

**STATE and LOCAL  
FISCAL IMPACT**

**Drafting Number:** LLS 14-0182  
**Prime Sponsor(s):** Rep. Ginal

**Date:** February 4, 2014  
**Bill Status:** House Business, Labor, Economic,  
and Workforce Development  
**Fiscal Analyst:** Alex Schatz (303-866-4375)

**SHORT TITLE:** LIMIT ON CONSUMER LIABILITY FOR UNSOLICITED CHECKS

<b>Fiscal Impact Summary*</b>	<b>FY 2014-2015</b>	<b>FY 2015-2016</b>
<b>State Revenue</b> Cash Funds	<b><u>Minimal increase in court filing fees.</u></b> See State Revenue section.	
<b>State Expenditures</b>	<b><u>Minimal workload increase.</u></b> See State Expenditures section.	
<b>FTE Position Change</b>		
<b>Appropriation Required:</b> None.		

\* This summary shows changes from current law under the bill for each fiscal year.

**Summary of Legislation**

The bill amends the Colorado Uniform Consumer Credit Code (UCCC) to:

- limit the liability of consumers who receive unsolicited checks, such that a consumer who does not accept an unsolicited check by using it is not liable for any debt related to the check;
- require that credit card issuers that produce unsolicited checks disclose specific financial consequences of using such a check;
- require that credit card issuers that produce unsolicited checks distribute these checks in an envelope that does not indicate the contents are an unsolicited check; and
- void any check or other consumer agreement that interferes with a consumer's rights under the bill.

The bill also amends the Colorado Consumer Protection Act (CCPA) to include within the definition of deceptive trade practices violations of the UCCC under the bill.

**Background**

Under the UCCC, the Attorney General (AG) oversees credit card-related activities of state-chartered financial institutions. However, for legal purposes, most credit card issuers reside outside the state of Colorado, in which case the AG does not directly enforce credit card-related UCCC provisions.

The AG also enforces the CCPA, including enforcement activities against both resident and nonresident violators of the CCPA. Certain district attorney (DA) offices in the state also exercise statutory powers under the CCPA, and consumers may also file civil claims if they are injured by deceptive trade practices.

### **State Revenue**

The bill results in a minimal increase in state cash fund revenue from court filing fees in the Judicial Department. These filing fees are credited to the Judicial Stabilization Cash Fund.

To the extent that private parties initiate claims against credit card issuers under the CCPA, each new trial court case results in fees of least \$31 to file the complaint under small claims rules, or higher fees to file under the jurisdiction of county (\$97) or district court (\$224). Based on the costs of pursuing such litigation relative to the typical value of unsolicited checks, the number of new cases under the bill is expected to be minimal.

### **State Expenditures**

The bill results in a minimal workload increase for both the Judicial Department and the Department of Law. No new appropriations are required to implement the bill.

**Judicial Department.** A significant number of civil cases in Colorado include a claim under the CCPA. By adding an additional deceptive trade practice to current law, the bill adds to this existing caseload. However, credit card issuers are assumed to generally comply with the bill, and the number of other potential defendants who engage in the deceptive trade practice defined by the bill is very limited. For these reasons, the resulting workload increase in civil cases is minimal.

**Department of Law.** The bill creates a minimal amount of additional workload for the AG's office. The AG may monitor or investigate compliance with the bill by Colorado-based credit card issuers as part of its UCCC program. Based on the relatively small number of affected credit card issuers, as well as the overall scope of the UCCC program, existing resources are adequate for the AG's limited duties under the UCCC.

The AG will initiate CCPA investigations and enforcement activities only if the AG's office receives valid complaints from Colorado consumers. Due to the level of anticipated compliance with the bill, it is unlikely a significant number of complaints will be received. Any AG activity that requires additional resources to act against deceptive trade practices under the bill will be addressed in the annual budget process.

### **Local Government Impact**

The bill results in a conditional, minimal workload increase for DA offices that investigate or take enforcement action related to violations of the CCPA. Any workload increase under the bill is subject to the discretion of the DA to pursue a CCPA case or not. For this reason, the local government impact of this bill is conditional and assumed to occur within the existing resources of affected DA offices.

**Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

**State and Local Government Contacts**

Judicial Department  
District Attorneys

Law

Regulatory Agencies