

ASSEMBLY, No. 2787

STATE OF NEW JERSEY

INTRODUCED MARCH 13, 1997

By Assemblyman CORODEMUS

1 AN ACT concerning consumer credit reports and supplementing Title
2 56 of the Revised Statutes.

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 "New Jersey
8 Fair Credit Reporting Act."

9

10 2. The Legislature finds and declares that:

11 a. Recent amendments to the federal "Fair Credit Reporting Act,"
12 enacted as the "Consumer Credit Reporting Reform Act of 1996,"
13 (Subtitle D, Chapter 1, Pub.L.104-208), add important new
14 substantive provisions, some of which strengthen the federal law and
15 its enforcement.

16 b. Among these amendments is subsection (c) added to the
17 enforcement section, 15 U.S.C. §1681s, which specifically provides
18 that a state can take action to enjoin a person from violating the
19 provisions of the federal "Fair Credit Reporting Act" and to recover
20 damages for residents of the state for such violations.

21 c. The designation of a specific agency of the State to have
22 enforcement authority and to be a source of information for consumers
23 about their rights under the federal law and this act will increase the
24 confidence of consumers in the State that credit reporting problems
25 will be vigorously investigated and that persons violating the federal
26 law and the provisions of this act will be prosecuted;

27 d. While the amendments to the federal "Fair Credit Reporting
28 Act" contained in the "Consumer Credit Reporting Reform Act of
29 1996" specifically preempt states from establishing requirements or
30 prohibitions with respect to the provisions of certain sections of the
31 federal "Fair Credit Reporting Act," the provisions of the other
32 sections of that act are left subject to actions by states as long as the
33 provisions enacted in state law are not inconsistent with federal law;

34 e. The purpose of this act therefore is to provide additional
35 consumer protection with respect to consumer credit reports and
36 credit reporting agencies consistent with the provisions of the "Federal
37 Fair Credit Reporting Act."

1 3. As used in this act:

2 "Adverse action" has the same meaning as in subsection (k) of
3 section 603 of the federal "Fair Credit Reporting Act," 15 U.S.C.
4 §1681a.

5 "Consumer" means an individual.

6 "Consumer report" (1) means any written, oral or other
7 communication of any information by a consumer reporting agency
8 bearing on a consumer's credit worthiness, credit standing, credit
9 capacity, character, general reputation, personal characteristics or
10 mode of living which is used or expected to be used or collected in
11 whole or in part for the purpose of serving as a factor in establishing
12 the consumer's eligibility for:

13 (a) credit or insurance to be used primarily for personal, family or
14 household purposes;

15 (b) employment purposes; or

16 (c) any other purpose authorized under section 4 of this act.

17 (2) The term "consumer report" does not include:

18 (a) any:

19 (i) report containing information solely on transactions or
20 experiences between the consumer and the person making the report;

21 (ii) communication of that information among persons related
22 by common ownership or affiliated by corporate control; or

23 (iii) communication of other information among persons
24 related by common ownership or affiliated by corporate control, if it
25 is clearly and conspicuously disclosed to the consumer that the
26 information may be communicated among those persons and the
27 consumer is given the opportunity, before the time that the information
28 is initially communicated, to direct that the information not be
29 communicated among those persons;

30 (b) any authorization or approval of a specific extension of credit
31 directly or indirectly by the issuer of a credit card or similar device;

32 (c) any report in which a person, who has been requested by a third
33 party to make a specific extension of credit directly or indirectly to a
34 consumer, conveys his decision with respect to that request, if the
35 third party advises the consumer of the name and address of the person
36 to whom the request was made, and the person makes the disclosures
37 to the consumer required under 15 U.S.C. §1681m; or

38 (d) communication excluded from the definition of consumer
39 report pursuant to subsection (o) of section 603 of the federal "Fair
40 Credit Reporting Act," 15 U.S.C. §1681a.

41 "Consumer reporting agency" means any person which, for
42 monetary fees, dues, or on a cooperative nonprofit basis, regularly
43 engages, in whole or in part, in the practice of assembling or
44 evaluating consumer credit information or other information on
45 consumers for the purpose of furnishing consumer reports to third
46 parties, and which uses any means or facility for the purpose of

1 preparing or furnishing consumer reports.

2 "Director" means the Director of the Division of Consumer Affairs
3 in the Department of Law and Public Safety.

4 "Division" means the Division of Consumer Affairs in the
5 Department of Law and Public Safety.

6 "Employment purposes" means, when used in connection with a
7 consumer report, a report used for the purpose of evaluating a
8 consumer for employment, promotion, reassignment or retention as an
9 employee.

10 "File" means, when used in connection with information on any
11 consumer, all of the information on that consumer recorded and
12 retained by a consumer reporting agency regardless of how the
13 information is stored.

14 "Investigative consumer report" means a consumer report or a
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 who is the subject of the report or with
19 others with whom the consumer is acquainted or who may have
20 knowledge concerning any of those items of information. However,
21 this information shall not include specific factual information on a
22 consumer's credit record obtained directly from a creditor of the
23 consumer or from a consumer reporting agency when the information
24 was obtained directly from a creditor of the consumer or from the
25 consumer.

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

30

31 4. a. A consumer reporting agency may furnish a consumer report
32 under the following circumstances and no other:

33 (1) In response to the order of a court having jurisdiction to issue
34 such an order, or a subpoena issued in connection with proceedings
35 before a State or federal grand jury.

36 (2) In accordance with the written instructions of the consumer to
37 whom it relates.

38 (3) To a person which it has reason to believe:

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

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

44 (c) intends to use the information in connection with the
45 underwriting of insurance involving the consumer;

46 (d) intends to use the information in connection with a

1 determination of the consumer's eligibility for a license or other benefit
2 granted by a governmental instrumentality required by law to consider
3 an applicant's financial responsibility or status;

4 (e) intends to use the information, as a potential investor or
5 servicer, or current insurer, in connection with a valuation of, or an
6 assessment of the credit or prepayment risks associated with, an
7 existing credit obligation; or

8 (f) otherwise has a legitimate business need for the information:

9 (i) in connection with a business transaction that is initiated by
10 the consumer; or

11 (ii) to review an account to determine whether the consumer
12 continues to meet the terms of the account.

13 (4) In response to a request by the head of a State or local child
14 support enforcement agency (or a State or local government official
15 authorized by the head of such an agency), if the person making the
16 request certifies to the consumer reporting agency that:

17 (a) the consumer report is needed for the purpose of establishing an
18 individual's capacity to make child support payments or determining
19 the appropriate level of those payments;

20 (b) the paternity of the consumer for the child to which the
21 obligation relates has been established or acknowledged by the
22 consumer in accordance with State laws under which the obligation
23 arises (if required by those laws);

24 (c) the person has provided at least 10 days' prior notice to the
25 consumer whose report is requested, by certified or registered mail to
26 the last known address of the consumer, that the report will be
27 requested; and

28 (d) the consumer report will be kept confidential, will be used solely
29 for a purpose described in paragraph (1) of this subsection, and will
30 not be used in connection with any other civil, administrative, or
31 criminal proceeding, or for any other purpose.

32 (5) To an agency administering a State plan under section 42
33 U.S.C. §654 for use to set an initial or modified child support award.

34 b. A consumer reporting agency may furnish a consumer report for
35 employment purposes only if:

36 (1) the person who obtains the report from the agency certifies to
37 the agency that:

38 (a) the person has complied with subsection c. of this section with
39 respect to the consumer report, and the person will comply with
40 subsection d. of this section with respect to the consumer report if that
41 subsection becomes applicable; and

42 (b) information from the consumer report will not be used in
43 violation of any applicable federal or State equal employment
44 opportunity law or regulation; and

45 (2) the consumer reporting agency provides with the report a
46 summary of the consumer's rights under the federal "Fair Credit

1 Reporting Act," 15 U.S.C. §1681 et seq.

2 c. A person may not procure a consumer report, or cause a
3 consumer report to be procured, for employment purposes with
4 respect to any consumer, unless:

5 (1) a clear and conspicuous disclosure has been made in writing to
6 the consumer at any time before the report is procured or caused to be
7 procured, in a document that consists solely of the disclosure, that a
8 consumer report may be obtained for employment purposes; and

9 (2) the consumer has authorized in writing the procurement of the
10 report by that person.

11 d. A consumer reporting agency shall not furnish for employment
12 purposes, or in connection with a credit or insurance transaction or a
13 direct marketing transaction, a consumer report that contains medical
14 information about a consumer unless the consumer consents to the
15 furnishing of the report in writing.

16 e. In using a consumer report for employment purposes, before
17 taking any adverse action based in whole or in part on the report, the
18 person intending to take an adverse action shall provide to the
19 consumer to whom the report relates:

20 (1) a copy of the report; and

21 (2) a description in writing of the rights of the consumer under this
22 act and the federal "Fair Credit Reporting Act," 15 U.S.C. §1681 et
23 seq.

24 f. Consumer reporting agencies may furnish a consumer report
25 relating to any consumer pursuant to subparagraph (a) or (c) of
26 paragraph (3) of subsection a. of this section in connection with any
27 credit or insurance transaction that is not authorized by the consumer
28 only if the consumer reporting agency complies with the requirements
29 of subsections (c) and (e) of section 604 of the federal "Fair Credit
30 Reporting Act," 15 U.S.C. §1681b.

31 g. A person shall not use or obtain a consumer report for any
32 purpose unless:

33 (1) the consumer report is obtained for a purpose for which the
34 consumer report is authorized to be furnished under this section; and

35 (2) the purpose for its use is certified in accordance with section
36 5 of this act by a prospective user of the report.

37

38 5. a. Every consumer reporting agency shall maintain reasonable
39 procedures designed to limit the furnishing of consumer reports to the
40 purposes listed under section 4 of this act. These procedures shall
41 require that prospective users of the information identify themselves,
42 certify each purpose for which the information is sought, and certify
43 that the information will be used for no other purpose. Every
44 consumer reporting agency shall make a reasonable effort to verify the
45 identity of a new prospective user and each use certified by the
46 prospective user prior to furnishing the user a consumer report. No

1 consumer reporting agency may furnish a consumer report to any
2 person if it has reasonable grounds for believing that the consumer
3 report will not be used for a purpose listed in section 4 of this act.

4 b. Whenever a consumer reporting agency prepares a consumer
5 report it shall follow reasonable procedures to assure maximum
6 possible accuracy and completeness of the information concerning the
7 individual about whom the report relates.

8 c. A consumer reporting agency may not prohibit the user of a
9 consumer report furnished by the agency from disclosing the contents
10 of the report to the consumer, if adverse action against the consumer
11 has been taken by the user based in whole or in part on the report.

12 d. A person may not procure a consumer report for the purpose of
13 reselling the report unless the person discloses to the consumer
14 reporting agency that originally furnishes the report:

15 (1) the identity of the end-user of the report; and

16 (2) each permissible purpose under section 4 of this act for which
17 the report is furnished to the end-user of the report.

18 e. A person who procures a consumer report for the purposes of
19 reselling the report shall:

20 (1) establish and comply with reasonable procedures designed to
21 ensure that the report is resold by the person only for a purpose for
22 which the report may be furnished under section 4 of this act,
23 including procedures designed to ensure that each person to which the
24 report is resold and that resells or provides the report to any other
25 person:

26 (a) identifies to the person from whom the report was
27 purchased each end-user of the resold report;

28 (b) certifies to the person from whom the report was
29 purchased each purpose for which the report will be used; and

30 (c) certifies to the person from whom the report was
31 purchased that the report will be used for no other purpose; and

32 (2) before reselling the report, make reasonable efforts to verify the
33 identifications and certifications made under paragraph (1) of this
34 subsection.

35 f. For the purposes of subsections d. and e. of this section,
36 "report" means the consumer report as furnished by a consumer
37 reporting agency or any information contained in or developed from
38 that consumer report.

39
40 6. a. A person may not procure or cause to be prepared an
41 investigative consumer report on any consumer unless:

42 (1) It is clearly and accurately disclosed in writing to the consumer,
43 prior to requesting the consumer reporting agency to prepare the
44 report, that an investigative consumer report commonly includes
45 information regarding the consumer's character, general reputation,
46 personal characteristics, and mode of living, and the disclosure

1 includes the precise nature and scope of the investigation requested
2 and the right of the consumer to have a copy of the report upon
3 request; and

4 (2) the consumer provides the person requesting the report written
5 permission to obtain the investigative consumer report prior to the
6 person making the request to the consumer reporting agency.

7 b. The consumer reporting agency shall, upon the request of the
8 consumer, provide to the consumer a copy of the report upon its
9 completion.

10 c. No person may be held liable for any violation of any provision
11 of this section if that person proves by a preponderance of the
12 evidence that at the time of the violation reasonable procedures to
13 assure compliance with the provisions of this section were maintained.

14

15 7. Every consumer reporting agency shall, upon request and
16 proper identification of any consumer, clearly and accurately disclose
17 to the consumer:

18 a. The nature and substance of all information, except medical
19 information, in its files on the consumer at the time of the request,
20 including, but not limited to:

21 (1) any information concerning credit scores or any other risk
22 scores or predictors, whether contained in the consumer's file at the
23 time of the request, provided previously as part of the consumer
24 report to a user or that would be provided to a user who requests a
25 consumer report on that consumer under current practices of the
26 consumer reporting agency. If information is given concerning credit
27 scores or any other risk scores or predictors, that information shall
28 include an explanation of how these scores were derived and the
29 meaning of each score; and

30 (2) for each person whose name is given to the consumer pursuant
31 to subsection c. of this section, the certifications provided by that
32 person pursuant to section 5 of this act.

33 b. The sources of the information; except that the sources of
34 information acquired solely for use in preparing an investigative
35 consumer report and actually used for no other purpose need not be
36 disclosed: provided, that if an action is brought under this act or the
37 federal "Fair Credit Reporting Act," such sources shall be available to
38 the plaintiff under appropriate discovery procedures in the court in
39 which the action is brought.

40 c. (1) The identification of each person, including each end-user
41 identified under subsections d. and e. of section 5 of this act, that
42 procured a consumer report:

43 (a) for employment purposes, during the two-year period
44 preceding the date on which the request is made; or

45 (b) for any other purpose, during the one-year period
46 preceding the date on which the request is made.

- 1 (2) An identification of a person under paragraph (1) shall include:
2 (a) the name of the person, or, if applicable, the trade name
3 written in full under which the person conducts business; and
4 (b) upon request of the consumer, the address and telephone
5 number of the person.
- 6 d. The dates, original payees, and amounts of any checks upon
7 which is based any adverse characterization of the consumer, included
8 in the file at the time of the disclosure.
- 9 e. A record of all inquiries received by the agency during the one-
10 year period preceding the request that identified the consumer in
11 connection with a credit or insurance transaction that was not initiated
12 by the consumer.
- 13
- 14 8. a. A consumer reporting agency shall make the disclosures
15 required under section 7 of this act during normal business hours and
16 on reasonable notice.
- 17 b. The disclosures required under section 7 of this act shall be made
18 to the consumer:
- 19 (1) in person if the consumer appears in person and furnishes proper
20 identification; or
21 (2) by telephone if the consumer has made a written request, with
22 proper identification, for telephone disclosure and the toll charge, if
23 any, for the telephone call is prepaid by or charged directly to the
24 consumer.
- 25 c. Any consumer reporting agency shall provide trained personnel
26 to explain to the consumer any information furnished to the consumer
27 pursuant to section 7 of this act.
- 28 d. The consumer shall be permitted to be accompanied by one
29 other person of the consumer's choosing, who shall furnish reasonable
30 identification. A consumer reporting agency may require the consumer
31 to furnish a written statement granting permission to the consumer
32 reporting agency to discuss the consumer's file in that person's
33 presence.
- 34 e. Except as provided in sections 11 and 12 of this act and sections
35 616 and 617 of the federal "Fair Credit Reporting Act," 15 U.S.C.
36 §1681n and 15 U.S.C. §1681o, no consumer may bring any action or
37 proceeding in the nature of defamation, invasion of privacy, or
38 negligence with respect to the reporting of information against any
39 consumer reporting agency, any user of information, or any person
40 who furnishes information to a consumer reporting agency, based on
41 information disclosed pursuant to section 7 of this act or this section
42 or sections 609, 610 or 615 of the federal "Fair Credit Reporting Act,"
43 15 U.S.C. §1681g, 15 U.S.C. §1681h, or 15 U.S.C. §1681m, except
44 as to false information furnished with malice or willful intent to injure
45 the consumer.

1 9. a. (1) If the completeness or accuracy of any item of
2 information contained in a consumer's file at a consumer reporting
3 agency is disputed by a consumer and the consumer notifies the agency
4 directly of the dispute, the agency shall reinvestigate free of charge
5 and record the current status of the disputed information, or delete the
6 item from the file in accordance with subsection e. of this section,
7 before the end of the 30-day period beginning on the date on which the
8 agency receives the notice of dispute from the consumer.

9 (2) Except as provided in paragraph (3) of this subsection, the 30-
10 day period described in paragraph (1) of this subsection may be
11 extended for not more than 15 additional days if the consumer
12 reporting agency receives information from the consumer during that
13 30-day period that is relevant to the reinvestigation.

14 (3) Paragraph (2) of this subsection shall not apply to any
15 reinvestigation in which, during the 30-day period described in
16 paragraph (1) of this subsection, the information that is the subject of
17 the reinvestigation is found to be inaccurate or incomplete or the
18 consumer reporting agency determines that the information cannot be
19 verified.

20 b. (1) Before the expiration of the five-business-day period
21 beginning on the date on which a consumer reporting agency receives
22 notice of a dispute from any consumer in accordance with subsection
23 a. of this section, the agency shall provide notification of the dispute
24 to any person who provided any item of information in dispute, at the
25 address and in the manner established with the person. The notice
26 shall include all relevant information regarding the dispute that the
27 agency has received from the consumer.

28 (2) The consumer reporting agency shall promptly provide to the
29 person who provided the information in dispute all relevant
30 information regarding the dispute that is received by the agency from
31 the consumer after the period referred to in paragraph (1) of this
32 subsection and before the end of the period referred to in subsection
33 a. of this section.

34 c. (1) Notwithstanding the provisions of subsection a. of this
35 section, a consumer reporting agency may terminate a reinvestigation
36 of information disputed by a consumer under that subsection if the
37 agency reasonably determines that the dispute by the consumer is
38 frivolous or irrelevant, including by reason of a failure by a consumer
39 to provide sufficient information to investigate the disputed
40 information.

41 (2) Upon determining that a dispute is frivolous or irrelevant, a
42 consumer reporting agency shall notify the consumer of that
43 determination not later than five business days after making that
44 determination, by mail or, if authorized by the consumer for that
45 purpose, by any other means available to the agency.

46 (3) A notice under paragraph (2) of this subsection shall include:

1 (a) the reasons for the determination under paragraph (1) of
2 this subsection; and

3 (b) the identification of any information required to investigate
4 the disputed information, which may consist of a standardized form
5 describing the general nature of the information.

6 d. In conducting any reinvestigation under subsection a. of this
7 section with respect to disputed information in the file of any
8 consumer, the consumer reporting agency shall review and consider all
9 relevant information submitted by the consumer in the period
10 described in paragraph (1) of subsection a. of this section with respect
11 to the disputed information.

12 e. (1) If after any reinvestigation under subsection a. of this
13 section of any information disputed by a consumer, an item of the
14 information is found to be inaccurate or incomplete or cannot be
15 verified, the consumer reporting agency shall promptly delete that item
16 of information from the consumer's file or modify that item of
17 information, as appropriate, based on the results of the reinvestigation.

18 (2) (a) If any information is deleted from a consumer's file
19 pursuant to paragraph (1) of this subsection, the information shall not
20 be reinserted in the file by the consumer reporting agency unless the
21 person who furnishes the information certifies that the information is
22 complete and accurate

23 (b) If any information that has been deleted from a consumer's
24 file pursuant to paragraph (1) of this subsection is reinserted in the file,
25 the consumer reporting agency shall notify the consumer of the
26 reinsertion in writing not later than five business days after the
27 reinsertion or, if authorized by the consumer for that purpose, by any
28 other means available to the agency.

29 (c) As part of, or in addition to, the notice under subparagraph
30 (b) of paragraph (2) of this subsection, a consumer reporting agency
31 shall provide to the consumer in writing not later than five business
32 days after the date of the reinsertion:

33 (i) a statement that the disputed information has been
34 reinserted;

35 (ii) the business name and address of any furnisher of
36 information contacted and the telephone number of the furnisher, if
37 reasonably available, or of any furnisher of information that contacted
38 the consumer reporting agency, in connection with the reinsertion of
39 the disputed information; and

40 (iii) a notice that the consumer has the right to add a statement
41 to the consumer's file disputing the accuracy or completeness of the
42 disputed information.

43 (3) A consumer reporting agency shall maintain reasonable
44 procedures designed to prevent the reappearance in a consumer's file,
45 and in consumer reports on the consumer, of information that is
46 deleted pursuant to this section, other than information that is

1 reinserted in accordance with this section.

2 (4) Any consumer reporting agency that compiles and maintains
3 files on consumers on a nationwide basis shall implement an automated
4 system through which furnishers of information to a consumer
5 reporting agency may report the results of a reinvestigation that finds
6 incomplete or inaccurate information in a consumer's file to other
7 consumer reporting agencies.

8 f. (1) A consumer reporting agency shall provide written notice to
9 a consumer of the results of a reinvestigation under this subsection not
10 later than five business days after the completion of the
11 reinvestigation, by mail or, if authorized by the consumer for that
12 purpose, by any other means available to the agency.

13 (2) As part of, or in addition to, the notice under paragraph (1) of
14 this subsection, a consumer reporting agency shall provide to a
15 consumer in writing before the expiration of the five-day period
16 referred to in paragraph (1) of this subsection:

17 (a) a statement that the reinvestigation is completed;

18 (b) a consumer report that is based on the consumer's file as
19 that file is revised as a result of the reinvestigation;

20 (c) a notice that, if requested by the consumer, a description
21 of the procedure used to determine the accuracy and completeness of
22 the information shall be provided to the consumer by the agency,
23 including the business name and address of any furnisher of
24 information contacted in connection with that information and the
25 telephone number of the furnisher, if reasonably available;

26 (d) a notice that the consumer has the right to add a statement
27 to the consumer's file disputing the accuracy or completeness of the
28 information; and

29 (e) a notice that the consumer has the right to request that
30 the consumer reporting agency furnish notifications under subsection
31 k. of this section.

32 g. A consumer reporting agency shall provide to a consumer a
33 description referred to in subparagraph (c) of paragraph (2) of
34 subsection f. of this section not later than 15 days after receiving a
35 request from the consumer for that description.

36 h. If a dispute regarding an item of information in a consumer's file
37 at a consumer reporting agency is resolved in accordance with
38 paragraph (1) of subsection e. of this section by the deletion of the
39 disputed information not later than three business days after the date
40 on which the agency receives notice of the dispute from the consumer
41 in accordance with paragraph (1) of subsection a. of this section, then
42 the agency shall not be required to comply with subsections b., f. and
43 g. of this section with respect to that dispute if the agency:

44 (1) provides prompt notice of the deletion to the consumer by
45 telephone;

46 (2) includes in that notice, or in a written notice that accompanies

1 a confirmation and consumer report provided in accordance with
2 paragraph (3) of this subsection, a statement of the consumer's right
3 to request that the agency furnish notifications under subsection k. of
4 this section; and

5 (3) provides written confirmation of the deletion and a copy of a
6 consumer report on the consumer that is based on the consumer's file
7 after the deletion, not later than five business days after making the
8 deletion.

9 i. If the reinvestigation does not resolve the dispute, the consumer
10 may file a brief statement setting forth the nature of the dispute. The
11 consumer reporting agency may limit a statement to not more than one
12 hundred words if it provides the consumer with assistance in writing
13 a clear summary of the dispute.

14 j. Whenever a statement of a dispute is filed, unless there is
15 reasonable grounds to believe that it is frivolous or irrelevant, the
16 consumer reporting agency shall, in any subsequent consumer report
17 containing the information in question, clearly note that it is disputed
18 by the consumer and provide either the consumer's statement or a clear
19 and accurate codification or summary thereof.

20 k. Following any deletion of information which is found to be
21 inaccurate or whose accuracy can no longer be verified or any notation
22 as to disputed information, the consumer reporting agency shall, at the
23 request of the consumer, furnish notification that the item has been
24 deleted or if disputed, the statement, codification or summary filed or
25 developed pursuant to subsection i. or j. of this section, to any person
26 specifically designated by the consumer who has within two years prior
27 thereto received a consumer report for employment purposes, or
28 within one year prior thereto received a consumer report for any other
29 purpose, which contained the deleted or disputed information.

30

31 10. a. Except as provided in subsections b., c. and d. of this
32 section, a consumer reporting agency may impose a reasonable charge
33 on a consumer for :

34 (1) making a disclosure to the consumer pursuant to section 7 of
35 this act if the request is the second or subsequent request in a 12
36 month period of time and is not made pursuant to subsection b. of this
37 section; the charge for this disclosure shall not exceed \$8 and shall be
38 indicated to the consumer before making the disclosure;

39 (2) furnishing to a person designated by the consumer pursuant to
40 subsection k. of section 9 of this act a statement, codification, or
41 summary filed or developed under subsection i. or j. of section 9 of
42 this act, after notification of the consumer under subsection f. of
43 section 9 of this act with respect to the reinvestigation; this charge
44 shall not exceed the charge that the agency would impose on each
45 designated recipient for a consumer report and shall be indicated to the
46 consumer before furnishing this information.

1 b. Each consumer reporting agency that maintains a file on a
2 consumer shall make all disclosures pursuant to section 9 of this act
3 without charge to the consumer if, not later than 60 days after receipt
4 by the consumer of a notification of an adverse action or notification
5 from a debt collection agency affiliated with the consumer reporting
6 agency stating that the consumer's credit rating may be or has been
7 adversely affected, the consumer makes a request under section 7 of
8 this act.

9 c. Upon the request of the consumer, a consumer reporting agency
10 shall make all disclosures required pursuant to section 7 of this act
11 once during any 12 month period without charge to the consumer.

12 d. A consumer reporting agency shall not impose any charge on a
13 consumer for providing any notification required by this act, including
14 but not limited to, the notification required pursuant to subsection k.
15 of section 9 of this act following deletion of information from a
16 consumer's file pursuant to section 9 of this act, or making any
17 disclosure required by this act, except as authorized by subsection a.
18 of this section.

19

20 11. a. Any person who willfully fails to comply with any
21 requirement imposed under this act with respect to any consumer is
22 liable to that consumer in an amount equal to the sum of:

23 (1) (a) any actual damages sustained by the consumer as a
24 result of the failure or \$1,000, whichever is greater; or

25 (b) in the case of liability of a natural person for obtaining a
26 consumer report under false pretenses or knowingly without a
27 permissible purpose, actual damages sustained by the consumer as a
28 result of the failure or \$1,000, whichever is greater;

29 (2) such amount of punitive damages as the court may allow;
30 and

31 (3) in the case of any successful action to enforce any liability
32 under this section, the costs of the action together with reasonable
33 attorneys' fees as determined by the court.

34 b. Any person who obtains a consumer report from a consumer
35 reporting agency under false pretenses or knowingly without a
36 permissible purpose shall be liable to the consumer reporting agency
37 for actual damages sustained by the consumer reporting agency or
38 \$1,000, whichever is greater.

39 c. Upon a finding by the court that an unsuccessful pleading,
40 motion, or other paper filed in connection with an action under this
41 section was filed in bad faith or for purposes of harassment, the court
42 shall award to the prevailing party attorneys' fees reasonable in relation
43 to the work expended in responding to the pleading, motion, or other
44 paper.

45

46 12. a. Any person who is negligent in failing to comply with any

1 requirement imposed under this act with respect to any consumer is
2 liable to that consumer in an amount equal to the sum of:

3 (1) any actual damages sustained by the consumer as a result of the
4 failure; and

5 (2) in the case of any successful action to enforce any liability under
6 this section, the costs of the action together with reasonable attorneys'
7 fees as determined by the court.

8 b. On a finding by the court that an unsuccessful pleading, motion,
9 or other paper filed in connection with an action under this section was
10 filed in bad faith or for purposes of harassment, the court shall award
11 to the prevailing party attorneys' fees reasonable in relation to the
12 work expended in responding to the pleading, motion, or other paper.
13

14 13. Any person who knowingly and willfully obtains information
15 on a consumer from a consumer reporting agency under false pretenses
16 shall be guilty of a crime of the fourth degree.
17

18 14. a. Pursuant to subsection (c) of section 621 of the federal
19 "Fair Credit Reporting Act," 15 U.S.C. §1681s, the Division of
20 Consumer Affairs in the Department of Law and Public Safety is
21 designated as the agency in this State to enforce the provisions of the
22 federal "Fair Credit Reporting Act," and this act.

23 b. The director shall make every effort to keep the residents of this
24 State informed with respect to their rights under the federal "Fair
25 Credit Reporting Act," and this act, including, but not limited to, press
26 releases upon the establishment of toll-free telephone numbers by the
27 major credit reporting agencies as required under federal law and the
28 provision, on the division's web page, of the that same information and
29 other information on basic consumer rights and protections with
30 respect to credit reports under the federal act and this act.
31

32 15. This act shall take effect on the 180th day after enactment.
33
34

35 STATEMENT

36
37 This bill enacts the "New Jersey Fair Credit Reporting Act." The
38 purpose of the bill is to provide consumers in this State with greater
39 protection with respect to their consumer reports and greater
40 confidence that the State will be active in informing consumers of their
41 rights and aggressive in protecting consumers under the federal "Fair
42 Credit Reporting Act" and this bill.

43 In addition to the requirement of the federal act, the bill requires
44 that, upon the request of a consumer for a copy of the consumer's
45 credit report, credit reporting agencies are to provide consumers with:
46 (1) the credit scores or other numerical indicators of credit worthiness,

1 if such scores or indicators are given to recipients of consumer
2 reports, along with an explanation of how the scores or indicators
3 were derived from the information in the consumer's file; and (2) the
4 certification given by certain recipients of the consumer's consumer
5 report.

6 The bill provides that credit reporting agencies may charge an
7 amount not to exceed \$8 for disclosing to a consumer the content of
8 the consumer's credit file except as follows: (1) one disclosure free of
9 charge during each 12 month period; (2) no charge if the request is
10 made within 60 days of an adverse action taken with respect to the
11 consumer; and (3) if an item that was disputed by a consumer is
12 deleted from the consumer's file, no charge is to be imposed for
13 sending notification of that deletion, upon request of the consumer, to
14 certain persons who had previously received the consumer's report.
15 However, if a dispute is not resolved and the consumer files a notice
16 of dispute and requests that the notice or a summary of that notice be
17 sent to persons designated by the consumer who had previously
18 received that consumer's report, the credit reporting agency is
19 permitted to assess a reasonable charge. If a consumer requests more
20 than one consumer report during any 12-month period of time and the
21 request is not in response to an adverse action taken with respect to
22 the consumer, a consumer reporting agency may charge the consumer
23 for each additional report an amount not to exceed \$8.

24 The bill designates the Division of Consumer Affairs in the
25 Department of Law and Public Safety as the agency in this State
26 responsible under subsection (c) of section 621 of the federal "Fair
27 Credit Reporting Act," 15 U.S.C. 1681s, for enforcing the provisions
28 of the federal act and this bill. The bill requires the division to make
29 every effort to keep consumers in this State informed of their rights
30 and protections under the federal law and this bill, including public
31 notices when the credit reporting agencies establish toll-free telephone
32 numbers, as required under the amendments to the federal act, and also
33 to provide similar information on its web page.

34 This bill provides that any person who knowingly and willfully
35 obtains information on a consumer from a consumer reporting agency
36 under false pretenses shall be guilty of a crime of the fourth degree.

37

38

39

40

41 The "New Jersey Fair Credit Reporting Act."