

## OFFICE OF CHARITABLE AND REGULATORY PROGRAMS

### Credit Services Businesses – Frequently Asked Questions

#### Registration Requirements

Credit Services Businesses in Virginia are required to register with the Office of Charitable and Regulatory Programs (OCRP) and comply with the provisions of the Virginia Credit Services Businesses Act (Act).

#### What is a "Credit Services Business?"

The Act defines a **credit services business** as "any person who, with respect to the extension of credit by others, sells, provides, performs, or represents that such person can or will sell, provide, or perform, any of the following services in return for the payment of money or other valuable consideration:

1. Improving a consumer's credit record, history or rating;
2. Obtaining an extension of credit for a consumer, or;
3. Providing advice or assistance to a consumer with regard to either subdivision 1 or 2 herein.

Within the context of the Act, "credit services business" **does not** include:

1. The making, arranging, or negotiating for a loan or extension of credit under the laws of this Commonwealth or the United States;
2. Any bank, trust company, savings bank, or savings institution whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or other federal insurance agency, or any credit union organized and chartered under the laws of this Commonwealth or the United States;
3. Any nonprofit organization exempt from taxation under §501(c)(3) of the Internal Revenue Code (26 U.S.C. §501(c)(3));
4. Any person licensed as a real estate broker by this Commonwealth where the person is acting within the course and scope of that license.
5. Any person licensed to practice law in this Commonwealth where the person renders services within the course and scope of that person's practice as a lawyer;
6. Any broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission where the broker-dealer is acting within the course and scope of that registration.

7. Any consumer reporting agency as defined in the Federal Fair Credit Reporting Act (15 U.S.C. §§1681-1681v); or
8. Any person selling personal, family, or household goods to a consumer who, in connection with the seller's sale of its goods to the consumer, assists the consumer in obtaining a loan or extension of credit or extends credit to the consumer.

### **Important Definitions:**

**"Person"** includes an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, and any other legal or commercial entity.

**"Consumer reporting agency"** means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of commerce for the purpose of preparing or furnishing consumer reports. "Consumer reporting agency" does not include a private detective or investigator licensed under the provisions of Article 4 (§9.1-138 et seq.) of Chapter 1 of Title 9.1.

### **Prohibited practices:**

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

1. Charge or receive any money or other valuable consideration prior to full and complete performance of the services that the credit services business has agreed to perform for or on behalf of the consumer, unless the consumer has agreed to pay for such services during the term of a written subscription agreement that provides for the consumer to make periodic payments during the agreement's term in consideration for the credit services business's ongoing performance of services for or on behalf of the consumer, provided that such subscription agreement may be cancelled at any time by the consumer;
2. Charge or receive any money or other valuable consideration solely for referral of the consumer to a retail seller or to any other credit grantor who will or may extend to the consumer, if the credit that is or will be extended to the consumer is upon substantially the same terms as those available to the general public;
3. Make, or counsel or advise any consumer to make, any statement that is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, to a consumer reporting agency or to any person who has extended credit to a consumer or to whom a consumer is applying for an extension of credit, with respect to a consumer's creditworthiness, credit standing, or credit capacity; or
4. Make or use any untrue or misleading representations in the offer or sale of the services of a credit services business or engage, directly or indirectly, in any act, practice, or course of

business which operates or would operate as a fraud or deception upon any person in connection with the offer or sale of the services of a credit services business.

**Information statement required:**

Before (i) the execution of a contract or agreement between a consumer and a credit services business or (ii) the receipt by the credit services business of any money or other valuable consideration, whichever occurs first, the credit services business shall provide the consumer with an information statement in writing containing all of the information required under §59.1-335.7. The credit services business shall maintain on file for a period of two years from the date of the consumer's acknowledgement an exact copy of the information statement personally signed by the consumer acknowledging receipt of a copy of the information statement.

**Contents of information statement:**

Pursuant to Section 59.1-335.6 of the CSBA, the credit services business must provide the consumer with an information statement in writing, separate from the contract, containing all of the following information required under Section 59.1-335.7 (to include the code section references):

1. A complete and accurate statement of the consumer's right to review any file on the consumer maintained by any consumer reporting agency, and the right of the consumer to receive a copy of a consumer report containing all information in that file as provided under the Federal Fair Credit Reporting Act (15 USC Section 1681g).
2. A complete and accurate statement of the consumer's right to receive a free copy of the consumer's credit report every 12 months from each of the three nationwide consumer reporting agencies, including identification of the website and toll-free telephone number through which the free report may be obtained, as provided under the Federal Fair Credit Reporting Act (15 USC Section 1681j).
3. A complete and accurate statement that a copy of the consumer report containing all information in the consumer's file will be furnished free of charge by the consumer reporting agency if requested by the consumer within 60 days of receiving a notice of a denial of credit as provided under the Federal Fair Credit Reporting Act (15 USC Section 1681j).
4. A complete and accurate statement that a nominal charge may be imposed on the consumer by the consumer reporting agency for a copy of the consumer report containing all information in the consumer's file, if the consumer has already obtained the free credit report to which the consumer is entitled on an annual basis and the consumer has not been denied credit within 60 days from receipt of the consumer's request.
5. A complete and accurate statement of the consumer's right to dispute the completeness or accuracy of any item contained in any file on the consumer that is maintained by any consumer reporting agency, as provided under the Federal Fair Credit Reporting Act (15 USC Section 1681i).

6. A complete and detailed description of the services to be performed by the credit services business for or on behalf of the consumer, and the total amount the consumer will have to pay, or become obligated to pay, for the services. Such statement shall include the following, in at least 10-point bolded type: **IMPORTANT NOTICE: YOU HAVE NO OBLIGATION TO PAY ANY FEES OR CHARGES UNTIL ALL SERVICES HAVE BEEN PERFORMED COMPLETELY FOR YOU, UNLESS YOU ENTER INTO A SUBSCRIPTION AGREEMENT REQUIRING PERIODIC PAYMENTS IN CONSIDERATION FOR ONGOING SERVICES.**
7. The notice prescribed by item 6 shall also be posted by means of a conspicuous sign so as to be readily noticeable and readable at the location within the premises of the credit services business where consumers are interviewed by personnel of the business.

### **Contents of contracts**

A. Every contract between a consumer and a credit services business for the purchase of the services of the credit services business shall be in writing, dated, signed by the consumer, and shall include all of the following:

1. A conspicuous statement in at least, 10-point, bold type, in immediate proximity to the space reserved for the signature of the consumer as follows:

**“You, the buyer, may cancel this contract at any time prior to midnight of the third business day after the date of the transaction. See the attached notice of cancellation form for an explanation of this right.”**

2. The terms and conditions of payment, including the total of all payments to be made by the consumer, whether to the credit services business or to some other person.
3. A complete and detailed description of the services to be performed and the results to be achieved by the credit services business for or on behalf of the consumer, including all guarantees and all promises of full or partial refunds and a list of the adverse information appearing on the consumer’s credit report that the credit services business expects to have modified.
4. The principal business address of the credit services business and the name and address of its agent in this Commonwealth authorized to receive service of process.
5. A statement asserting the buyer’s right to proceed against the bond or letter of credit required under §59.1-335.4.
6. The name and address of the surety company which issued the bond, or the name and address of the bank which issued the letter of credit.

- B. 1. The contract shall be accompanied by a completed form in duplicate, captioned **“NOTICE OF CANCELLATION,”** which shall be attached to the contract and easily detachable, and which shall contain in at least 10-point bold type the following statement:

**“NOTICE OF CANCELLATION: You may cancel this contract, without any penalty or obligation, at any time prior to midnight of the third business day after the date the contract is signed.**

**If you cancel, any payment made by you under this contract will be returned within ten days following receipt by the seller of your cancellation notice.**

**To cancel this contract, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, to**

\_\_\_\_\_

**(Name of Seller)**

At \_\_\_\_\_

**(Address of Seller)**

\_\_\_\_\_

**(Place of Business)**

Not later than midnight \_\_\_\_\_

**(Date)**

**I HEREBY CANCEL THIS TRANSACTION.**

\_\_\_\_\_

**(Date)**

\_\_\_\_\_

**(Buyer's Signature)”**

2. A copy of the fully completed contract and all other documents the credit services business requires the consumer to sign shall be given by the credit services business to the consumer at the time they are signed.