

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

HOUSE BILL 1958

By: Representative M. Gray
By: Senator Hester

For An Act To Be Entitled

AN ACT CONCERNING THE CREDIT SERVICES ORGANIZATIONS
ACT OF 1987; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING THE CREDIT SERVICES
ORGANIZATIONS ACT OF 1987.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 4-91-102, concerning the definitions under the Credit Services Organizations Act of 1987, is amended to add an additional subdivision to read as follows:

(4)(A) "Guaranty" means a contractual arrangement between a credit services organization and a buyer in which, in return for the payment of a fee from the buyer, the credit services organization assists the buyer in obtaining from a third-party lender an extension of credit and:

(i) Guarantees in full the buyer's repayment of the extension of credit; or

(ii) Procures from another party a guaranty that guarantees in full the buyer's repayment of the extension of credit.

(B) For purposes of this chapter, a guaranty shall be provided at the request of the buyer and upon payment by the buyer and for the benefit of the buyer to assist the buyer in qualifying for an extension of credit.

SECTION 2. Arkansas Code § 4-91-107 is amended to read as follows:



4-91-107. Information statement – Requirements – Registration.

(a) Before the execution of a contract or agreement between the buyer and a credit services organization or before the receipt by the credit services organization of any money or other valuable consideration, whichever occurs first, the credit services organization shall provide the buyer with a statement in writing containing all the information required by § 4-91-108.

(b) The credit services organization shall maintain on file for a period of two (2) years an exact copy of the statement, personally signed by the buyer, acknowledging receipt of a copy of the statement.

(c)(1) A credit services organization that contracts to provide or procure a guaranty in addition to other services shall file a registration statement with the Secretary of State before conducting business in this state.

(2) The registration statement shall contain:

(A) The name and main address of the credit services organization; and

(B) The name and address of any person who owns or controls ten percent (10%) or more of the credit services organization.

(d) The credit services organization shall update the registration statement no later than the ninetieth day after the date that a change occurs in the information required in the statement.

(e) Each credit services organization registering under this chapter shall maintain a copy of the registration statement in the main office of the credit services organization.

(f) A credit services organization is not required to provide information other than that provided in the registration statement as part of the registration process.

SECTION 3. Arkansas Code Title 4, Chapter 91, Subchapter 1, is amended to add additional sections to read as follows:

4-91-110. Payments.

(a) A credit services organization shall not:

(1) Make or transfer, in full or in part, payments for credit services received by a buyer to a third party lender that extends credit to the buyer;

(2) Disburse any part of the payments received for credit

services to the third party lender as compensation or to cover the overhead expenses of the third party lender; or

(3) Fund a loan that the credit services organization provides or procures as a guaranty.

(b) This section does not prevent a guarantor from honoring a guaranty and making payment to the third party lender at the time that the payment is contractually required under the guaranty.

4-91-111. Consumer protections.

(a) A credit services organization shall not advertise or cause to be advertised the services of a credit services organization, including without limitation providing or procuring a guaranty without filing a registration statement under this chapter.

(b) A credit services organization shall not provide or procure a guaranty for a buyer that guarantees less than the total amount due from the buyer to the third party lender on the extension of credit that the buyer obtained with the assistance of the credit services organization.