

[First Reprint]  
SENATE, No. 1910

STATE OF NEW JERSEY

INTRODUCED MARCH 20, 1997

By Senators INVERSO and BRYANT

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

**EXPLANATION** - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SSM committee amendments adopted June 12, 1997.

1 sections of that act are left subject to actions by states as long as the  
2 provisions enacted in state law are not inconsistent with federal law;

3 e. The purpose of this act therefore is to provide additional  
4 consumer protection with respect to consumer credit reports and  
5 credit reporting agencies consistent with the provisions of the "Federal  
6 Fair Credit Reporting Act."

7

8 3. As used in this act:

9 "Adverse action" has the same meaning as in subsection (k) of  
10 section 603 of the federal "Fair Credit Reporting Act," 15 U.S.C.  
11 §1681a.

12 "Consumer" means an individual.

13 "Consumer report" (1) means any written, oral or other  
14 communication of any information by a consumer reporting agency  
15 bearing on a consumer's credit worthiness, credit standing, credit  
16 capacity, character, general reputation, personal characteristics or  
17 mode of living which is used or expected to be used or collected in  
18 whole or in part for the purpose of serving as a factor in establishing  
19 the consumer's eligibility for:

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

22 (b) employment purposes; or

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

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

25 (a) any:

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

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

30 (iii) communication of other information among persons related by  
31 common ownership or affiliated by corporate control, if it is clearly  
32 and conspicuously disclosed to the consumer that the information may  
33 be communicated among those persons and the consumer is given the  
34 opportunity, before the time that the information is initially  
35 communicated, to direct that the information not be communicated  
36 among those persons;

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

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

45 (d) communication excluded from the definition of consumer  
46 report pursuant to subsection (o) of section 603 of the federal "Fair

1 Credit Reporting Act," 15 U.S.C.§1681a.

2 "Consumer reporting agency" means any person which, for  
3 monetary fees, dues, or on a cooperative nonprofit basis, regularly  
4 engages, in whole or in part, in the practice of assembling or  
5 evaluating consumer credit information or other information on  
6 consumers for the purpose of furnishing consumer reports to third  
7 parties, and which uses any means or facility for the purpose of  
8 preparing or furnishing consumer reports.

9 "Director" means the Director of the Division of Consumer Affairs  
10 in the Department of Law and Public Safety.

11 "Division" means the Division of Consumer Affairs in the  
12 Department of Law and Public Safety.

13 "Employment purposes" means, when used in connection with a  
14 consumer report, a report used for the purpose of evaluating a  
15 consumer for employment, promotion, reassignment or retention as an  
16 employee.

17 "File" means, when used in connection with information on any  
18 consumer, all of the information on that consumer recorded and  
19 retained by a consumer reporting agency regardless of how the  
20 information is stored.

21 "Investigative consumer report" means a consumer report or a  
22 portion thereof in which information on a consumer's character,  
23 general reputation, personal characteristics or mode of living is  
24 obtained through personal interviews with neighbors, friends or  
25 associates of the consumer who is the subject of the report or with  
26 others with whom the consumer is acquainted or who may have  
27 knowledge concerning any of those items of information. However,  
28 this information shall not include specific factual information on a  
29 consumer's credit record obtained directly from a creditor of the  
30 consumer or from a consumer reporting agency when the information  
31 was obtained directly from a creditor of the consumer or from the  
32 consumer.

33 "Medical information" means information or records obtained, with  
34 the consent of the individual to whom it relates, from licensed  
35 physicians or medical practitioners, hospitals, clinics, or other medical  
36 or medically related facilities.

37

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

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

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

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

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

1 transaction involving the consumer on whom the information is to be  
2 furnished and involving the extension of credit to, or review or  
3 collection of an account of, the consumer;

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

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

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

11 (e) intends to use the information, as a potential investor or  
12 servicer, or current insurer, in connection with a valuation of, or an  
13 assessment of the credit or prepayment risks associated with, an  
14 existing credit obligation; or

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

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

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

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

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

27 (b) the paternity of the consumer for the child to which the  
28 obligation relates has been established or acknowledged by the  
29 consumer in accordance with State laws under which the obligation  
30 arises (if required by those laws);

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

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

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

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

43 (1) the person who obtains the report from the agency certifies to  
44 the agency that:

45 (a) the person has complied with subsection c. of this section with  
46 respect to the consumer report, and the person will comply with

1 subsection d. of this section with respect to the consumer report if that  
2 subsection becomes applicable; and

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

6 (2) the consumer reporting agency provides with the report a  
7 summary of the consumer's rights under the federal "Fair Credit  
8 Reporting Act," 15 U.S.C. §1681 et seq.

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

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

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

18 d. A consumer reporting agency shall not furnish for employment  
19 purposes, or in connection with a credit or insurance transaction or a  
20 direct marketing transaction, a consumer report that contains medical  
21 information about a consumer unless the consumer consents to the  
22 furnishing of the report in writing.

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

27 (1) a copy of the report; and

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

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

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

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

42 (2) the purpose for its use is certified in accordance with section  
43 5 of this act by a prospective user of the report.

44

45 5. a. Every consumer reporting agency shall maintain reasonable  
46 procedures designed to limit the furnishing of consumer reports to the

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

11 b. Whenever a consumer reporting agency prepares a consumer  
12 report it shall follow reasonable procedures to assure maximum  
13 possible accuracy <sup>1</sup>[and completeness]<sup>1</sup> of the information concerning  
14 the individual about whom the report relates.

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

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

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

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

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

27 (1) establish and comply with reasonable procedures designed to  
28 ensure that the report is resold by the person only for a purpose for  
29 which the report may be furnished under section 4 of this act,  
30 including procedures designed to ensure that each person to which the  
31 report is resold and that resells or provides the report to any other  
32 person:

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

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

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

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

42 f. For the purposes of subsections d. and e. of this section,  
43 "report" means the consumer report as furnished by a consumer  
44 reporting agency or any information contained in <sup>1</sup>[or developed  
45 from]<sup>1</sup> that consumer report.

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

3       (1) It is clearly and accurately disclosed in writing to the consumer,  
4 prior to requesting the consumer reporting agency to prepare the  
5 report, that an investigative consumer report commonly includes  
6 information regarding the consumer's character, general reputation,  
7 personal characteristics, and mode of living, and the disclosure  
8 includes the precise nature and scope of the investigation requested  
9 and the right of the consumer to have a copy of the report upon  
10 request; and

11       (2) the consumer provides the person requesting the report written  
12 permission to obtain the investigative consumer report prior to the  
13 person making the request to the consumer reporting agency.

14       b. The consumer reporting agency shall, upon the request of the  
15 consumer, provide to the consumer a copy of the report upon its  
16 completion.

17       c. No person may be held liable for any violation of any provision  
18 of this section if that person proves by a preponderance of the  
19 evidence that at the time of the violation reasonable procedures to  
20 assure compliance with the provisions of this section were maintained.  
21

22       7. Every consumer reporting agency shall, upon request and proper  
23 identification of any consumer, clearly and accurately disclose to the  
24 consumer:

25       a. <sup>1</sup>[The nature and substance of all] All<sup>1</sup> information <sup>1</sup>[, except  
26 medical information,]<sup>1</sup> in<sup>1</sup> [its files on the consumer] the consumer's  
27 file<sup>1</sup> at the time of the request <sup>1</sup>[, including, but not limited to:

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

37       (2) for each person whose name is given to the consumer pursuant  
38 to subsection c. of this section, the certifications provided by that  
39 person pursuant to section 5 of this act]<sup>1</sup>.

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

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

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

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

8 (2) An identification of a person under paragraph (1) shall include:

9 (a) the name of the person, or, if applicable, the trade name  
10 written in full under which the person conducts business; and

11 (b) upon request of the consumer, the address and telephone  
12 number of the person.

13 d. The dates, original payees, and amounts of any checks upon  
14 which is based any adverse characterization of the consumer, included  
15 in the file at the time of the disclosure.

16 e. A record of all inquiries received by the agency during the one-  
17 year period preceding the request that identified the consumer in  
18 connection with a credit or insurance transaction that was not initiated  
19 by the consumer.

20

21 8. a. A consumer reporting agency shall make the disclosures  
22 required under section 7 of this act during normal business hours and  
23 on reasonable notice.

24 b. The disclosures required under section 7 of this act shall be  
25 made to the consumer:

26 (1) in person if the consumer appears in person and furnishes proper  
27 identification; or

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

32 c. Any consumer reporting agency shall provide trained personnel  
33 to explain to the consumer any information furnished to the consumer  
34 pursuant to section 7 of this act.

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

41 e. Except as provided in sections 11 and 12 of this act and sections  
42 616 and 617 of the federal "Fair Credit Reporting Act," 15 U.S.C.  
43 §1681n and 15 U.S.C. §1681o, no consumer may bring any action or  
44 proceeding in the nature of defamation, invasion of privacy, or  
45 negligence with respect to the reporting of information against any  
46 consumer reporting agency, any user of information, or any person

1 who furnishes information to a consumer reporting agency, based on  
2 information disclosed pursuant to section 7 of this act or this section  
3 or sections 609, 610 or 615 of the federal "Fair Credit Reporting Act,"  
4 15 U.S.C.§1681g, 15 U.S.C.§1681h, or 15 U.S.C.§1681m, <sup>1</sup>or based  
5 on information disclosed by a user of a consumer report to or for a  
6 consumer against whom the user has taken adverse action, based in  
7 whole or in part on the report.<sup>1</sup> except as to false information  
8 furnished with malice or willful intent to injure the consumer.

9  
10 9. a. (1) If the completeness or accuracy of any item of  
11 information contained in a consumer's file at a consumer reporting  
12 agency is disputed by a consumer and the consumer notifies the agency  
13 directly of the dispute, the agency shall reinvestigate free of charge  
14 and record the current status of the disputed information, or delete the  
15 item from the file in accordance with subsection e. of this section,  
16 before the end of the 30-day period beginning on the date on which the  
17 agency receives the notice of dispute from the consumer.

18 (2) Except as provided in paragraph (3) of this subsection, the 30-  
19 day period described in paragraph (1) of this subsection may be  
20 extended for not more than 15 additional days if the consumer  
21 reporting agency receives information from the consumer during that  
22 30-day period that is relevant to the reinvestigation.

23 (3) Paragraph (2) of this subsection shall not apply to any  
24 reinvestigation in which, during the 30-day period described in  
25 paragraph (1) of this subsection, the information that is the subject of  
26 the reinvestigation is found to be inaccurate or incomplete or the  
27 consumer reporting agency determines that the information cannot be  
28 verified.

29 b. (1) Before the expiration of the five-business-day period  
30 beginning on the date on which a consumer reporting agency receives  
31 notice of a dispute from any consumer in accordance with subsection  
32 a. of this section, the agency shall provide notification of the dispute  
33 to any person who provided any item of information in dispute, at the  
34 address and in the manner established with the person. The notice  
35 shall include all relevant information regarding the dispute that the  
36 agency has received from the consumer.

37 (2) The consumer reporting agency shall promptly provide to the  
38 person who provided the information in dispute all relevant  
39 information regarding the dispute that is received by the agency from  
40 the consumer after the period referred to in paragraph (1) of this  
41 subsection and before the end of the period referred to in subsection  
42 a. of this section.

43 c. (1) Notwithstanding the provisions of subsection a. of this  
44 section, a consumer reporting agency may terminate a reinvestigation  
45 of information disputed by a consumer under that subsection if the  
46 agency reasonably determines that the dispute by the consumer is

1 frivolous or irrelevant, including by reason of a failure by a consumer  
2 to provide sufficient information to investigate the disputed  
3 information.

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

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

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

12 (b) the identification of any information required to investigate the  
13 disputed information, which may consist of a standardized form  
14 describing the general nature of the information.

15 d. In conducting any reinvestigation under subsection a. of this  
16 section with respect to disputed information in the file of any  
17 consumer, the consumer reporting agency shall review and consider all  
18 relevant information submitted by the consumer in the period  
19 described in paragraph (1) of subsection a. of this section with respect  
20 to the disputed information.

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

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

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

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

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

43 (ii) the business name and address of any furnisher of information  
44 contacted and the telephone number of the furnisher, if reasonably  
45 available, or of any furnisher of information that contacted the  
46 consumer reporting agency, in connection with the reinsertion of the

1   disputed information; and

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

5       (3) A consumer reporting agency shall maintain reasonable  
6 procedures designed to prevent the reappearance in a consumer's file,  
7 and in consumer reports on the consumer, of information that is  
8 deleted pursuant to this section, other than information that is  
9 reinserted in accordance with this section.

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

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

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

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

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

28       (c) a notice that, if requested by the consumer, a description of the  
29 procedure used to determine the accuracy and completeness of the  
30 information shall be provided to the consumer by the agency, including  
31 the business name and address of any furnisher of information  
32 contacted in connection with that information and the telephone  
33 number of the furnisher, if reasonably available;

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

37       (e) a notice that the consumer has the right to request that the  
38 consumer reporting agency furnish notifications under subsection k. of  
39 this section.

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

44       h. If a dispute regarding an item of information in a consumer's file  
45 at a consumer reporting agency is resolved in accordance with  
46 paragraph (1) of subsection e. of this section by the deletion of the

1   disputed information not later than three business days after the date  
2   on which the agency receives notice of the dispute from the consumer  
3   in accordance with paragraph (1) of subsection a. of this section, then  
4   the agency shall not be required to comply with subsections b., f. and  
5   g. of this section with respect to that dispute if the agency:

6       (1) provides prompt notice of the deletion to the consumer by  
7   telephone;

8       (2) includes in that notice, or in a written notice that accompanies  
9   a confirmation and consumer report provided in accordance with  
10   paragraph (3) of this subsection, a statement of the consumer's right  
11   to request that the agency furnish notifications under subsection k. of  
12   this section; and

13       (3) provides written confirmation of the deletion and a copy of a  
14   consumer report on the consumer that is based on the consumer's file  
15   after the deletion, not later than five business days after making the  
16   deletion.

17       i. If the reinvestigation does not resolve the dispute, the consumer  
18   may file a brief statement setting forth the nature of the dispute. The  
19   consumer reporting agency may limit a statement to not more than one  
20   hundred words if it provides the consumer with assistance in writing  
21   a clear summary of the dispute.

22       j. Whenever a statement of a dispute is filed, unless there is  
23   reasonable grounds to believe that it is frivolous or irrelevant, the  
24   consumer reporting agency shall, in any subsequent consumer report  
25   containing the information in question, clearly note that it is disputed  
26   by the consumer and provide either the consumer's statement or a clear  
27   and accurate codification or summary thereof.

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

38

39       10. a. Except as provided in subsections b., c. <sup>1</sup>[and] <sup>1</sup>d. <sup>1</sup>and e.<sup>1</sup>  
40   of this section, a consumer reporting agency may impose a reasonable  
41   charge on a consumer for :

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

1 (2) furnishing to a person designated by the consumer pursuant to  
2 subsection k. of section 9 of this act a statement, codification, or  
3 summary filed or developed under subsection i. or j. of section 9 of  
4 this act, after notification of the consumer under subsection f. of  
5 section 9 of this act with respect to the reinvestigation; this charge  
6 shall not exceed the charge that the agency would impose on each  
7 designated recipient for a consumer report and shall be indicated to the  
8 consumer before furnishing this information.

9 b. Each consumer reporting agency that maintains a file on a  
10 consumer shall make all disclosures <sup>1</sup>required<sup>1</sup> pursuant to section  
11 <sup>1</sup>[9]<sup>1</sup> of this act without charge to the consumer if, not later than 60  
12 days after receipt by the consumer of a notification of an adverse  
13 action or notification from a debt collection agency affiliated with the  
14 consumer reporting agency stating that the consumer's credit rating  
15 may be or has been adversely affected, the consumer makes a request  
16 under section 7 of this act.

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

20 d. A consumer reporting agency shall not impose any charge on a  
21 consumer for providing any notification required by this act, including  
22 but not limited to, the notification required pursuant to subsection k.  
23 of section 9 of this act following deletion of information from a  
24 consumer's file pursuant to section 9 of this act, or making any  
25 disclosure required by this act, except as authorized by subsection a.  
26 of this section.

27 <sup>1</sup>e. Upon request of the consumer, a consumer reporting agency  
28 shall make all disclosures required pursuant to section 7 of this act  
29 once during any 12-month period without charge to that consumer if  
30 the consumer certifies in writing that the consumer:

31 (1) is unemployed and intends to apply for employment in the 60-  
32 day period beginning on the date on which certification is made;

33 (2) is a recipient of assistance under the Work First New Jersey  
34 Program; or

35 (3) has reason to believe that the file on the consumer at the  
36 agency contains inaccurate information due to fraud.<sup>1</sup>  
37

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

41 (1) (a) any actual damages sustained by the consumer as a  
42 result of the failure or <sup>1</sup>damages of not less than \$100 and not more  
43 than<sup>1</sup> \$1,000 <sup>1</sup>[, whichever is greater]<sup>1</sup>; or

44 (b) in the case of liability of a natural person for obtaining a  
45 consumer report under false pretenses or knowingly without a  
46 permissible purpose, actual damages sustained by the consumer as a

1 result of the failure or \$1,000, whichever is greater;

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

3 and

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

7 b. Any person who obtains a consumer report from a consumer  
8 reporting agency under false pretenses or knowingly without a  
9 permissible purpose shall be liable to the consumer reporting agency  
10 for actual damages sustained by the consumer reporting agency or  
11 \$1,000, whichever is greater.

12 c. Upon a finding by the court that an unsuccessful pleading,  
13 motion, or other paper filed in connection with an action under this  
14 section was filed in bad faith or for purposes of harassment, the court  
15 shall award to the prevailing party attorneys' fees reasonable in relation  
16 to the work expended in responding to the pleading, motion, or other  
17 paper.

18

19 12. a. Any person who is negligent in failing to comply with any  
20 requirement imposed under this act with respect to any consumer is  
21 liable to that consumer in an amount equal to the sum of:

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

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

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

32

33 13. Any person who knowingly and willfully obtains information  
34 on a consumer from a consumer reporting agency under false pretenses  
35 shall be guilty of a crime of the fourth degree.

36

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

42 b. The director shall make every effort to keep the residents of this  
43 State informed with respect to their rights under the federal "Fair  
44 Credit Reporting Act," and this act, including, but not limited to, press  
45 releases upon the establishment of toll-free telephone numbers by the  
46 major credit reporting agencies as required under federal law and the

1 provision, on the division's web page, of the that same information and  
2 other information on basic consumer rights and protections with  
3 respect to credit reports under the federal act and this act.

4

5 15. This act shall take effect on the 180th day after enactment.

6

7

8

9

10 The "New Jersey Fair Credit Reporting Act."