

ASSEMBLY, No. 1098

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen CORODEMUS and T. SMITH

1 AN ACT concerning consumer reporting agencies and supplementing
2 P.L.1960, c.39 (C.56:8-1 et seq.).

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. This act shall be known and may be cited as the "Fair Consumer
8 Reporting Act."

9
10 2. As used in this act:

11 "Consumer" means a natural person.

12 "Consumer report" means any written, or other communication
13 of any information by a consumer reporting agency bearing on a
14 consumer's credit worthiness, credit standing or credit capacity which
15 is used or expected to be used or collected in whole or in part for the
16 purpose of serving as a factor in establishing the consumer's eligibility
17 for: (1) credit or insurance to be used primarily for personal, family or
18 household purposes, or (2) employment purposes, or (3) other
19 purposes authorized under section 3 of this act. The term does not
20 include any report containing information solely as to transactions or
21 experiences between the consumer and the person making the report,
22 any authorization or approval of a specific extension of credit directly
23 or indirectly by the issuer of a credit card or similar device, or any
24 report in which a person who has been requested by a third party to
25 make specific extension of credit directly or indirectly to a consumer
26 conveys his decision with respect to such request, if the third party
27 advises the consumer of the name and address of the person to whom
28 the request was made and such person makes the disclosures to the
29 consumer required under section 17 of this act.

30 "Consumer reporting agency" or "agency" means any person
31 which, for monetary fees, dues or on a cooperative nonprofit basis,
32 regularly engages in whole or in part in the practice of assembling or
33 evaluating consumer credit information or other information on
34 consumers for the purpose of furnishing consumer reports to third
35 parties.

1 "Employment purposes" means, when used in connection with
2 a consumer report, a report used for the purpose of evaluating a
3 consumer for employment, promotion, reassignment or retention as an
4 employee.

5 "File" means, when used in connection with information on a
6 consumer, all of the information on that consumer recorded and
7 retained by a consumer reporting agency regardless of how the
8 information is stored.

9 "Firm offer of credit" means any offer of credit to a consumer
10 that will be honored if, based on information in a consumer report on
11 the consumer and other information relative to the creditworthiness of
12 the consumer, the consumer is determined to meet the criteria used to
13 select the consumer for the offer.

14 "Investigative consumer report" means a consumer report or
15 portion thereof in which information on a consumer's character,
16 general reputation, personal characteristics, or mode of living is
17 obtained through personal interviews with neighbors, friends or
18 associates of the consumer reported on or with others with whom he
19 is acquainted or who may have knowledge concerning any such items
20 of information. However, such information shall not include specific
21 factual information on a consumer's credit record obtained directly
22 from a creditor of the consumer or from a consumer reporting agency
23 when such information was obtained directly from a creditor of the
24 consumer or from the consumer.

25 "Medical information" means information or records obtained
26 after the consent of the individual to whom it relates, from physicians
27 or other health care practitioners, hospitals, clinics, or other medical
28 or medically related facilities.

29 "Prescreening" means a process whereby a consumer reporting
30 agency compiles or edits for a client a list of consumers who meet
31 specific criteria and provides such list to the client or third party on
32 behalf of the client for the purpose of making a firm offer of credit.

33 "User" means any person seeking or obtaining a consumer
34 report for purposes authorized in section 3 of this act.

35
36 3. a. A consumer reporting agency may furnish a consumer report
37 under the following circumstances and no other:

38 (1) in response to the order of a court of competent jurisdiction;

39 (2) in accordance with the written instructions of the consumer to
40 whom it relates; or

41 (3) to a person which it reasonably believes:

42 (a) intends to use the information in connection with a credit
43 transaction involving the consumer on whom the information is to be
44 furnished and involving the extension of credit to, or review or
45 collection of an account of, the consumer; or

46 (b) intends to use the information for employment purposes or

1

2 (c) intends to use the information in connection with the
3 underwriting of insurance involving the consumer; or

4 (d) intends to use the information in connection with a
5 determination of the consumer's eligibility, or continuing eligibility, for
6 a license or other benefit granted by a governmental instrumentality
7 required by law to consider an applicant's financial responsibility or
8 status; or

9 (e) intends to use the information in connection with a transaction
10 either entered into or being negotiated with a consumer, if by the
11 terms of the transaction either party transfers an interest in real or
12 personal property, pays money or renders services, or becomes
13 obligated to transfer property, pay money or render services; provided,
14 however, that the consumer who is the subject of the report, except in
15 the case of the rental or lease of residential property, has provided
16 permission in writing or in the same manner in which the transaction
17 was negotiated or entered into, that a consumer report may be
18 requested in connection with the transaction; or

19 (f) intends to use the information for investigating child support
20 cases pursuant to Title IV-D of the Social Security Act, 42 U.S.C. §
21 651 et seq., and P.L.1981, c.417 (C.2A:17-56.7 et seq.); or

22 b. A consumer reporting agency may furnish information for the
23 purposes of a credit transaction under subparagraph (a) of paragraph
24 (3) of this subsection when the credit transaction is not initiated by the
25 consumer, only if:

26 (1) the consumer authorizes the consumer reporting agency to
27 furnish the consumer credit report to the person; or

28 (2) the proposed transaction involves a firm offer of credit to the
29 consumer, the consumer reporting agency has complied with the
30 provisions of section 4 of this act, and the consumer has not elected
31 to have his name excluded from any list of names provided by the
32 consumer reporting agency for purposes of reporting in connection
33 with the potential issuance of firm offers of credit and the agency only
34 provides the name and address of the consumer and information
35 pertaining to a consumer which is not identified or identifiable with
36 particular accounts or transactions of the consumer.

37

38 4. a. A consumer may elect to have his name and address excluded
39 from any list provided by a consumer reporting agency pursuant to
40 paragraph (2) of subsection b. of section 3 of this act by notifying the
41 consumer reporting agency, by telephone or in writing, through the
42 notification system maintained by the consumer reporting agency
43 pursuant to subsection c. of this section, that the consumer does not
44 consent to any use of consumer reports relating to the consumer in
45 connection with any transaction that is not initiated by the consumer.

46 b. An election by a consumer under this section shall be effective

1 with respect to a consumer reporting agency, and any affiliate of the
2 consumer reporting agency, on the date on which the consumer
3 notifies the consumer reporting agency.

4 c. Each consumer reporting agency that provides prescreening lists
5 under paragraph (2) of subsection b. of section 3 of this act in
6 connection with a credit transaction not initiated by the consumer shall
7 establish and maintain a notification system, including a toll-free
8 telephone number, which permits any consumer, with appropriate
9 identification and for whom the consumer reporting agency has a file,
10 to notify the consumer reporting agency of the consumer's election to
11 have the consumer's name removed from any list of names and
12 addresses provided by the consumer reporting agency. Each consumer
13 reporting agency which compiles and maintains files on consumers on
14 a nationwide basis shall establish and maintain a notification system
15 jointly with its affiliated consumer reporting agencies.

16 d. Any person who uses a consumer report in connection with any
17 credit transaction not initiated by the consumer and which consists of
18 a firm offer of credit shall provide with any solicitation made to the
19 consumer a clear and conspicuous statement that the consumer has a
20 right to prohibit the use of information contained in the consumer's file
21 with any consumer reporting agency in connection with any credit
22 transaction that is not initiated by the consumer. The statement shall
23 inform the consumer that he may exercise this right by notifying the
24 consumer reporting agency by employing the notification system or
25 joint notification system established under subsection c. of this section.
26 A consumer may cancel or review his decision to have his name
27 removed from prescreening lists provided under paragraph (2) of
28 subsection b. of section 3 of this act by notifying the consumer
29 reporting agency through the notification system established under
30 subsection c. of this section. Nothing in this subsection shall preclude
31 a person who uses a consumer report in connection with credit
32 transactions not initiated by the consumer from establishing a
33 notification system, pursuant to subsection c. of this section, and
34 providing such toll-free telephone number on any solicitation pursuant
35 to this subsection, which allows the person to notify each applicable
36 consumer reporting agency on the consumer's behalf after receiving
37 notice from the consumer of his election to have his name removed
38 from such prescreening list or of the consumer's decision to review or
39 cancel such a removal.

40

41 5. a. Except as authorized under subsection b. of this section, no
42 consumer reporting agency shall make any consumer report containing
43 any of the following items of information:

44 (1) Bankruptcies which, from date of adjudication of the most
45 recent bankruptcy, antedate the report by more than fourteen years.

46 (2) Suits and judgments which, from date of entry, antedate the

1 report by more than seven years or until the governing statute of
2 limitations has expired, whichever is the longer period.

3 (3) Paid tax liens which, from the date of payment, antedate the
4 report by more than seven years.

5 (4) Accounts placed for collection or charged to profit and loss
6 which antedate the report by more than seven years.

7 (5) Records of arrest, indictment, conviction of crime which, from
8 date of disposition, release or parole, antedate the report by more than
9 seven years.

10 (6) Any other adverse item of information which antedates the
11 report by more than seven years.

12 b. The provisions of subsection a. of this section are not applicable
13 in the case of any consumer credit report to be used in connection
14 with:

15 (1) a credit transaction involving, or which may reasonably be
16 expected to involve, a principal amount of \$50,000 or more;

17 (2) the underwriting of life insurance involving, or which may
18 reasonably be expected to involve, a face amount of \$50,000 or more;
19 or

20 (3) the employment of any individual at an annual salary which
21 equals or which may reasonably be expected to equal \$20,000 or
22 more.

23

24 6. a. A person may not procure or cause to be prepared an
25 investigative consumer report on any consumer unless:

26 (1) It is clearly and accurately disclosed in writing to the consumer,
27 prior to requesting the consumer reporting agency to prepare the
28 report, that an investigative consumer report commonly includes
29 information as to the consumer's character, general reputation,
30 personal characteristics, and mode of living, and the disclosure
31 includes the precise nature and scope of the investigation requested
32 and the right of the consumer to have a copy of the report upon
33 request; and

34 (2) the consumer provides the person requesting the report written
35 permission to obtain the investigative consumer report prior to the
36 person making the request to the consumer reporting agency.

37 b. The consumer reporting agency shall, upon the request of the
38 consumer, provide to the consumer a copy of such report upon its
39 completion.

40 c. No person may be held liable for any violation of any provision
41 of this section if he proves by a preponderance of the evidence that at
42 the time of the violation he maintained reasonable procedures to assure
43 compliance with the provisions of this section.

44

45 7. a. Every consumer reporting agency shall maintain reasonable
46 procedures designed to avoid violation of section 5 of this act and to

1 limit the furnishing of consumer reports to the purposes listed under
2 section 3 of this act. These procedures shall require that prospective
3 users of information identify themselves, certify the purposes for which
4 the information is sought, and certify that the information will be used
5 for no other purpose. Every consumer reporting agency shall make a
6 reasonable effort to verify the identity of a new prospective user and
7 the uses certified by such prospective user prior to furnishing such
8 user a consumer report. No consumer reporting agency may furnish
9 a consumer report to any person if it has reasonable grounds for
10 believing that the consumer report will not be used for a purpose listed
11 in section 3 of this act.

12 b. Whenever a consumer reporting agency prepares or disseminates
13 a consumer report it shall follow reasonable procedures to assure
14 maximum possible accuracy and completeness of the information
15 concerning the consumer about whom the report relates.

16

17 8. a. Every person who furnishes information to a consumer
18 reporting agency shall follow reasonable procedures to ensure that the
19 information reported to a consumer reporting agency is accurate and
20 complete. No person shall provide information to a consumer
21 reporting agency if such person knows or has reasonable cause to
22 believe such information is not accurate or complete.

23 b. A person who: (1) in the ordinary course of business regularly
24 and on a routine basis furnishes information to one or more consumer
25 reporting agencies about the person's own transactions or experiences
26 with one or more consumers, and (2) determines that information on
27 a specific transaction or experience so provided to a consumer
28 reporting agency is not complete or accurate, shall promptly notify the
29 consumer reporting agency of such determination and provide to the
30 consumer reporting agency any corrections to that information, or any
31 additional information, which is necessary to make the information
32 provided by the person to the consumer reporting agency complete
33 and accurate.

34 c. While the completeness or accuracy of any information on a
35 specific transaction or experience furnished by any person to a
36 consumer reporting agency is subject to a continuing bona fide dispute
37 between the affected consumer and that person, the person shall not
38 furnish the information to any consumer reporting agency without also
39 including a notice that the information is disputed by the consumer;
40 provided, further, that no person shall report to a consumer reporting
41 agency that a consumer's account is delinquent until the bona fide
42 dispute is resolved pursuant to the federal "Fair Credit Billing Act," 15
43 U.S.C. § 1666 et seq.

44 d. A person who regularly furnishes information to a consumer
45 reporting agency regarding a consumer who has an open-end credit
46 account with such person, and which account is closed by the

1 consumer, shall notify the consumer reporting agency of the closure
2 of the account by the consumer, in information regularly furnished for
3 the period in which the account is closed.

4 e. A person who places a delinquent account for collection,
5 internally or by referral to a third party, charges the delinquent account
6 to profit or loss, or takes similar action, and subsequently furnishes
7 information to a consumer reporting agency regarding such action,
8 shall include within the information furnished, the approximate
9 commencement date of the delinquency which gave rise to the action,
10 unless such date was previously reported to the consumer reporting
11 agency. Nothing contained in this section shall be deemed to require
12 that a delinquency must be reported to a consumer reporting agency.

13 f. Upon receiving notice of a dispute notice pursuant to subsection
14 a. of section 12 of this act with regard to the completeness or accuracy
15 of any information provided to a consumer reporting agency, the
16 person that provided the information shall: (1) complete an
17 investigation with respect to the disputed information and report to the
18 consumer reporting agency the results of that investigation within 30
19 business days of the date the consumer reporting agency receives the
20 notice of dispute from the consumer in accordance with subsection a.
21 of section 12 of this act, and (2) review relevant information submitted
22 to it.

23 g. A person who furnishes information to a consumer reporting
24 agency shall be liable for failure to comply with any provision of this
25 section, unless the person furnishing the information establishes by a
26 preponderance of the evidence that, at the time of the failure to
27 comply with any provision of this section, that person maintained
28 reasonable procedures to comply with such provisions.

29
30 9. Notwithstanding the provisions of section 3 of this act, a
31 consumer reporting agency may furnish identifying information
32 respecting any consumer, limited to his name, address, former
33 addresses, places of employment, or former places of employment, to
34 a government agency.

35
36 10. a. Every consumer reporting agency shall, upon request and
37 proper identification of any consumer, clearly and accurately disclose
38 to the consumer:

39 (1) the nature, contents and substance of all information, except
40 medical information, in its file on the consumer at the time of the
41 request, and which is obtainable based upon the identifying
42 information supplied by the consumer when making the request, and
43 if the consumer has made a written request, deliver a written copy or
44 photocopy of all such information except any code identifications
45 which are used solely for purposes of transferring such information to
46 and from consumer reporting agencies; provided, however, that the

1 names of the users corresponding to the code identifications shall be
2 disclosed to the consumer; provided, further, that the agency shall
3 provide a clear, simple and plain meaning explanation of the
4 information provided under this section and such explanation shall be
5 in a readable format and type, which shall in no case be smaller than
6 10 point type;

7 (2) the sources of all credit information obtained through routine
8 credit reporting or through any other credit reporting techniques in the
9 file at the time of the request, except that the sources of information
10 acquired solely for use in preparing an investigative consumer report
11 and actually used for no other purpose need not be disclosed;
12 provided, however, that in the event an action is brought, such sources
13 shall be available to the plaintiff under appropriate discovery
14 procedures in the court in which the action is brought; and

15 (3) the recipients of any consumer report on the consumer which
16 it has furnished for employment purposes within the two-year period
17 preceding the request, and for any other purpose within the six-month
18 period preceding the request.

19 b. Every consumer reporting agency, upon contact by a consumer
20 by phone, mail or in person regarding information which may be
21 contained in the agency files regarding that consumer, shall with each
22 written disclosure, or in response to a request by the consumer to be
23 advised as to his rights, promptly advise the consumer of the
24 consumer's rights under this section. The written notice shall be in a
25 clear and conspicuous format and be no smaller than 10 point type.
26 The notice shall inform the consumer of the consumer's rights under
27 this act, provided in a clear and conspicuous manner, in substantially
28 the following manner:

29 "You have a right to obtain a copy of your credit file from a
30 consumer credit reporting agency. You may be charged a reasonable
31 fee not exceeding \$8. There is no fee, however, if you have been
32 turned down for credit, employment, insurance or rental dwelling
33 because of information in your credit report within the preceding 60
34 days. The consumer credit reporting agency must provide someone to
35 help you interpret the information in your credit file. Each calendar
36 year you are entitled to receive, upon request, one free consumer
37 credit report.

38 You have a right to dispute inaccurate information by contacting
39 the consumer credit reporting agency directly. However, neither you
40 nor any credit repair company or credit service organization has the
41 right to have accurate, current and verifiable information removed
42 from your credit report. In most cases, under state and federal law,
43 the consumer credit reporting agency must remove accurate, negative
44 information from your report only if it is over seven years old, and
45 must remove bankruptcy information only if it is over 10 years old.

46 If you have notified a consumer credit reporting agency in writing

1 that you dispute the accuracy of information in your file, the consumer
2 reporting credit reporting agency must then, within 30 business days,
3 reinvestigate and modify or remove inaccurate information. The
4 consumer credit reporting agency may not charge a fee for this
5 service. Any pertinent information and copies of all documents you
6 have concerning a dispute should be given to the consumer credit
7 reporting agency.

8 If reinvestigation does not resolve the dispute to your satisfaction,
9 you may send a statement to the consumer credit reporting agency to
10 keep in your file, explaining why you think the record is inaccurate.
11 The consumer credit reporting agency must include your statement
12 about the disputed information in a report it issues about you.

13 You have a right to receive a record of all inquires relating to a
14 credit transaction initiated in the six months preceding your request,
15 or two years in the case of a credit report used for employment
16 purposes. This record shall include the recipients of any consumer
17 credit report.

18 You have the right to opt out of any prescreening lists compiled by
19 or with the assistance of a consumer credit reporting agency by calling
20 the agency's toll-free telephone number or contacting the agency in
21 writing. You may be entitled to collect compensation, in certain
22 circumstances, if you are damaged by a person's negligent or
23 intentional failure to comply with the provisions of the credit reporting
24 act."

25

26 11. a. A consumer reporting agency shall make the disclosures
27 required under section 10 of this act during normal business hours and
28 on reasonable notice.

29 b. The disclosures required under section 10 of this act shall be
30 made to the consumer:

31 (1) in person if he appears in person and furnishes proper
32 identification; or

33 (2) by telephone if he has made a written request, with proper
34 identification, for telephone disclosure and the toll charge, if any, for
35 the telephone call is prepaid by or charged directly to the consumer;
36 or

37 (3) by certified mail, if he has made a written request, return
38 receipt requested, delivered to addressee only.

39 c. Any consumer reporting agency shall provide a toll-free
40 telephone number and trained personnel to explain to the consumer
41 any information furnished to him pursuant to section 10 of this act.

42 d. The consumer shall be permitted to be accompanied by one
43 other person of his choosing, who shall furnish reasonable
44 identification. A consumer reporting agency may require the consumer
45 to furnish a written statement granting permission to the consumer
46 reporting agency to discuss the consumer's file in such person's

1 presence.

2 e. Except as provided in sections 18 and 19 of this act, no
3 consumer may bring any action or proceeding in the nature of
4 defamation, invasion of privacy, or negligence with respect to the
5 reporting of information against any consumer reporting agency, any
6 user of information, or any person who furnishes information to a
7 consumer reporting agency, base on information disclosed pursuant to
8 this section or section 10 or 17 of this act, except as to false
9 information furnished with malice or willful intent to injure such
10 consumer.

11 f. No person shall be held liable for any violation of subsection b.
12 of this section if such person proves by a preponderance of evidence
13 that at the time of the alleged violation such person maintained
14 reasonable procedures to assure compliance with that subsection b.
15

16 12. a. If the completeness or accuracy of any item of information
17 in his file is disputed by a consumer, and such dispute is directly
18 conveyed to the consumer reporting agency by the consumer, the
19 consumer reporting agency shall, within 30 business days of the date
20 the consumer reporting agency receives notice from the consumer,
21 reinvestigate and record the current status of such information unless
22 it has reasonable grounds to believe that the dispute is frivolous or
23 irrelevant; including by reason of a failure of the consumer to provide
24 sufficient information, as requested by the consumer reporting agency,
25 to resolve the dispute. Unless the consumer reporting agency
26 determines that the dispute is frivolous or irrelevant within five
27 business days of the date the consumer reporting agency receives
28 notice of the dispute under this section, the agency shall notify any
29 person who provided the information in dispute at the address
30 provided by the person. A consumer reporting agency may require
31 that disputes by consumers be in writing.

32 b. If the consumer reporting agency determines that the dispute is
33 frivolous or irrelevant, it shall notify the consumer by mail or, if
34 authorized by the consumer for that purpose, by any other means
35 available to the consumer reporting agency, within five business days
36 after the determination is made that it is terminating its reinvestigation
37 of the item of information. In this notification the consumer reporting
38 agency shall state the specific reasons why it has determined that the
39 consumer's dispute is frivolous or irrelevant. The presence of
40 contradictory information in the consumer's file shall not in and of
41 itself constitute grounds for believing the dispute to be frivolous or
42 irrelevant.

43 c. If after reinvestigation of the information, it is found to be
44 inaccurate or can no longer be verified, the consumer reporting agency
45 shall within three business days delete the information.

46 d. If the reinvestigation does not resolve the dispute, the consumer

- 1 may file a statement setting forth the nature of the dispute.
- 2 e. Within 10 business days after the completion of a
3 reinvestigation, the agency shall provide the consumer with written
4 information, free of charge, that includes:
- 5 (1) a statement that the reinvestigation is completed,
6 (2) a consumer report that is based on the consumer's file as that
7 file is revised as a result of the reinvestigation,
8 (3) a description or indication of any changes made in the
9 consumer report as a result of the revisions,
10 (4) notice that, if requested by the consumer, a description of the
11 procedure used to determine the accuracy and completeness of the
12 information shall be provided to the consumer by the consumer
13 reporting agency, including the business name, address and telephone
14 number of any person who furnished information contacted in
15 connection with the information,
16 (5) notice that the consumer has the right to add a statement to the
17 consumer's file disputing the accuracy or completeness of the
18 information,
19 (6) notice that the consumer has the right to request that the
20 consumer reporting agency furnish notifications under subsections g.
21 and i. of this section, and
22 (7) notice that the consumer has a right to obtain all information
23 required to be disclosed under section 10 of this act.
- 24 f. Whenever a statement of dispute is filed, the consumer reporting
25 agency shall, in any subsequent consumer report containing the
26 information in question, clearly note that it is disputed by the
27 consumer and provide the consumer's statement as part of its report.
- 28 g. Following any deletion of information which is found not to be
29 accurate, or whose accuracy can no longer be verified, the consumer
30 reporting agency shall, upon the request of the consumer, within 15
31 business days, furnish notification to any person who has within two
32 years prior thereto received a consumer report for employment
33 purposes, or within six months prior thereto received a consumer
34 report for any other purpose, which contained the deleted item, that
35 the item has been deleted.
- 36 h. A consumer reporting agency shall accept the consumer's
37 version of the disputed information and correct or delete the disputed
38 item when the consumer submits to the consumer reporting agency
39 documentation obtained from the source of the item in dispute or from
40 public records confirming that the report was inaccurate or
41 incomplete, unless the consumer reporting agency in good faith has
42 substantial reason to doubt the authenticity of the documentation, or
43 the completeness of the information provided.
- 44 i. No information may be reinserted in a consumer's file after
45 having been deleted pursuant to this section unless the person who
46 furnishes the information to be reinserted verifies that the information

1 is accurate. If any information so deleted from a consumer's file is
2 reinserted in the file, the consumer reporting agency shall promptly
3 notify the consumer of the reinsertion in writing or, if authorized by
4 the consumer for that purpose, by any other means available to the
5 consumer reporting agency. As part of, or in addition to, the notice,
6 the consumer reporting agency shall, within five business days of
7 reinserting the information, provide, in writing to the consumer:

8 (1) a statement that the disputed information has been reinstated;

9 (2) a notice that the agency will provide to the consumer, within
10 15 days following a request, the name, address and telephone number
11 of any person who furnished information in connection with the
12 reinsertion;

13 (3) the toll-free telephone number of the consumer reporting
14 agency that the consumer may use to obtain the name, address and
15 telephone number; and

16 (4) a notice that the consumer has the right to add a statement to
17 his file disputing the accuracy or completeness of the information.

18
19 13. a. A consumer reporting agency shall make all disclosures
20 pursuant to section 10 of this act without charge to the consumer if
21 the consumer makes a request under section 10 of this act within 60
22 days after receipt by the consumer of a notification pursuant to section
23 17 of this act or notification from a debt collection agency affiliated
24 with the consumer reporting agency stating that the consumer's credit
25 rating may be or has been adversely affected.

26 b. Except as provided in subsection c. of this section, a consumer
27 reporting agency shall not charge a consumer for any disclosures or a
28 copy of a consumer report requested pursuant to section 12 of this act.

29 c. Except as otherwise provided, the consumer reporting agency
30 may impose a reasonable charge, not to exceed \$8:

31 (1) for making disclosures to a consumer pursuant to section 10 of
32 this act, the charge for which shall be indicated to the consumer prior
33 to making disclosure; and

34 (2) for furnishing notifications, statements or summaries, to a
35 person pursuant to subsection g. of section 12 of this act, the charge
36 for which shall be indicated to the consumer prior to furnishing the
37 information.

38 d. Each consumer reporting agency which compiles and maintains
39 files on consumers on a nationwide basis shall furnish without charge
40 to any consumer who has provided verification of his identity and who
41 meets other requirements as set forth in section 11 of this act and who
42 requests a copy of his consumer report, one complete consumer report
43 per calendar year.

44 e. Each consumer reporting agency which does not compile and
45 maintain files on consumers on a nationwide basis shall furnish, for a
46 charge not to exceed \$5, to any consumer who has provided

1 verification of his identity and who meets other requirements as set
2 forth in section 11 of this act and who requests a copy of his consumer
3 report, one complete consumer report per calendar year.

4
5 14. a. A consumer reporting agency which furnishes a consumer
6 report for employment purposes and which for that purpose compiles
7 and reports items of information on consumers which are matters of
8 public record and are likely to have an adverse effect upon a
9 consumer's ability to obtain employment shall, at the time such public
10 record information is reported to the user of the consumer report,
11 notify the consumer of the fact that public record information is being
12 reported by the consumer reporting agency, together with the name
13 and address of the person to whom the information is being reported;
14 or maintain strict procedures designed to insure that whenever public
15 record information which is likely to have an adverse effect on a
16 consumer's ability to obtain employment is reported it is complete and
17 up to date. For purposes of this section, items of public record
18 relating to arrests, indictments, convictions, suits, tax liens and
19 outstanding judgments shall be considered up to date if the current
20 public record status of the item at the time of the report is reported.
21 Nothing contained in this section shall permit the use of public record
22 information otherwise prohibited by section 5 of this act.

23 b. A consumer reporting agency which furnishes a consumer report
24 for employment purposes shall enter into an agreement with the user
25 of the consumer report which provides that no consumer report may
26 be requested by the user until and unless the user has provided written
27 notice to the employee or prospective employee that a consumer
28 report regarding the employee or prospective employee will be
29 requested. For current employees, notification in an employee manual
30 shall be sufficient for the purpose of this section.

31
32 15. A consumer reporting agency which compiles and reports items
33 of information on consumers which are matters of public record, for
34 purpose of furnishing a consumer report, shall:

35 a. Maintain reasonable procedures designed to insure that
36 whenever public record information is reported in a consumer report,
37 it is complete and up to date to the extent practicable. It shall be
38 deemed a reasonable procedure for a consumer reporting agency to
39 accurately report the status of public record information as of the date
40 recorded in its files provided that the information is updated on a
41 regular basis.

42 b. When conducting a reinvestigation as required by subsection a.
43 of section 12 of this act, a consumer reporting agency shall promptly
44 record and report the current status of the public record.

45 c. Nothing contained in this section shall permit the use of public
46 record information otherwise prohibited under section 5 of this act.

1 16. Whenever a consumer reporting agency prepares an
2 investigative consumer report, no adverse information in the consumer
3 report, other than information which is a matter of public record, may
4 be included in a subsequent consumer report unless the adverse
5 information has been verified in the process of making such subsequent
6 consumer report, or the adverse information was received within the
7 three-month period preceding the date the subsequent report is
8 furnished.

9
10 17. a. Whenever credit or insurance for personal, family or
11 household purposes, or employment involving a consumer is denied or
12 terminated or the charge for such credit or insurance is increased
13 either wholly or partly or whenever a consumer's line of credit is
14 reduced, except when the consumer is delinquent with regard to such
15 line of credit, because of information contained in a consumer report
16 from a consumer reporting agency, the user of the consumer report
17 shall, within 10 business days of its decision to deny or terminate such
18 credit, insurance or employment, or to increase the charge for such
19 credit or insurance, or to reduce a consumer's line of credit, except
20 when the consumer is delinquent with regard to such line of credit,
21 notify such consumer in writing against whom such adverse action has
22 been taken. The notice shall be in a clear and conspicuous format, no
23 smaller than 10 point type, and shall contain the name, address, and
24 toll-free telephone number of any consumer reporting agency which
25 provided any consumer report which was reviewed or otherwise taken
26 into account in the making of such adverse action and shall inform the
27 consumer of his rights in substantially the following manner:

28 "You have the right to obtain a free copy of your credit report
29 within 60 days from the consumer credit reporting agency which has
30 been identified on this notice. The consumer credit reporting agency
31 must provide someone to help you interpret the information on you
32 credit report. Each calendar year you are entitled to receive, upon
33 request, one free consumer report.

34 You have the right to dispute inaccurate information by contacting
35 the consumer credit reporting agency directly. If you have notified a
36 consumer credit reporting agency in writing that you dispute the
37 accuracy of information in your file, the agency must then, within 30
38 business days, reinvestigate and modify or remove inaccurate
39 information. The consumer credit reporting agency may not charge a
40 fee for this service.

41 If reinvestigation does not resolve the dispute to your satisfaction,
42 you may send a statement to the consumer credit reporting agency, to
43 be kept in your file, explaining why you think the record is inaccurate.
44 The consumer credit reporting agency must include your statement
45 about the disputed information in a report it issues about you.

46 b. Whenever credit for personal, family or household purposes

1 involving a consumer is denied or the charge for such credit is
2 increased either wholly or partly because of information obtained from
3 a person other than a consumer reporting agency bearing upon the
4 consumer's credit worthiness, credit standing, credit capacity,
5 character, general reputation, personal characteristics, or mode of
6 living, the user of such information shall, within a reasonable period of
7 time, upon the consumer's written request for the reasons for such
8 adverse action received within 60 days after learning of such adverse
9 action, disclose the nature of the information to the consumer. The
10 user of such information shall clearly and accurately disclose to the
11 consumer his right to make such written request at the time such
12 adverse action is communicated to the consumer.

13 c. No person shall be held liable for a violation of any provision of
14 this section if he proves by a preponderance of the evidence that at the
15 time of the alleged violation he maintained reasonable procedures to
16 assure compliance with the provisions of subsections a. and b. of this
17 section.

18
19 18. a. Any person who knowingly and willfully obtains information
20 relative to a consumer from a consumer reporting agency under false
21 pretenses shall be guilty of a crime of the fourth degree.

22 b. Any person who is convicted of knowingly and willfully
23 introducing, attempting to introduce or causing to be introduced, false
24 information into a consumer reporting agency's files for the purpose
25 of damaging or enhancing the credit information of any individual shall
26 be guilty of a crime of the fourth degree.

27 c. Any officer or employee of a consumer reporting agency who
28 knowingly and willfully provides information concerning an individual
29 from the agency's files to a person not authorized to receive that
30 information shall be guilty of a crime of the fourth degree.

31
32 19. A violation of any provision of sections 2 to 17 of this act,
33 inclusive, is deemed to be an unlawful practice.

34
35 20. This act shall take effect on the 180th day following enactment.
36
37

38 STATEMENT

39
40 This bill regulates the practices of consumer reporting agencies. It
41 provides protection for consumers by limiting who may receive
42 consumer reports, requiring distribution of certain consumer
43 information and providing for the correction of incorrect or incomplete
44 information in a consumer's file. Consumer reports may be used in
45 determining a consumer's eligibility for credit, insurance or
46 employment.

1 A consumer reporting agency may only furnish a consumer report
2 in response to a court order; by request of the consumer; or if the
3 person requesting the report intends to use the information in regard
4 to the extension of credit, the underwriting of insurance, employment
5 or investigating child support cases.

6 The bill limits the age of the various information in a consumer's
7 report except when that report is used in connection with a credit
8 transaction with a face value of \$50,000 or more, underwriting of life
9 insurance with a face value of \$50,000 or more, or employment with
10 an annual salary of \$20,000 or more.

11 Consumer reporting agencies must disclose to a consumer, upon
12 request, the contents and substance of all information (except medical)
13 in its file on the consumer. Agencies must also disclose the source of
14 all information, and the recipients of any report regarding the
15 consumer which it has furnished for employment purposes within the
16 previous two years and for any other purpose within the last six
17 months. Upon contact by a consumer regarding information in his file,
18 a consumer reporting agency must advise the consumer of his rights
19 under the bill. Consumer reporting agencies must also maintain a
20 toll-free telephone number and trained personnel to explain to the
21 consumer any information furnished to him.

22 The bill requires consumer reporting agencies to investigate
23 disputed information within 30 business days. Within 10 business days
24 after reinvestigation, the agency must provide the consumer written
25 notice of its findings with respect to the disputed information, along
26 with a copy of the consumer's report as it stands after reinvestigation.
27 The agency must also notify the consumer that he has the right to add
28 a statement disputing the accuracy or completeness of an item and the
29 right to request the agency to furnish notification to any person who
30 has received an inaccurate report. If the information is found to be
31 inaccurate or cannot be verified, the agency must delete the
32 information within three days. If reinvestigation does not resolve a
33 dispute, the consumer may file a statement with the agency setting
34 forth the nature of the dispute, which statement must be provided as
35 part of the agency's report. Following the deletion of inaccurate or
36 unverified information or following the dispute of any information, the
37 consumer reporting agency must, upon request, within 15 days, notify
38 any person who has received a copy of the inaccurate or disputed
39 report within two years for employment purposes or six months for
40 any other purpose.

41 The bill requires consumer reporting agencies which compile
42 reports on a national basis to provide a consumer with one free copy
43 of his report annually upon request and consumer reporting agencies
44 which do not compile information on a national basis to provide a
45 consumer with a copy of his report annually upon request at a charge
46 not to exceed \$5.

1 The bill allows a consumer to remove his name and address from
2 any list provided by a consumer reporting agency for the use of
3 pre-screening for offers of credit. It regulates investigative reporting
4 (reports on a consumer's character, general reputation, personal
5 characteristics and mode of living) by requiring automatic disclosure
6 by a consumer reporting agency of the nature and scope of an
7 investigative report and by requiring specific written permission by the
8 consumer who is the potential subject of the report.

9 A provider of information to a consumer reporting agency is
10 prohibited from providing information to a consumer reporting agency
11 if he has reason to believe it is incomplete or inaccurate. Upon being
12 notified of a dispute, the provider of the information under dispute is
13 prohibited from furnishing that information to any consumer reporting
14 agency without also including a notice that the information is being
15 disputed by the consumer, and the provider of the information under
16 dispute must complete an investigation with respect to the disputed
17 item within 30 business days.

18 When a consumer report is used in denying credit, insurance or
19 employment, the grantor of credit, underwriter or employer, as the
20 case may be, must notify the consumer or employee within 10 days of
21 its decision and the notice must contain the name, address and toll-free
22 telephone number of any consumer reporting agency which provided
23 any consumer report that was used in the decision and inform the
24 consumer or employee of his rights under the bill.

25

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27

28

29 "Fair Consumer Reporting Act."

WITHDRAWN