

SENATE, No. 640

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 5, 1996

By Senator PALAIA

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 of  
13 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  
18 or 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 which,  
31 for monetary fees, dues or on a cooperative nonprofit basis, regularly  
32 engages in whole or in part in the practice of assembling or evaluating  
33 consumer credit information or other information on consumers for the  
34 purpose of furnishing consumer reports to third parties.

35 "Employment purposes" means, when used in connection with a  
36 consumer report, a report used for the purpose of evaluating a  
37 consumer for employment, promotion, reassignment or retention as an

1 employee.

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

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

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

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

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

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

32

33 3. a. A consumer reporting agency may furnish a consumer report  
34 under the following circumstances and no other:

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

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

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

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; or

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; or

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

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

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

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

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

22 (1) the consumer authorizes the consumer reporting agency to  
23 furnish the consumer credit report to the person; or

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

33  
34 4. a. A consumer may elect to have his name and address excluded  
35 from any list provided by a consumer reporting agency pursuant to  
36 paragraph (2) of subsection b. of section 3 of this act by notifying the  
37 consumer reporting agency, by telephone or in writing, through the  
38 notification system maintained by the consumer reporting agency  
39 pursuant to subsection c. of this section, that the consumer does not  
40 consent to any use of consumer reports relating to the consumer in  
41 connection with any transaction that is not initiated by the consumer.

42 b. An election by a consumer under this section shall be effective  
43 with respect to a consumer reporting agency, and any affiliate of the  
44 consumer reporting agency, on the date on which the consumer  
45 notifies the consumer reporting agency.

46 c. Each consumer reporting agency that provides prescreening lists

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

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

36  
37 5. a. Except as authorized under subsection b. of this section, no  
38 consumer reporting agency shall make any consumer report containing  
39 any of the following items of information:

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

42 (2) Suits and judgments which, from date of entry, antedate the  
43 report by more than seven years or until the governing statute of  
44 limitations has expired, whichever is the longer period.

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

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

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

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

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

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

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

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

19

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

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

30 (2) the consumer provides the person requesting the report written  
31 permission to obtain the investigative consumer report prior to the  
32 person making the request to the consumer reporting agency.

33 b. The consumer reporting agency shall, upon the request of the  
34 consumer, provide to the consumer a copy of such report upon its  
35 completion.

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

40

41 7. a. Every consumer reporting agency shall maintain reasonable  
42 procedures designed to avoid violation of section 5 of this act and to  
43 limit the furnishing of consumer reports to the purposes listed under  
44 section 3 of this act. These procedures shall require that prospective  
45 users of information identify themselves, certify the purposes for which  
46 the information is sought, and certify that the information will be used

1 for no other purpose. Every consumer reporting agency shall make a  
2 reasonable effort to verify the identity of a new prospective user and  
3 the uses certified by such prospective user prior to furnishing such  
4 user a consumer report. No consumer reporting agency may furnish  
5 a consumer report to any person if it has reasonable grounds for  
6 believing that the consumer report will not be used for a purpose listed  
7 in section 3 of this act.

8 b. Whenever a consumer reporting agency prepares or disseminates  
9 a consumer report it shall follow reasonable procedures to assure  
10 maximum possible accuracy and completeness of the information  
11 concerning the consumer about whom the report relates.

12  
13 8. a. Every person who furnishes information to a consumer  
14 reporting agency shall follow reasonable procedures to ensure that the  
15 information reported to a consumer reporting agency is accurate and  
16 complete. No person shall provide information to a consumer  
17 reporting agency if such person knows or has reasonable cause to  
18 believe such information is not accurate or complete.

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

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

40 d. A person who regularly furnishes information to a consumer  
41 reporting agency regarding a consumer who has an open-end credit  
42 account with such person, and which account is closed by the  
43 consumer, shall notify the consumer reporting agency of the closure  
44 of the account by the consumer, in information regularly furnished for  
45 the period in which the account is closed.

46 e. A person who places a delinquent account for collection,

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

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

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

25  
26 9. Notwithstanding the provisions of section 3 of this act, a  
27 consumer reporting agency may furnish identifying information  
28 respecting any consumer, limited to his name, address, former  
29 addresses, places of employment, or former places of employment, to  
30 a government agency.

31  
32 10. a. Every consumer reporting agency shall, upon request and  
33 proper identification of any consumer, clearly and accurately disclose  
34 to the consumer:

35 (1) the nature, contents and substance of all information, except  
36 medical information, in its file on the consumer at the time of the  
37 request, and which is obtainable based upon the identifying  
38 information supplied by the consumer when making the request, and  
39 if the consumer has made a written request, deliver a written copy or  
40 photocopy of all such information except any code identifications  
41 which are used solely for purposes of transferring such information to  
42 and from consumer reporting agencies; provided, however, that the  
43 names of the users corresponding to the code identifications shall be  
44 disclosed to the consumer; provided, further, that the agency shall  
45 provide a clear, simple and plain meaning explanation of the  
46 information provided under this section and such explanation shall be

1 in a readable format and type, which shall in no case be smaller than  
2 10 point type;

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

11 (3) the recipients of any consumer report on the consumer which  
12 it has furnished for employment purposes within the two-year period  
13 preceding the request, and for any other purpose within the six-month  
14 period preceding the request.

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

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

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

42 If you have notified a consumer credit reporting agency in writing  
43 that you dispute the accuracy of information in your file, the consumer  
44 reporting credit reporting agency must then, within 30 business days,  
45 reinvestigate and modify or remove inaccurate information. The  
46 consumer credit reporting agency may not charge a fee for this

1 service. Any pertinent information and copies of all documents you  
2 have concerning a dispute should be given to the consumer credit  
3 reporting agency.

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

9 You have a right to receive a record of all inquiries relating to a  
10 credit transaction initiated in the six months preceding your request,  
11 or two years in the case of a credit report used for employment  
12 purposes. This record shall include the recipients of any consumer  
13 credit report.

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

21

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

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

27 (1) in person if he appears in person and furnishes proper  
28 identification; or

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

32 or

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

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

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

44 e. Except as provided in sections 18 and 19 of this act, no  
45 consumer may bring any action or proceeding in the nature of  
46 defamation, invasion of privacy, or negligence with respect to the

1 reporting of information against any consumer reporting agency, any  
2 user of information, or any person who furnishes information to a  
3 consumer reporting agency, base on information disclosed pursuant to  
4 this section or section 10 or 17 of this act, except as to false  
5 information furnished with malice or willful intent to injure such  
6 consumer.

7 f. No person shall be held liable for any violation of subsection b.  
8 of this section if such person proves by a preponderance of evidence  
9 that at the time of the alleged violation such person maintained  
10 reasonable procedures to assure compliance with that subsection b.

11

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

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

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

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

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

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

1 consumer reporting agency. As part of, or in addition to, the notice,  
2 the consumer reporting agency shall, within five business days of  
3 reinserting the information, provide, in writing to the consumer:

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

5 (2) a notice that the agency will provide to the consumer, within  
6 15 days following a request, the name, address and telephone number  
7 of any person who furnished information in connection with the  
8 reinsertion;

9 (3) the toll-free telephone number of the consumer reporting  
10 agency that the consumer may use to obtain the name, address and  
11 telephone number; and

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

14

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

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

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

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

30 (2) for furnishing notifications, statements or summaries, to a  
31 person pursuant to subsection g. of section 12 of this act, the charge  
32 for which shall be indicated to the consumer prior to furnishing the  
33 information.

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

40 e. Each consumer reporting agency which does not compile and  
41 maintain files on consumers on a nationwide basis shall furnish, for a  
42 charge not to exceed \$5, to any consumer who has provided  
43 verification of his identity and who meets other requirements as set  
44 forth in section 11 of this act and who requests a copy of his consumer  
45 report, one complete consumer report per calendar year.

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

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

27  
28       15. A consumer reporting agency which compiles and reports items  
29 of information on consumers which are matters of public record, for  
30 purpose of furnishing a consumer report, shall:

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

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

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

43

44       16. Whenever a consumer reporting agency prepares an  
45 investigative consumer report, no adverse information in the consumer  
46 report, other than information which is a matter of public record, may

1 be included in a subsequent consumer report unless the adverse  
2 information has been verified in the process of making such subsequent  
3 consumer report, or the adverse information was received within the  
4 three-month period preceding the date the subsequent report is  
5 furnished.

6  
7 17. a. Whenever credit or insurance for personal, family or  
8 household purposes, or employment involving a consumer is denied or  
9 terminated or the charge for such credit or insurance is increased  
10 either wholly or partly or whenever a consumer's line of credit is  
11 reduced, except when the consumer is delinquent with regard to such  
12 line of credit, because of information contained in a consumer report  
13 from a consumer reporting agency, the user of the consumer report  
14 shall, within 10 business days of its decision to deny or terminate such  
15 credit, insurance or employment, or to increase the charge for such  
16 credit or insurance, or to reduce a consumer's line of credit, except  
17 when the consumer is delinquent with regard to such line of credit,  
18 notify such consumer in writing against whom such adverse action has  
19 been taken. The notice shall be in a clear and conspicuous format, no  
20 smaller than 10 point type, and shall contain the name, address, and  
21 toll-free telephone number of any consumer reporting agency which  
22 provided any consumer report which was reviewed or otherwise taken  
23 into account in the making of such adverse action and shall inform the  
24 consumer of his rights in substantially the following manner:

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

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

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

43 b. Whenever credit for personal, family or household purposes  
44 involving a consumer is denied or the charge for such credit is  
45 increased either wholly or partly because of information obtained from  
46 a person other than a consumer reporting agency bearing upon the

1 consumer's credit worthiness, credit standing, credit capacity,  
2 character, general reputation, personal characteristics, or mode of  
3 living, the user of such information shall, within a reasonable period of  
4 time, upon the consumer's written request for the reasons for such  
5 adverse action received within 60 days after learning of such adverse  
6 action, disclose the nature of the information to the consumer. The  
7 user of such information shall clearly and accurately disclose to the  
8 consumer his right to make such written request at the time such  
9 adverse action is communicated to the consumer.

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

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

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

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

28  
29 19. A violation of any provision of sections 2 to 17 of this act,  
30 inclusive, is deemed to be an unlawful practice.

31  
32 20. This act shall take effect on the 180th day following enactment.

### 33 34 35 STATEMENT

36  
37 This bill regulates the practices of consumer reporting agencies. It  
38 provides protection for consumers by limiting who may receive  
39 consumer reports, requiring distribution of certain consumer  
40 information and providing for the correction of incorrect or incomplete  
41 information in a consumer's file. Consumer reports may be used in  
42 determining a consumer's eligibility for credit, insurance or  
43 employment.

44 A consumer reporting agency may only furnish a consumer report  
45 in response to a court order; by request of the consumer; or if the  
46 person requesting the report intends to use the information in regard

1 to the extension of credit, the underwriting of insurance, employment  
2 or investigating child support cases.

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

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

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

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

44 The bill allows a consumer to remove his name and address from  
45 any list provided by a consumer reporting agency for the use of  
46 pre-screening for offers of credit. It regulates investigative reporting

1 (reports on a consumer's character, general reputation, personal  
2 characteristics and mode of living) by requiring automatic disclosure  
3 by a consumer reporting agency of the nature and scope of an  
4 investigative report and by requiring specific written permission by the  
5 consumer who is the potential subject of the report.

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

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

22

23

24

25

26 "Fair Consumer Reporting Act."