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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

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INTRODUCED BY FARMER, ITKIN, E. Z. TAYLOR, CIVERA, MERRY,  
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AND YOUNGBLOOD, FEBRUARY 13, 1995

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REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, FEBRUARY 13, 1995

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AN ACT

1 Providing for consumer credit reporting protection.

2 The General Assembly of the Commonwealth of Pennsylvania  
3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the Consumer  
6 Credit Reporting Protection Act.

7 Section 2. Definitions.

8 The following words and phrases when used in this act shall  
9 have the meanings given to them in this section unless the  
10 context clearly indicates otherwise:

11 "Consumer." An individual.

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

1 establishing the consumer's eligibility for credit or insurance  
2 to be used primarily for personal, family or household purposes,  
3 employment purposes or other purposes authorized under section  
4 3. The term does not include any report containing information  
5 solely as to transactions or experiences between the consumer  
6 and the person making the report; or any authorization or  
7 approval of a specific extension of credit directly or  
8 indirectly by the issuer of a credit card or similar device; or  
9 any report in which a person who has been requested by a third  
10 party to make a specific extension of credit directly or  
11 indirectly to a consumer conveys his decision with respect to  
12 such request, if the third party advises the consumer of the  
13 name and address of the person to whom the request was made.

14 "Consumer reporting agency." Any person who, for monetary  
15 fees or dues or on a cooperative nonprofit basis, regularly  
16 engages in whole or in part in the practice of assembling or  
17 evaluating consumer credit information on consumers for the  
18 purpose of furnishing consumer reports to third parties.

19 "Employment purposes." Using a consumer report for the  
20 purpose of evaluating a consumer for employment, promotion,  
21 reassignment or retention as an employee.

22 "File." When used in connection with information on any  
23 consumer, all information on that consumer recorded and retained  
24 by a consumer reporting agency regardless of how the information  
25 is stored.

26 "Person." An individual, partnership, corporation,  
27 association or any other entity.

28 Section 3. Permissible use of consumer reports.

29 Except as provided in section 4, a consumer reporting agency  
30 may furnish a consumer report only under the following

1 circumstances and no other:

2 (1) In response to the order of a court having  
3 jurisdiction to issue such an order.

4 (2) In compliance with a lawful subpoena issued by a  
5 court of competent jurisdiction.

6 (3) In accordance with the written instructions of the  
7 consumer to whom it relates.

8 (4) To a person who, it has reason to believe:

9 (i) Intends to use the information in connection  
10 with a credit transaction, or enter or enforce an order  
11 of a court of competent jurisdiction for support,  
12 involving the consumer on whom the information is to be  
13 furnished and involving the extension of credit to, or  
14 review or collection of an account of, the consumer.

15 (ii) Intends to use the information for employment  
16 purposes.

17 (iii) Intends to use the information in connection  
18 with the underwriting of insurance involving the  
19 consumer.

20 (iv) Intends to use the information in connection  
21 with a determination of the consumer's eligibility for a  
22 license or other benefit granted by a governmental  
23 instrumentality required by law to consider an  
24 applicant's financial responsibility or status.

25 (v) Intends to use the information in connection  
26 with the rental or lease of a residence.

27 (vi) Otherwise has a legitimate business need for  
28 the information in connection with a business transaction  
29 involving the consumer.

30 Section 4. Access to reports by consumer.

1 (a) Credentials necessary.--Upon furnishing adequate  
2 credentials by a consumer as to his identity:

3 (1) A creditor who denies credit to a consumer shall  
4 disclose to the consumer the name and address of a consumer  
5 reporting agency which has furnished the creditor with a  
6 consumer report on the consumer which the creditor considered  
7 when making the determination.

8 (2) A licensing agency which denies a license to a  
9 consumer shall disclose to the consumer the name and address  
10 of a consumer reporting agency which has furnished the agency  
11 with a consumer report on the consumer which the licensing  
12 agency considered when making the determination.

13 (3) An employer who denies a consumer employment, a  
14 promotion, retention as an employee or reassignment or does  
15 reassign the consumer, whichever is not to the advantage of  
16 the consumer, shall disclose to the consumer the name and  
17 address of any consumer reporting agency which has furnished  
18 the employer with a consumer report on the consumer which the  
19 employer considered when making the determination.

20 (4) A consumer reporting agency shall disclose to a  
21 consumer the contents of its file used for the purpose of  
22 making a consumer report on the consumer, any and all facts,  
23 allegations or sources upon which the information is based  
24 and the name and address of each person requesting a report  
25 on the consumer within the previous six months. A credit  
26 reporting agency may make the disclosures in the following  
27 manner:

28 (i) By a trained employee of the credit reporting  
29 agency when the consumer makes the request in person.

30 (ii) By telephone if the credit reporting agency

1 receives a written request for a telephone disclosure  
2 from the consumer. Any toll for the telephone disclosure  
3 shall be prepaid by the consumer or charged directly to  
4 the consumer requesting the telephone disclosure.

5 (iii) By a decoded written copy of the file or a  
6 written copy of the consumer report with an explanation  
7 of any codes used if the credit reporting agency receives  
8 a written request for a written disclosure from the  
9 consumer.

10 (b) Competence of personnel.--A consumer reporting agency  
11 shall provide trained personnel to disclose the contents of its  
12 file to consumers during normal business office hours and assist  
13 a consumer in fully understanding all items on his consumer  
14 report.

15 (c) Witness.--The consumer shall be permitted to be  
16 accompanied by one other person of his choosing, who shall  
17 furnish reasonable identification, when the consumer reviews the  
18 files of the consumer reporting agency as provided in this  
19 section.

20 (d) Waivers and fees prohibited.--No consumer reporting  
21 agency nor any creditor, licensing agency or employer may  
22 request or require any waiver of rights by any consumer. No  
23 consumer reporting agency nor any creditor or any other person  
24 shall charge any fee to a consumer for a disclosure of his file  
25 if within a 30-day period prior to the request for a disclosure  
26 the consumer is denied credit, licensure, employment or received  
27 a notice of collection or received other adverse action due to  
28 the credit report. Except as provided for in this subsection, a  
29 consumer reporting agency may charge a reasonable fee for any  
30 disclosures of a file to the consumer or his designee.

1 Section 5. Correction of credit reports.

2 (a) Notice of inaccuracy to agency.--If any consumer  
3 disputes the accuracy of any item in his records with a consumer  
4 reporting agency, he may give notice in writing to the consumer  
5 reporting agency specifying in what manner the report is  
6 inaccurate. The consumer reporting agency shall provide notice  
7 forms and shall assist a consumer in preparing the notice when  
8 requested.

9 (b) Agency's acknowledgment.--Within 30 days of receiving a  
10 notice of inaccuracy, a consumer reporting agency shall in  
11 writing deny or admit the inaccuracy.

12 (c) Corrective action.--If the consumer reporting agency  
13 admits that the item is inaccurate, it shall immediately correct  
14 the item in its records and inform any person who has, within  
15 one year prior to the correction, received a report containing  
16 the inaccurate information.

17 (d) Procedure to reinsert deleted material.--No information  
18 may be reinserted in a consumer's file after having been deleted  
19 under this section unless the person who furnishes the  
20 information verifies that the information is accurate. If any  
21 information so deleted from a consumer's file is reinserted in  
22 the file, the consumer reporting agency shall promptly notify  
23 the consumer of the reinsertion in writing or, if authorized by  
24 the consumer for that purpose, by any other means available to  
25 the consumer reporting agency. As part of or in addition to this  
26 notice the consumer reporting agency shall, within five business  
27 days of reinserting the information, provide the consumer in  
28 writing:

29 (1) A statement that the disputed information has been  
30 reinserted.

1           (2) A notice that the agency will provide to the  
2           consumer within five days following a request, the name,  
3           address and telephone number of any furnisher of information  
4           contacted or which contacted the consumer reporting agency in  
5           connection with the reinsertion.

6           (3) The toll-free telephone number of the consumer  
7           reporting agency that the consumer can use to obtain this  
8           name, address and telephone number.

9           (4) A notice that the consumer has the right to add a  
10          statement to his file disputing the accuracy or completeness  
11          of the information.

12          (e) Agency procedures must be reasonable.--A consumer  
13          reporting agency shall maintain reasonable procedures designed  
14          to prevent the reappearance in a consumer's file and in consumer  
15          credit reports of information that has been deleted under this  
16          section and not reinserted under subsection (d).

17          Section 6. Liability of consumer reporting agency.

18          (a) Inaccuracies.--No consumer reporting agency or  
19          information source shall be liable to a consumer for reporting  
20          inaccurate information corrected in compliance with section 5  
21          except as provided in this section.

22          (b) Refusal to make corrections.--A consumer reporting  
23          agency shall be liable for damages and attorney fees and court  
24          costs incurred by a consumer because of inaccurate information  
25          which a consumer reporting agency refuses to correct as provided  
26          in section 5.

27          (c) Faulty or malicious report preparation.--A consumer  
28          reporting agency, user of information or sources of information  
29          which are grossly negligent in the use or preparation of a  
30          consumer report or who acts willfully and maliciously with

1 intent to harm a consumer shall be liable to the consumer for  
2 actual damages, if any, punitive damages and attorney fees and  
3 court costs.

4 Section 7. Unlawful acts.

5 (a) Falsifying identity, circumstances or report.--A person  
6 who requests or obtains a consumer report from a consumer  
7 reporting agency under false pretenses or furnishes a consumer  
8 report to a person except as prescribed by this act or any  
9 employee of a consumer reporting agency who knowingly falsifies  
10 a consumer report or records relating thereto shall be guilty of  
11 a misdemeanor of the third degree.

12 (b) Furnishing false information to agency.--A person, or an  
13 agent, clerk or employee of the person, who knowingly makes,  
14 causes to be made or permits to be made a false statement to a  
15 consumer reporting agency for the purpose of having the false  
16 information appear on a consumer report commits a misdemeanor of  
17 the third degree.

18 (c) Other violations.--A consumer reporting agency, or the  
19 agent, clerk or employee thereof, who knowingly violates any  
20 provision of this act commits a misdemeanor of the third degree.

21 Section 8. Effective date.

22 This act shall take effect in 60 days.