNIFORM CONSUMER CREDIT CODE".

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

SECTION 1. 5-9.5-107 (1) (d), Colorado Revised Statutes, is amended to read:

5-9.5-107. Enforcement - investigation - penalties. (1) The administrator shall enforce this article. To carry out this responsibility, the administrator is authorized to:

(d) Bring a civil action to restrain a person from violating this article and for other appropriate relief in the same manner as set forth in sections 5-6-111 to 5-6-114 AND ASSESS A CIVIL PENALTY OF UP TO ONE THOUSAND DOLLARS PER VIOLATION; and

SECTION 2. 5-10-801 (1) (e), Colorado Revised Statutes, is

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

amended to read:

5-10-801. Administrator responsibility. (1) The administrator shall enforce this article. To carry out this responsibility, the administrator shall be authorized to:

(e) Bring a civil action to restrain a person from violating this article and for other appropriate relief in the same manner as set forth in sections 5-6-111 to 5-6-114 AND FOR A CIVIL PENALTY OF UP TO ONE THOUSAND DOLLARS PER VIOLATION; and

SECTION 3. 5-6-114 (1) (a), Colorado Revised Statutes, is amended to read:

5-6-114. Civil actions by administrator. (1) (a) The administrator may bring a civil action against a creditor for making or collecting charges in excess of those permitted by this code, violating any of the provisions of this code applying to limitations on the schedule of payments or loan term for supervised loans or authority to make supervised loans, or for disclosure violations. An action may relate to transactions with more than one consumer. If it is found that an excess charge has been made, the court shall order the respondent to refund to the consumer the amount of the excess charge and to pay a penalty to the consumer as provided in sections 5-5-201 and 5-5-202. IN ADDITION, THE COURT MAY ASSESS A CIVIL PENALTY OF UP TO ONE THOUSAND DOLLARS FOR EACH VIOLATION OF THIS CODE.

SECTION 4. 5-6-204, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

5-6-204. Cash fund created. (4) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, THE STATE TREASURER SHALL TRANSFER THE PENALTIES COLLECTED PURSUANT TO SECTION 5-6-114 (1) (a) TO THE GENERAL FUND.

SECTION 5. 12-14-135, Colorado Revised Statutes, is amended to read:

12-14-135. Injunction - receiver. The district court in and for the city and county of Denver, upon application of the administrator, may issue

an injunction or other appropriate order restraining any person from ~~any~~ A violation of this article and may appoint a receiver or award other relief to effectuate the provisions of this article; ORDER RESTITUTION FOR CONSUMERS OR CREDITORS FOR VIOLATIONS OF THIS ARTICLE; IMPOSE CIVIL PENALTIES UP TO ONE THOUSAND FIVE HUNDRED DOLLARS PER VIOLATION OF THIS ARTICLE; AND AWARD REASONABLE COSTS AND ATTORNEY FEES TO THE ADMINISTRATOR IF THE ADMINISTRATOR PREVAILS IN AN ACTION BROUGHT UNDER THIS ARTICLE. This provision shall be in addition to any other remedy and shall not prohibit the enforcement of any other law. The administrator shall not be required to show irreparable injury or to post a bond.

SECTION 6. 12-14.5-110 (2), Colorado Revised Statutes, is amended to read:

12-14.5-110. Criminal penalties and injunctive relief. (2) The administrator of the uniform consumer credit code, designated pursuant to section 5-6-103, C.R.S., or the district attorney of any judicial district may maintain an action to enjoin violations of this part 1 AND FOR RESTITUTION AND PENALTIES IN AN AMOUNT NOT TO EXCEED ONE THOUSAND FIVE HUNDRED DOLLARS PER VIOLATION. THE STATE TREASURER SHALL TRANSFER THE PENALTIES COLLECTED PURSUANT TO THIS SUBSECTION (2) TO THE GENERAL FUND.

SECTION 7. Effective date. This act shall take effect July 1, 2011.

SECTION 8. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED 2:26 PM 4/20/11

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO