

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

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SEMMELE, ROSS, GLADECK, BENNINGHOFF AND RAMOS, APRIL 8, 1997

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, APRIL 8, 1997

AN ACT

1 Regulating consumer credit reporting; and providing for
2 permissible use of consumer reports and access to reports,
3 for correction of credit reports, for liability of reporting
4 agencies, for unlawful acts and for penalties.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

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

10 Section 2. Definitions.

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

14 "Consumer." An individual.

15 "Consumer report." Any written, oral or other communication
16 of any information by a consumer reporting agency bearing on a

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

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

23 "Employment purposes." Using a consumer report for the
24 purpose of evaluating a consumer for employment, promotion,
25 reassignment or retention as an employee.

26 "File." When used in connection with information on any
27 consumer, all information on that consumer recorded and retained
28 by a consumer reporting agency regardless of how the information
29 is stored.

30 "Person." An individual, partnership, corporation,

1 association or any other entity operating in Pennsylvania.

2 Section 3. Permissible use of consumer reports.

3 Except as provided in section 4, a consumer reporting agency
4 may furnish a consumer report only under the following
5 circumstances and no other:

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

8 (2) In compliance with a lawful subpoena issued by a
9 court of competent jurisdiction or by administrative agencies
10 empowered to issue subpoenas.

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

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

14 (i) intends to use the information in connection
15 with a credit transaction initiated by the consumer;

16 (ii) intends to enter or enforce an order of a court
17 of competent jurisdiction for support;

18 (iii) intends to use the information for employment
19 purposes;

20 (iv) intends to use the information in connection
21 with the underwriting of insurance involving the
22 consumer;

23 (v) intends to use the information in connection
24 with a determination of the consumer's eligibility for a
25 license or other benefit granted by a governmental
26 instrumentality required by law to consider an
27 applicant's financial responsibility or status;

28 (vi) intends to use the information in connection
29 with the rental or lease of a residence; or

30 (vii) otherwise has a legitimate business need for

1 the information in connection with a business transaction
2 involving the consumer.

3 Section 4. Access to reports by consumer.

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

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

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

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

23 (4) A consumer reporting agency shall disclose to a
24 consumer the contents of its file used for the purpose of
25 making a consumer report on the consumer, any and all facts,
26 allegations or sources upon which the information is based,
27 the name and address of each person requesting a report on
28 the consumer within the previous six months and each employer
29 requesting a report within the previous two years. A credit
30 reporting agency shall make the disclosures by one or more of

1 the following methods:

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

4 (ii) By a toll-free telephone number.

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) Assistance of personnel.--Consumer reporting agencies
11 located in Pennsylvania shall provide trained personnel,
12 available by telephone and in person, to disclose the contents
13 of its file to consumers during normal business office hours and
14 assist a consumer in fully understanding all items on his
15 consumer report.

16 (c) Witness.--The consumer shall be permitted to be
17 accompanied by one other person of his choosing, on the
18 telephone or in person, who shall furnish reasonable
19 identification, when the consumer reviews the files of the
20 consumer reporting agency as provided in this section. A
21 consumer reporting agency may require the consumer to furnish a
22 written statement granting permission to the consumer reporting
23 agency to discuss the consumer's file in another person's
24 presence.

25 (d) Waivers and fees prohibited.--No consumer reporting
26 agency nor any creditor, licensing agency or employer may
27 request or require any waiver of rights by any consumer. No
28 consumer reporting agency nor any creditor or any other person
29 shall charge any fee to a consumer for a disclosure of his file
30 if within a 60-day period prior to the request for a disclosure

1 the consumer is denied credit, licensure, employment or received
2 a notice of collection or received other adverse action due to
3 the credit report. In addition, upon request to the consumer's
4 local credit reporting agency, the consumer shall receive one
5 free consumer credit report per year. Except as provided for in
6 this subsection, a consumer reporting agency may charge a
7 reasonable fee not to exceed \$8 for any disclosures of a file to
8 the consumer or his designee.

9 Section 5. Correction of credit reports.

10 (a) Completeness or accuracy of information.--If the
11 completeness or accuracy of any item of information in the file
12 is disputed by a consumer, and the dispute is directly conveyed
13 to the consumer reporting agency by the consumer or his or her
14 attorney, the consumer reporting agency shall within a
15 reasonable period of time, but not to exceed 30 business days
16 beginning on the date the consumer reporting agency receives
17 notice from the consumer, investigate and record the current
18 status of the information unless it has reasonable grounds to
19 believe that the dispute is frivolous or irrelevant; including
20 by reason of a failure of the consumer to provide sufficient
21 information, as requested by the consumer reporting agency, to
22 resolve the dispute.

23 (b) Notice.--If the consumer reporting agency determines
24 that the dispute is frivolous or irrelevant, it shall notify the
25 consumer by mail or, if authorized by the consumer for that
26 purpose, by any other means available to the consumer reporting
27 agency, within five business days after the determination is
28 made that it is terminating its investigation of the item of
29 information. In this notification the consumer reporting agency
30 shall state the specific reasons why it has determined that the

1 consumer's dispute is frivolous or irrelevant. The presence of
2 contradictory information in the consumer's file shall not in
3 and of itself constitute grounds for believing the dispute to be
4 frivolous or irrelevant.

5 (c) Requirement to delete.--If after such investigation such
6 information is found to be inaccurate or can no longer be
7 verified, the consumer reporting agency shall within three
8 business days of determination thereof delete such information.

9 (d) Statement by consumer.--If the investigation does not
10 resolve the dispute, the consumer may file a statement setting
11 forth the nature of the dispute. The statement shall remain part
12 of the consumer report until the adverse information to which it
13 relates is deleted.

14 (e) Investigation report.--Within ten business days after
15 completion of an investigation, the agency shall provide the
16 consumer with written information, free of charge, that includes
17 the following:

18 (1) A statement that the investigation is completed.

19 (2) A consumer report that is based on the consumer's
20 file as that file is revised as a result of the
21 investigation.

22 (3) A description or indication of any changes made in
23 the consumer report as a result of such revisions.

24 (4) Notice that, if requested by the consumer, a
25 description of the procedure used to determine the accuracy
26 and completeness of the information shall be provided to the
27 consumer by the consumer reporting agency, including the
28 business name, address and telephone number of any furnisher
29 of information contacted in connection with such information.

30 (5) Notice that the consumer has the right to add a

1 statement to the consumer's file disputing the accuracy or
2 completeness of the information.

3 (6) Notice that the consumer has the right to request
4 that the consumer reporting agency furnish notifications
5 under subsections (g) and (i).

6 (7) Notice that the consumer has a right to obtain all
7 information required to be disclosed.

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

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

22 (h) Documentation.--A consumer reporting agency shall accept
23 the consumer's version of the disputed information and correct
24 or delete the disputed item when the consumer submits to the
25 consumer reporting agency documentation obtained from the source
26 of the item in dispute or from public records confirming that
27 the report was inaccurate or incomplete, unless the consumer
28 reporting agency in good faith has substantial reason to doubt
29 the authenticity of the documentation or the completeness of the
30 information provided.

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

13 (1) A statement that the disputed information has been
14 reinserted.

15 (2) A notice that the consumer reporting agency will
16 provide to the consumer, within fifteen days following a
17 request, the name, address and telephone number of any
18 furnisher of information contacted or which contacted the
19 consumer reporting agency in connection with the reinsertion.

20 (3) The toll-free telephone number of the consumer
21 reporting agency that the consumer may use to obtain such
22 name, address and telephone number.

23 (4) A notice that the consumer has the right to add a
24 statement to his file disputing the accuracy or completeness
25 of the information.

26 Section 6. Liability of consumer reporting agency.

27 (a) Inaccuracies.--No consumer reporting agency or
28 information source shall be liable to a consumer for reporting
29 inaccurate information corrected in compliance with section 5
30 except as provided in this section.

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

6 (c) Faulty or malicious report preparation.--A consumer
7 reporting agency, user of information or sources of information
8 which are grossly negligent in the use or preparation of a
9 consumer report or who acts willfully and maliciously with
10 intent to harm a consumer shall be liable to the consumer for
11 actual damages, if any, punitive damages and attorney fees and
12 court costs.

13 Section 7. Unlawful acts.

14 (a) Falsifying identity, circumstances or report.--A person
15 who requests or obtains a consumer report from a consumer
16 reporting agency under false pretenses or furnishes a consumer
17 report to a person except as prescribed by this act or any
18 employee of a consumer reporting agency who knowingly falsifies
19 a consumer report or records relating thereto shall be guilty of
20 a misdemeanor of the third degree.

21 (b) Furnishing false information to agency.--A person, or an
22 agent, clerk or employee of the person, who knowingly makes,
23 causes to be made or permits to be made a false statement to a
24 consumer reporting agency for the purpose of having the false
25 information appear on a consumer report commits a misdemeanor of
26 the third degree.

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

30 (d) Other law.--A violation of this act is also a violation

1 of the act of December 17, 1968 (P.L.1224, No.387), known as the
2 Unfair Trade Practices and Consumer Protection Law.

3 Section 8. Remedy by injunction; civil penalty.

4 (a) Jurisdiction.--The Attorney General or the district
5 attorney of any county may bring an action in the name of the
6 Commonwealth to restrain or prevent any violation of this act or
7 any continuance of any such violation.

8 (b) Civil penalty.--Any person who violates any order or
9 decree entered, or injunction issued, pursuant to subsection
10 (a), shall be liable to forfeit and pay a civil penalty of not
11 more than \$5,000, in the discretion of the court, to be
12 recovered as judgments are now by law recovered.

13 (c) Addition.--Any penalty directed to be paid under the
14 provisions of this section shall be in addition to any penalty
15 which may be imposed under the provisions of section 7.

16 Section 9. Effective date.

17 This act shall take effect in 60 days.