

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 33

Short Title: Credit Repair Act.

(Public)

Sponsors: Representatives Lineberry, Easterling, Hasty, Ligon, Privette, Woodard; Mercer and Warner.

Referred to: Rules.

February 7, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE THE BUSINESS OF PROVIDING CREDIT REPAIR
3 SERVICES.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 66 of the General Statutes is amended by adding a new
6 Article to read:

7 **"ARTICLE 30.**
8 **"CREDIT REPAIR SERVICES ACT.**

9 **"§ 66-220. Short title and purpose.**

10 (a) This act shall be known and may be cited as the Credit Repair Services Act.

11 (b) The General Assembly recognizes that many of its citizens rely heavily on
12 favorable credit ratings in order to obtain goods and services, and that some of these
13 citizens are unable to secure credit because of unfavorable credit histories. The General
14 Assembly further recognizes that consumers sometimes need assistance in obtaining
15 credit or in correcting erroneous credit histories, and that this need has given rise to the
16 establishment of businesses organized for the purpose of providing credit repair
17 services. The purpose of this act is to ensure that businesses offering credit repair
18 services are providing these services in a manner that is fair and reasonable to the
19 consuming public.

20 **"§ 66-221. Definitions.**

21 As used in this Article, unless the context requires otherwise:

22 (1) 'Credit repair business' means any person who, with respect to the
23 extension of credit by others, sells, provides, or performs, or represents

1 that such person can or will sell, provide, or perform any of the
2 following services in return for the payment of money or other
3 valuable consideration:

- 4 a. Improving, repairing, or correcting a consumer's credit record,
5 history, or rating;
6 b. Obtaining revolving charge card credit or retail installment
7 credit;
8 c. Providing advice or assistance to a consumer with regard to
9 either sub-subdivision a. or b. above.

10 (2) 'Credit repair business' does not include:

- 11 a. Any bank, credit union, or savings institution organized and
12 chartered under the laws of this State or the United States;
13 b. Any nonprofit organization exempt from taxation under section
14 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3));
15 c. Any person licensed as a real estate broker by this State where
16 the person is acting within the course and scope of the license;
17 d. Any person licensed to practice law in this State where the
18 person renders services within the course and scope of that
19 person's practice as a lawyer;
20 e. Any broker-dealer registered with the Securities and Exchange
21 Commission or the Commodities Future Trading Commission
22 where the broker-dealer is acting within the course and scope of
23 that regulation; or
24 f. Any consumer reporting agency as defined in the Federal Fair
25 Credit Reporting Act.

26 (3) 'Consumer' means any individual who is solicited to purchase or who
27 purchases the services of a credit repair business.

28 **"§ 66-222. Prohibited acts.**

29 A credit repair business and its salespersons, agents, and representatives, and
30 independent contractors who sell or attempt to sell the services of a credit repair
31 business, shall not do any of the following:

- 32 (1) Charge or receive any money or other valuable consideration prior to
33 full and complete performance of the services that the credit repair
34 business has agreed to perform for or on behalf of the consumer;
35 (2) Charge or receive any money or other valuable consideration solely for
36 referral of the consumer to a retail seller or to any other credit grantor
37 who will or may extend credit to the consumer, if the credit that is or
38 will be extended to the consumer is upon substantially the same terms
39 as those available to the general public;
40 (3) Represent that it can directly or indirectly arrange for the removal of
41 derogatory credit information from the consumer's credit report or
42 otherwise improve the consumer's credit report or credit standing
43 unless the credit services business is informed that the consumer's

1 credit report is inaccurate, contains outdated information, or is
2 disputed in good faith by the consumer;

3 (4) Make, or counsel or advise any consumer to make, any statement that
4 is untrue or misleading and which is known or which by the exercise
5 of reasonable care should be known, to be untrue or misleading, to a
6 consumer reporting agency or to any person who has extended credit
7 to a consumer or to whom a consumer is applying for an extension of
8 credit, with respect to a consumer's creditworthiness, credit standing,
9 or credit capacity; or

10 (5) Make or use any untrue or misleading representations in the offer or
11 sale of the services of a credit repair business or engage, directly or
12 indirectly, in any act, practice, or course of business which operates or
13 would operate as a fraud or deception upon any person in connection
14 with the offer or sale of the services of a credit repair business.

15 **"§ 66-223. Contractual requirements.**

16 (a) Effective October 1, 1991, every contract between a consumer and a credit
17 repair business for the purchase of the services of the credit repair business shall be in
18 writing, dated, signed by the consumer, and shall include the following:

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

22 'YOU, THE BUYER, MAY CANCEL THIS CONTRACT AT ANY
23 TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY
24 AFTER THE DATE OF THE TRANSACTION. SEE THE
25 ATTACHED NOTICE OF CANCELLATION FORM FOR AN
26 EXPLANATION OF THIS RIGHT.'

27 (2) The terms and conditions of payment, including the total of all
28 payments to be made by the consumer, whether to the credit repair
29 business or to some other person;

30 (3) A complete and detailed description of the services to be performed
31 and the results to be achieved by the credit repair business for or on
32 behalf of the consumer, including all guarantees and all promises of
33 full or partial refunds and a list of the adverse information appearing
34 on the consumer's credit report that the credit repair business expects
35 to have modified; and

36 (4) The principal business address of the credit repair business and the
37 name and address of its agent in this State authorized to receive service
38 of process.

39 (b) The contract shall be accompanied by a completed form in duplicate,
40 captioned 'NOTICE OF CANCELLATION', which shall be attached to the contract and
41 easily detachable, and which shall contain in an least 10 point boldface type the
42 following statement:

43 **'NOTICE OF CANCELLATION**

1 **"§ 66-225. Scope.**

2 The provisions of this Article shall apply in all circumstances in which any party to
3 the contract conducted any contractual activity, including but not limited to solicitation,
4 discussion, negotiation, offer, acceptance, signing, or performance in this State."

5 Sec. 2. This act is effective upon ratification.