

STATE OF COLORADO

Department of Law

COLLECTION AGENCY BOARD

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Laura E. Udis
Executive Director
Jack L. Kinkel
Deputy Administrator

December 19, 1990

RE: Governmental Agency's Use of a Third-Party Name to Collect its Debts; Weld County Central Collections Agency

Dear

Laura Udis referred to me your November 26, 1990 letter inquiring whether the Colorado Fair Debt Collection Practices Act ("Colorado Act") prohibits a governmental body from using a third-party name to collect its debts. You attached a collection letter from Weld County Central Collections Agency; the letter was an attempt to collect a debt owed to Weld County Ambulance Service.

I was informed by the Weld County Attorney's Office that Weld County Central Collections Agency is a division of the Weld County Department of Finance. The agency has apparently been in existence for several years. Consequently, it is exempt from the Colorado Act pursuant to section 12-14-103(2)(b)(II) & -103(11), C.R.S. (1985) (officers and employees of a state and its political subdivisions are exempt from the definition of a "collection agency" to the extent that they collect or attempt to collect a debt(s) while performing official duties).

In response to your more general concerns, you are probably aware that section 12-14-103(2)(c), C.R.S. (1985) includes within the definition of a collection agency a creditor who uses a name other than its own to collect its own debts. Pursuant to this provision, a creditor becomes subject to the Colorado Act if one of its collection divisions uses a third-party name to collect debts on behalf of the creditor. However, the term "creditor" is defined in section 12-14-103(5), C.R.S. (1985), to mean "any person, firm, corporation, or partnership. . . ." As such, section 12-14-103(2)(c) has no application to the state or its political subdivisions.

Section 12-14-107(1)(o), C.R.S. (1985), prohibits a collection agency from using any business, company or organization name other than its true name. This section applies only to

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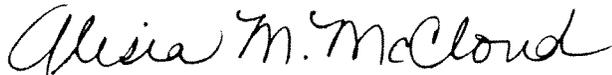
collection agencies as defined under the Colorado Act. As mentioned previously, governmental bodies are exempt from the Colorado Act pursuant to section 12-14-103(2)(b)(III) and -103(11).

The only other provision of the Colorado Act which might be applicable to the issue you have presented is section 12-14-112, C.R.S. (1985 & 1990 Supp.). It prohibits any "person, firm, corporation, or partnership" from designing, compiling and furnishing a form which creates a false belief that a person other than the creditor is participating in the collection of the debt. Again, a governmental body is not a person, firm, corporation or partnership. Consequently, section 12-14-112 is not applicable to governmental bodies.

I conclude that the Colorado Act does not explicitly prohibit a governmental body from using a third-party name to collect its debts. If you have any additional questions, please feel free to contact me at your convenience.

This letter does not constitute an advisory opinion of the Colorado Collection Agency Board. See Section 12-14-113(5), C.R.S. (1985).

Sincerely,



Alesia M. McCloud
Assistant Attorney General
Consumer Credit Unit
Enforcement Section

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