



# CONSUMER NEWS

## SAN DIEGO CITY ATTORNEY'S OFFICE

### Credit Service Organizations & Proraters

February 2012

Information on a credit report is very important. Nearly all lenders depend on your credit score to determine whether or not to extend credit. Landlords may also access credit histories to determine eligibility of applicants.

However, in these trying economic conditions, many consumers are having a difficult time maintaining good credit. Consumers who are having difficulty paying bills may be solicited by credit service organizations or proraters offering credit repair, credit counseling, or debt consolidation.

This newsletter will outline the laws meant to protect consumers who are using credit service organizations or proraters. It will also give tips on how to spot scams.

#### *CREDIT SERVICES ORGANIZATIONS:*

California state law defines a "Credit Services Organization" as a business which does or offers to do any of the following services for a fee:

- Improve a buyer's credit record, history, or rating;
- Obtain a loan or some other extension of credit on behalf of the buyer; or
- Provide advice or assistance in improving a buyer's credit or obtaining a loan or credit.

Several businesses are exempt from this definition, including, among others, a person licensed to make loans, banks, and nonprofit organizations.

Credit services organizations are not allowed to do any of the following:

- Remove, assist, or advise the buyer to remove adverse information from the buyer's credit record when the information is accurate and not obsolete;
- Create, assist, or advise the buyer to create a new credit record by using a different name, address, or Social Security number;
- Submit a buyer's credit history dispute to a credit reporting agency without the buyer's knowledge;
- Refer the buyer to a credit grantor that is related to the credit services organization by common ownership or management;
- Directly or indirectly extend credit to a buyer; or

- Provide a creditor with assurance that credit to a buyer will be repaid.

By law, a credit services organization in California must provide a statement in writing describing:

1. The services to be performed in detail,
2. The amount the buyer will be obligated to pay,
3. The name and address of the surety company which issued this company a bond, and
4. A complete and accurate statement of the availability of nonprofit credit counseling services prior to the execution of a contract with the buyer.

In addition, credit services organizations must perform the agreed services within 6 months of the date the buyer signs the contract and they cannot charge or receive any payment prior to completing the agreed services.

*TIPS:*

If you have a bad credit history, it will take time, effort, and diligent repayment to improve your credit score. Usually, there are no quick fixes.

If you are considering signing up for a credit repair service, here are some warning signs of a scam:

- *The person suggests you stop paying your bills to force your creditors to renegotiate with you.*

This can lead to bigger debts and legal actions.

- *The person suggests you not speak to your creditors.* Your creditors may want to work with you.
- *The person requires payment for services up front.* By law, credit services organizations cannot collect a fee until they complete performing the services promised.
- *The person promises that he/she can get rid of all your negative credit information.* It is illegal to remove negative information that is both accurate and timely.

*WHAT YOU CAN DO YOURSELF:*

If you find any inaccurate negative credit information on your credit report, you can contact the credit reporting service. The credit reporting service must verify the debt with the person or business that provided the information. The person who provided the information has a limited time to produce documentation establishing the debt is yours and it is past due. If that information is not provided, the credit reporting agency must remove the negative information. Contact the credit reporting agency in writing.

For more detailed instructions about this process see:

<http://ftc.gov/bcp/edu/pubs/cons/umer/credit/cre21.pdf>

*PRORATING SERVICES:*

Have you ever come across advertisements offering services for debt consolidation, liquidation, or management? These businesses offer a service in which a delinquent debtor only pays one low monthly payment to a credit counseling provider who renegotiates payment amounts with creditors and applies the monthly payment to all the bills. While this service is referred to by many names, it is called “prorating” by the California Financial Code.

In California, credit counseling organizations who charge a fee to pay debts on another’s behalf must be licensed as proraters. Licenses are issued by the Department of Corporations. Prior to obtaining a license individuals must file an application and surety bond, as well as submit to a background check.

Licensed proraters cannot charge more than the law allows. A prorater who charges excessive fees risks cancellation of his/her service contracts, and forfeiture of all charges received from the debtors.

Every service agreement between a prorator and a debtor must include the following terms:

1. A list of all the debts to be prorated;
2. A disclosure of the rate and amount of the prorater’s charge; and
3. A disclosure of the approximate number

and amount of payments required to pay debts off in full.

A debtor must be given a signed copy of the agreement. In addition, the prorate must provide to debtor an itemized accounting of amounts paid, fees charged, etc. at least once every six months.

To check if an organization is a licensed prorate call the California Department of Corporations at 1(800)ASK-CORP.

*TIPS:*

Before using a prorating service:

- Beware of advertisements. Some advertisements pitching relief from high bills and offering a low monthly fee are trying to sell bankruptcy services.
- Check if the organization is licensed or is an exempt nonprofit organization.
- Make sure you understand all the fees associated with the services. Pay particular attention to how much in charges are deducted from payments each month.

*ENFORCEMENT:*

Complaints against proraters can be reported to the Department of Corporations by

calling 1-866-ASK-CORP or by visiting:

<http://www.corp.ca.gov/Forms/Complaint.asp>

Complaints about other consumer credit services operating in the City of San Diego can be filed with the San Diego City Attorney's Consumer and Environmental Protection Unit.

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**San Diego  
City Attorney's Office  
Consumer and Environmental  
Protection Unit  
(619) 533-5600**

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This newsletter was written by City Attorney Intern Stacey Kim.

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Sources: California Civil Code 1789.12 et. seq.; California Financial Code 12002.1 and 12314 et. seq.

The information provided in this newsletter is intended to convey general information and is not intended to be relied upon as legal advice.

To report violations of consumer protection laws, call the City Attorney's Hotline at **(619) 533-5600**.