

ASSEMBLY, No. 1972

STATE OF NEW JERSEY

INTRODUCED MAY 6, 1996

By Assemblyman ARNONE

1 AN ACT concerning credit reports and supplementing P.L.1960, c.39
2 (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. As used in this act:

8 "Consumer" means a natural person.

9 "Consumer report" means any written, or other communication of
10 any information by a consumer reporting agency bearing on a
11 consumer's credit worthiness, credit standing or credit capacity which
12 is collected and used or expected to be collected and used in whole or
13 in part for the purpose of serving as a factor in establishing the
14 consumer's eligibility for: (1) credit or insurance to be used primarily
15 for personal, family or household purposes; (2) employment purposes;
16 or (3) other purposes authorized under section 2 of this act. The term
17 does not include any report containing information solely as to
18 transactions or experiences between the consumer and the person
19 making the report or any authorization or approval of a specific
20 extension of credit directly or indirectly by the issuer of a credit card
21 or similar device.

22 "Consumer reporting agency" or "agency" means any person which,
23 for monetary fees, dues or on a cooperative nonprofit basis, regularly
24 engages in whole or in part in the practice of assembling or evaluating
25 consumer credit information or other information on consumers for the
26 purpose of furnishing consumer reports to third parties.

27 "Employment purposes" means, when used in connection with a
28 consumer report, a report used for the purpose of evaluating a
29 consumer for employment, promotion, reassignment or retention as an
30 employee.

31 "File" means, when used in connection with information on a
32 consumer, all of the information on that consumer recorded and
33 retained by a consumer reporting agency regardless of how the
34 information is stored.

35 "Firm offer of credit" means any offer of credit to a consumer that
36 will be honored if, based on information in a consumer report on the
37 consumer and other information relative to the creditworthiness of the

1 consumer, the consumer is determined to meet the criteria used to
2 select the consumer for the offer.

3 "Investigative consumer report" means a consumer report or
4 portion thereof in which information on a consumer's character,
5 general reputation, personal characteristics, or mode of living is
6 obtained through personal interviews with neighbors, friends or
7 associates of the consumer reported on, or with others with whom he
8 is acquainted or who may have knowledge concerning any such items
9 of information. However, this information shall not include specific
10 factual information on a consumer's credit record obtained directly
11 from a creditor of the consumer or from a consumer reporting agency
12 when such information was obtained directly from a creditor of the
13 consumer or from the consumer.

14 "Medical information" means information or records obtained after
15 the consent of the individual to whom it relates, from physicians or
16 other health care practitioners, hospitals, clinics, or other medical or
17 medically related facilities.

18 "Prescreening" means a process by which a consumer reporting
19 agency compiles or edits for a client a list of consumers who meet
20 specific criteria and provides that list to the client or third party on
21 behalf of the client for the purpose of making a firm offer of credit.

22 "User" means any person seeking or obtaining a consumer report
23 for purposes authorized in section 2 of this act.

24

25 2. a. A consumer reporting agency may furnish a consumer report
26 under the following circumstances and no other:

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

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

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

31 (a) intends to use the information in connection with a credit
32 transaction involving the consumer on whom the information is to be
33 furnished and involving the extension of credit to, or review or
34 collection of an account of, the consumer; or

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

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

38 (d) intends to use the information in connection with a
39 determination of the consumer's eligibility, or continuing eligibility, for
40 a license or other benefit granted by a governmental instrumentality
41 required by law to consider an applicant's financial responsibility or
42 status; or

43 (e) intends to use the information in connection with a transaction
44 either entered into or being negotiated with a consumer, if by the
45 terms of the transaction either party transfers an interest in real or
46 personal property, pays money or renders services, or becomes

1 obligated to transfer property, pay money or render services; so long
2 as the consumer who is the subject of the report, except in the case of
3 the rental or lease of residential property, has provided permission in
4 writing or in the same manner in which the transaction was negotiated
5 or entered into, that a consumer report may be requested in connection
6 with the transaction; or

7 (f) intends to use the information for investigating child support
8 cases pursuant to Title IV-D of the Social Security Act, 42 U.S.C. §
9 651 et seq., and P.L.1981, c.417 (C.2A:17-56.7 et seq.); or

10 b. A consumer reporting agency may furnish information for the
11 purposes of a credit transaction under subparagraph (a) of paragraph
12 (3) of subsection a. of this section when the credit transaction is not
13 initiated by the consumer, only if the consumer authorizes the
14 consumer reporting agency to furnish the consumer credit report to the
15 person.

16

17 3. a. Except as authorized under subsection b. of this section, no
18 consumer reporting agency shall make any consumer report containing
19 any of the following items of information:

20 (1) Bankruptcies which, from the date of adjudication of the most
21 recent bankruptcy, antedate the report by more than 14 years;

22 (2) Suits and judgments which, from date of entry, antedate the
23 report by more than seven years or until the governing statute of
24 limitations has expired, whichever is the longer period;

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

27 (4) Accounts placed for collection or charged to profit and loss
28 which antedate the report by more than seven years;

29 (5) Records of arrest, indictment, conviction of crime which, from
30 date of disposition, release or parole, antedate the report by more than
31 seven years; or

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

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

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

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

41 or

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

45 c. Notwithstanding the provisions of subsection b. of this section,
46 no consumer reporting agency shall make any consumer report

1 containing any of the items included under subsection a. of this section
2 unless the source providing that information has identified the person
3 on whom information is being provided by using that person's social
4 security number and the agency determines that the number provided
5 matches the social security number of the consumer on whom the
6 agency is making a consumer report.

7
8 4. a. A consumer reporting agency which furnishes a consumer
9 report for employment purposes and which for that purpose compiles
10 and reports items of information on consumers which are matters of
11 public record and are likely to have an adverse effect upon a
12 consumer's ability to obtain employment shall, at the time that public
13 record information is reported to the user of the consumer report,
14 notify the consumer of the fact that public record information is being
15 reported by the consumer reporting agency, together with the name
16 and address of the person to whom the information is being reported;
17 or maintain strict procedures designed to insure that whenever public
18 record information which is likely to have an adverse effect on a
19 consumer's ability to obtain employment is reported, it is complete and
20 up to date. For purposes of this section, items of public record
21 relating to arrests, indictments, convictions, suits, tax liens and
22 outstanding judgments shall be considered up to date if: the current
23 public record status of the item at the time of the report is reported;
24 and the source of that information has identified the person involved
25 by using that person's social security number and the consumer
26 reporting agency has determined that the number provided matches the
27 social security number of the consumer on whom a consumer report
28 is being furnished. Nothing contained in this section shall permit the
29 use of public record information otherwise prohibited by section 3 of
30 this act.

31 b. A consumer reporting agency which furnishes a consumer report
32 for employment purposes shall enter into an agreement with the user
33 of the consumer report which provides that no consumer report may
34 be requested by the user unless the user has provided written notice
35 to the employee or prospective employee that a consumer report
36 regarding the employee or prospective employee will be requested.
37 For current employees, notification in an employee manual shall be
38 sufficient for the purpose of this subsection.

39
40 5. A consumer reporting agency which compiles and reports items
41 of information on consumers which are matters of public record, for
42 purpose of furnishing a consumer report, shall:

43 a. Maintain reasonable procedures designed to insure that
44 whenever public record information is reported in a consumer report,
45 it is complete and up to date to the extent practicable. It shall be
46 deemed a reasonable procedure for a consumer reporting agency to

1 accurately report the status of public record information as of the date
2 recorded in its files so long as the information is updated on a regular
3 basis.

4 b. Not compile information on consumers with respect to the
5 issuance of a consumer report pursuant to section 2 of this act, if the
6 source providing the information has not also identified the person
7 involved in that record by using that person's social security number
8 and the credit reporting agency has determined that the social security
9 number provided matches the social security number of the consumer
10 on whom a file is being compiled or updated.

11

12 6. a. A consumer reporting agency may request, in writing, from
13 a consumer on which it has a file, the consumer's social security
14 number.

15 b. In the written request, the consumer reporting agency shall
16 inform the consumer that the provision of the consumer's social
17 security number is voluntary; that the request is being made pursuant
18 to the authority granted it under this act; and that the social security
19 number will be used only for purposes of verifying that information
20 being provided on the consumer actually belongs to the consumer to
21 whom it is alleged to belong by the provider of that information.

22 c. A consumer reporting agency shall use a consumer's social
23 security number only for the purposes of verifying that information
24 sent to it actually belongs to the person to whom it is alleged to belong
25 by the provider of the information. No consumer reporting agency
26 shall disclose a consumer's social security number in any consumer
27 report or otherwise to any other credit reporting agency or source of
28 information, regardless of affiliation.

29

30 7. a. A furnisher of information to consumer reporting agencies
31 may request, in writing, from a consumer on which it is providing
32 information to a consumer reporting agency, the consumer's social
33 security number.

34 b. In the written request, the furnisher of information shall inform
35 the consumer that the provision of the consumer's social security
36 number is voluntary; that the request is being made pursuant to the
37 authority granted it under this act; and that the social security number
38 will be used only by the consumer reporting agency for purposes of
39 verifying that the information it is providing on the consumer actually
40 belongs to the consumer to whom it is alleged to belong by the
41 furnisher of such information.

42 c. No person who furnishes information to a consumer reporting
43 agency and who receives a social security number from a consumer for
44 the purpose stated under subsection b. of this section, or gains the
45 social security number from other records already containing that
46 number, shall use the number in any way other than as permitted under

1 this act.

2

3 8. a. If the completeness or accuracy of any item of information in
4 his file is disputed by a consumer, and that dispute is directly conveyed
5 to the consumer reporting agency by the consumer, the consumer
6 reporting agency shall, within 30 business days of the date the
7 consumer reporting agency receives notice from the consumer,
8 reinvestigate and record the current status of that information unless
9 it has reasonable grounds to believe that the dispute is frivolous or
10 irrelevant; including by reason of a failure of the consumer to provide
11 sufficient information, as requested by the consumer reporting agency,
12 to resolve the dispute. Unless the consumer reporting agency
13 determines that the dispute is frivolous or irrelevant within five
14 business days of the date the consumer reporting agency receives
15 notice of the dispute under this section, the agency shall notify any
16 person who provided the information in dispute at the address
17 provided by the person. A consumer reporting agency may require
18 that disputes by consumers be in writing.

19 b. If the consumer reporting agency determines that the dispute is
20 frivolous or irrelevant, it shall notify the consumer by mail or, if
21 authorized by the consumer for that purpose, by any other means
22 available to the consumer reporting agency, within five business days
23 after its decision to terminate its reinvestigation of the item of
24 information. In this notification the consumer reporting agency shall
25 state the specific reasons why it has determined that the consumer's
26 dispute is frivolous or irrelevant. The presence of contradictory
27 information in the consumer's file shall not, in and of itself, constitute
28 grounds for determining the dispute to be frivolous or irrelevant.

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

32 d. If the reinvestigation does not resolve the dispute, the consumer
33 may file a statement setting forth the nature of the dispute.

34 e. Within 10 business days after the completion of a
35 reinvestigation, the agency shall provide the consumer with written
36 information, free of charge, that includes:

37 (1) a statement that the reinvestigation is completed;

38 (2) a consumer report that is based on the consumer's file as that
39 file is revised as a result of the reinvestigation;

40 (3) a description or indication of any changes made in the
41 consumer report as a result of the revisions;

42 (4) notice that, if requested by the consumer, a description of the
43 procedure used to determine the accuracy and completeness of the
44 information shall be provided to the consumer by the consumer
45 reporting agency, including the business name, address and telephone
46 number of any person who furnished information contacted in

1 connection with the information;

2 (5) notice that the consumer has the right to add a statement to the
3 consumer's file disputing the accuracy or completeness of the
4 information;

5 (6) notice that the consumer has the right to request that the
6 consumer reporting agency furnish notifications under subsections g.
7 and i. of this section; and

8 (7) notice that the consumer has a right to obtain all information
9 required to be disclosed under the provisions of the federal "Fair
10 Credit Reporting Act," 15 U.S.C. §1681 et seq.

11 f. Whenever a statement of dispute is filed, the consumer reporting
12 agency shall, in any subsequent consumer report containing the
13 information in question, clearly note that it is disputed by the
14 consumer and provide the consumer's statement as part of its report.

15 g. Following any deletion of information which is found not to be
16 accurate, or whose accuracy can no longer be verified, the consumer
17 reporting agency shall, within 15 business days, furnish notification to
18 any person who has within two years prior thereto received a
19 consumer report for employment purposes, or within six months prior
20 thereto received a consumer report for any other purpose, which
21 contained the deleted item, that the item has been deleted.

22 h. A consumer reporting agency that compiles and maintains files
23 on consumers on a nationwide basis shall report the results of a
24 reinvestigation initiated by a consumer pursuant to this section that
25 finds in the consumer's file information that is incomplete or inaccurate
26 or information that cannot be verified, to any other consumer reporting
27 agency that compiles and maintains files on consumers on a nationwide
28 basis to which a consumer report on the consumer was provided
29 within the preceding two year period for purposes of resale by that
30 other agency or to which a consumer report on the consumer was
31 provided within the preceding seven year period for purposes of
32 merging that report to that other agency's proprietary files.

33 i. If a consumer reporting agency receives a report pursuant to
34 subsection h. of this section, the agency shall change the data in its
35 files in accordance with the report, delete data from its proprietary
36 files in accordance with the report, or, if the agency has other sources
37 for the data in dispute, reinvestigate the disputed data that is the
38 subject of the report in accordance with the provisions of this section.

39 j. A consumer reporting agency shall accept the consumer's version
40 of the disputed information and correct or delete the disputed item
41 when the consumer submits to the consumer reporting agency
42 documentation obtained from the source of the item in dispute or from
43 public records confirming that the report was inaccurate or
44 incomplete, unless the consumer reporting agency in good faith has
45 substantial reason to doubt the authenticity of the documentation, or
46 the completeness of the information provided.

1 k. No information may be reinserted in a consumer's file after
2 having been deleted pursuant to this section unless the person who
3 furnishes the information to be reinserted verifies that the information
4 is accurate. If any information so deleted from a consumer's file is
5 reinserted in the file, the consumer reporting agency shall promptly
6 notify the consumer of the reinsertion in writing or, if authorized by
7 the consumer for that purpose, by any other means available to the
8 consumer reporting agency. As part of, or in addition to, the notice,
9 the consumer reporting agency shall, within five business days of
10 reinserting the information, provide, in writing to the consumer:

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

12 (2) a notice that the agency will provide to the consumer, within
13 15 days following a request, the name, address and telephone number
14 of any person who furnished information in connection with the
15 reinsertion;

16 (3) the toll-free telephone number of the consumer reporting
17 agency that the consumer may use to obtain the name, address and
18 telephone number; and

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

21

22 9. This act shall take effect on the 180th day following enactment.

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STATEMENT

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27 This bill requires credit reporting agencies and persons providing
28 information on a consumer to use the consumer's social security
29 number to identify the consumer. Persons with common names have
30 often found that consumer reports have included information on a
31 person with the same name. If the social security number is required
32 to be provided with information on a consumer and the credit
33 reporting agency is required to match that number against the social
34 security number of the consumer on file, information on persons
35 having the same name but different social security numbers will not be
36 placed in the same file.

37 Since the provision of a social security number is protected under
38 the federal Privacy Act, 5 U.S.C. §552a, a consumer reporting agency
39 or a furnisher of information to be included in a consumer's file is
40 permitted under this bill to request, in writing, from a consumer, the
41 consumer's social security number. In the written request, the
42 consumer is to be informed that the provision of the consumer's social
43 security number is voluntary, that such request is made pursuant to the
44 authority granted the requester under this act, and the use which will
45 be made of the social security number. In addition, a credit reporting
46 agency and a person furnishing information for inclusion in a

1 consumer's file is prohibited from using the social security number of
2 a consumer in any way other than as permitted by this bill.

3 Under the bill, a consumer reporting agency, which upon a
4 reinvestigation deletes any information which is found not to be
5 accurate, or whose accuracy can no longer be verified, is required to
6 notify, within 15 business days, any person who has within two years
7 prior thereto received a consumer report for employment purposes, or
8 within six months prior thereto received a consumer report for any
9 other purpose, which contained the deleted item, that the item has
10 been deleted. In addition, this same information concerning data
11 deleted from a consumer's file is to be provided other consumer
12 reporting agencies that compile and maintain files on consumers on a
13 nationwide basis and to which the consumer reporting agency had
14 provided a consumer report on the consumer within the preceding two
15 year period for purpose of resale by the other agency or to which a
16 consumer report has been provided within the preceding seven year
17 period for purposes of merging that report to that other agency. Upon
18 receipt of such information, the consumer reporting agency is required
19 to delete the information from its files in accordance with the report,
20 delete the data from its proprietary file in accordance with the report,
21 or, if the agency received the information to be deleted from another
22 source, reinvestigate the disputed data that is the subject of the report
23 in accordance with the provisions set forth for reinvestigations of
24 consumer disputes under this bill.

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Requires use of social security number with credit reports.