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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 759

Session of  
1971

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INTRODUCED BY MESSRS. FINEMAN, SCHMITT, MORRIS, LETTERMAN AND  
KLUNK, APRIL 26, 1971

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REFERRED TO COMMITTEE ON CONSUMER PROTECTION, APRIL 26, 1971

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AN ACT

1 Regulating consumer reporting agencies and providing penalties.

2 The General Assembly of the Commonwealth of Pennsylvania

3 hereby enacts as follows:

4 Section 1. Short Title.--This act shall be known and may be  
5 cited as the "Pennsylvania Fair Credit Reporting Act."

6 Section 2. Findings and Purpose.--(a) The General Assembly  
7 makes the following findings:

8 (1) An elaborate mechanism has been developed for  
9 investigating and evaluating the credit worthiness, credit  
10 standing, credit capacity, character and general reputation of  
11 individuals.

12 (2) In an economy which depends increasingly upon  
13 information on individuals for the extension of credit and the  
14 movement of goods and services there is a need that such  
15 information be accurate and readily ascertainable.

16 (3) Consumer reporting agencies have assumed a vital role in  
17 assembling and evaluating consumer credit and other information

1 on consumers and individuals.

2 (4) There is a need to insure that consumer reporting  
3 agencies exercise their grave responsibilities with fairness,  
4 impartiality, and a respect for the individual right to privacy.

5 (b) It is the purpose of this act to enable persons to  
6 protect themselves against the dissemination of inaccurate or  
7 misleading information bearing on their credit worthiness,  
8 insurability, or employability by requiring that all consumer  
9 reporting agencies adopt reasonable procedures in accordance  
10 with regulations prescribed by the Bureau of Consumer Protection  
11 for meeting the needs of commerce for credit and other  
12 information in a manner which is fair and equitable to the  
13 individual and which adequately protects the individual's right  
14 to privacy.

15 Section 3. Definitions.--As used in this act:

16 "Bureau" means the Bureau of Consumer Protection established  
17 pursuant to section 917, act of April 9, 1929 (P. L. 177), known  
18 as "The Administrative Code of 1929."

19 "Consumer report" means any written, oral, or other  
20 communication of any information bearing on an individual's  
21 credit worthiness, credit standing, credit capacity, character,  
22 general reputation, personal characteristics, or mode of living  
23 and which is used or expected to be used as a factor in  
24 establishing the individual's eligibility for (i) credit or  
25 insurance to be used primarily for personal, family, or  
26 household purposes; or (ii) employment. The term does not  
27 include any report containing information solely as to  
28 transactions between the individual to which it relates and the  
29 person making the report.

30 "Consumer reporting agency" means any person who regularly

1 engages in whole or in part in the business of preparing  
2 consumer reports, and for the purpose of preparing or furnishing  
3 them uses any means or facility of interstate commerce.

4 "File" when used with reference to the information held by a  
5 consumer reporting agency on an individual includes all of the  
6 information on that individual in the possession of the agency  
7 regardless of how the information is stored.

8 "Investigative consumer report" means a consumer report or  
9 portion thereof in which information on an individual's  
10 character, general reputation, personal characteristics, or mode  
11 of living is obtained through personal interviews with  
12 neighbors, friends, or associates of the individual reported on  
13 or with others with whom he is acquainted or who have direct  
14 knowledge of his behavior.

15 Section 4. Regulations and Enforcement.--(a) The bureau  
16 shall prescribe regulations to carry out the purposes of this  
17 act. These regulations may contain such classifications,  
18 differentiations, or other provisions, and may provide for such  
19 adjustments and exceptions, as in the judgment of the bureau are  
20 necessary or proper to effectuate the purposes of this act, to  
21 prevent circumvention or evasion thereof, or to facilitate  
22 compliance therewith.

23 (b) Compliance with the provisions of this act and the  
24 regulations thereunder shall be enforced by the bureau pursuant  
25 to the powers granted the Attorney General by the provisions of  
26 sections 4, 5, 6, 8 and 9 of the act of December 17, 1968 (Act  
27 No. 387), known as the "Unfair Trade Practices and Consumer  
28 Protection Law."

29 Section 5. Advisory Committee.--The bureau shall establish  
30 an advisory committee to consist of not more than eight members

1 to advise and consult with it in the exercise of its functions  
2 under this act. In appointing the members of the committee, the  
3 bureau shall seek to achieve a fair representation of the  
4 interests of consumers, consumer reporting agencies, and the  
5 users of consumer reports. The advisory committee shall meet  
6 from time to time at the call of the bureau and members thereof  
7 shall be compensated at the rate of fifty dollars (\$50) per  
8 diem.

9 Section 6. Civil Liability for Negligence.--Any consumer  
10 reporting agency or user of consumer reports which fails to  
11 exercise reasonable care in complying with any requirement  
12 imposed upon it under this act, and whose failure to do so  
13 damages any individual, is liable to that individual for the  
14 damages thereby sustained, together with the costs of any action  
15 to enforce the liability. If the damages result from the failure  
16 of the agency or user to exercise reasonable care in the design  
17 of its procedures or the supervision of its employees to assure  
18 compliance with the requirements imposed under this act, the  
19 plaintiff shall in addition recover his reasonable attorneys'  
20 fees as determined by the court.

21 Section 7. Civil Liability for Wilful Noncompliance.--Any  
22 consumer reporting agency or user of consumer reports which  
23 wilfully fails to comply with any requirement imposed under this  
24 act with respect to any individual is liable to that individual  
25 in an amount equal to the sum of:

26 (1) Any actual damages sustained by the individual as a  
27 result of the failure;

28 (2) Such amount of punitive damages as the court may allow  
29 which shall not be dependent on the existence of actual damages;  
30 and

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

4 Section 8. Civil Liability for Obtaining Information Under  
5 False Pretenses.--Any person who obtains information on an  
6 individual from a consumer reporting agency under false  
7 pretenses is liable to that individual in an amount equal to the  
8 sum of:

9 (1) Any actual damages sustained by the individual as a  
10 result of the failure;

11 (2) Such amount of punitive damages as the court may allow  
12 which shall not be dependent on the existence of actual damages;  
13 and

14 (3) In the case of any successful action to enforce any  
15 liability under this section, the costs of the action together  
16 with reasonable attorneys' fees as determined by the court.

17 Section 9. Jurisdiction of Courts; Limitation of Actions.--  
18 Any action under sections 6, 7 or 8 of this act shall be brought  
19 within five years from the date of the occurrence of the  
20 violation.

21 Section 10. Criminal Penalties.--(a) Any person who obtains  
22 information on an individual from a consumer reporting agency  
23 under false pretenses shall be guilty of a misdemeanor and upon  
24 conviction thereof shall be fined not more than five thousand  
25 dollars (\$5000) or imprisoned not more than one year, or both.

26 (b) Any officer or employe of a consumer reporting agency  
27 who knowingly and wilfully provides information on an individual  
28 from the agency's files to a person not authorized to receive  
29 that information shall be guilty of a misdemeanor and upon  
30 conviction thereof shall be fined not more than five thousand

1 dollars (\$5000) or imprisoned not more than one year, or both.

2 Section 11. Access by Individuals to Their Credit Files.--

3 (a) A consumer reporting agency shall permit any individual to  
4 examine the information in his file and the sources thereof, and  
5 shall provide trained personnel during normal business hours and  
6 on reasonable notice to explain the information to the  
7 individual. The information shall include the names and  
8 addresses of all persons to whom a consumer report has been  
9 furnished on the individual for the preceding five years or  
10 since the effective date of this act, whichever period is the  
11 shortest. Before making disclosure, the consumer reporting  
12 agency shall require the individual to furnish full  
13 identification. The individual shall be permitted to be  
14 accompanied by one other person of his choosing, to read his  
15 file, and to take notes if he so requests. The consumer  
16 reporting agency may make a reasonable charge, not to exceed the  
17 actual cost, for such disclosure, except that no charge may be  
18 made if: (i) an individual has been denied credit or insurance  
19 or charged a higher rate for such credit insurance or denied  
20 employment and the credit reporting agency has been disclosed to  
21 the individual under section 15 of this act; or (ii) the  
22 individual has received a communication from a debt collection  
23 agency affiliated with the consumer reporting agency stating  
24 that his credit rating may be or has been adversely affected.

25 (b) No consumer reporting agency may require an individual  
26 to grant immunity from legal action to the consumer reporting  
27 agency or its sources of information as a condition for  
28 obtaining access to his file.

29 Section 12. Preserving Confidentiality.--A consumer  
30 reporting agency shall maintain procedures designed to preserve

1 the confidentiality of information in its files. These  
2 procedures shall include limiting access to information to  
3 authorized employees and maintaining training programs to  
4 acquaint employees with the need for preserving confidentiality.  
5 Whenever a consumer reporting agency transmits information by  
6 telegraphic, telephonic, radio, or similar means, it shall take  
7 steps to prevent unauthorized access to its communications.

8 Section 13. Uses of Information.--(a) A consumer reporting  
9 agency shall maintain procedures designed to limit the  
10 furnishing of consumer reports to those with a legitimate  
11 economic need for the information. The procedures shall require  
12 that prospective users of the information identify themselves,  
13 certify the purposes for which the information is sought, and  
14 certify that the information will be used for no other purpose.  
15 A consumer reporting agency shall make a reasonable effort to  
16 verify the identity of a new prospective user and the uses  
17 certified by the prospective user prior to furnishing the user a  
18 report. No consumer reporting agency may furnish a report to a  
19 prospective user if it has reasonable grounds for believing that  
20 the report will not be used for a legitimate economic need.

21 (b) For the purposes of this section, legitimate economic  
22 need includes:

23 (1) Determining an individual's eligibility for credit.

24 (2) Determining an individual's eligibility for insurance.

25 (3) Determining an individual's eligibility for employment,  
26 promotion, reassignment, or retention.

27 (4) Determining an individual's eligibility for a license or  
28 other benefit granted by a governmental instrumentality required  
29 by law to consider an applicant's financial responsibility or  
30 status.

1 (c) For the purposes of this section, legitimate economic  
2 need does not include:

3 (1) Furnishing information for market research or marketing  
4 purposes.

5 (2) Furnishing information to a private detective or a  
6 private detective agency for use in investigations conducted or  
7 to be conducted by that detective agency.

8 (3) Furnishing information to an attorney for use in a legal  
9 matter unless the individual on whom the information is  
10 furnished is a client of the attorney and agrees in writing to  
11 the furnishing of the report.

12 Section 14. Access by Governmental Agencies.--A consumer  
13 reporting agency may not furnish information on individuals in  
14 its files, except identifying information such as names,  
15 addresses, former addresses, places of employment, or former  
16 places of employment, to a governmental agency for purposes  
17 other than those listed under subsection (b) of section 13  
18 unless pursuant to legal process.

19 Section 15. Disclosure of Adverse Action.--Any person who  
20 denies credit, insurance, or employment to an individual or who  
21 increases his charge for credit or insurance either wholly or  
22 partly because of the information contained in a consumer report  
23 received from a consumer reporting agency shall promptly notify  
24 in writing that individual of the action taken and that the  
25 action was due in whole or in part to a consumer report. The  
26 notification shall include the name and address of the consumer  
27 reporting agency furnishing the report, and a notification to  
28 the individual of his right of access under section 1 of this  
29 act.

30 Section 16. Correction of Inaccurate Information.--A



1 consumer reporting agency shall afford any individual a  
2 reasonable opportunity to correct any inaccurate or misleading  
3 information in his file. Whenever an individual disputes the  
4 accuracy of any item of information in his file, the consumer  
5 reporting agency shall promptly investigate the matter and if it  
6 finds that the item is in error or if it is unable to verify the  
7 item's validity, the consumer reporting agency shall: (i)  
8 promptly expunge the item from the individual's file; (ii)  
9 refrain from reporting the item on future reports; and (iii)  
10 promptly notify all prior recipients of the item that had been  
11 reported in error and is being expunged from the individual's  
12 record. This action shall be without charge to the individual.

13 Section 17. Disputed Items.--If an individual disputes an  
14 item of information obtained by a consumer reporting agency and  
15 if, after checking its sources and making a reasonable effort to  
16 ascertain the facts, the consumer reporting agency is unable to  
17 resolve any difference still remaining between the allegations  
18 made by its sources and the individual, the consumer reporting  
19 agency shall: (i) plainly mark the item as disputed on all  
20 subsequent reports; (ii) permit the individual to file a  
21 statement containing his version of the dispute; (iii) send a  
22 copy of this statement to all previous recipients of the  
23 disputed item unless the individual otherwise requests; and (iv)  
24 include this statement in all subsequent reports. This action  
25 shall be without charge to the individual other than  
26 reimbursement for postage for sending the individual's statement  
27 to previous recipients of the disputed item.

28 Section 18. Items Claimed Incomplete or Misleading.--If an  
29 individual contends that a specific item of information obtained  
30 by a consumer reporting agency is misleading because of the

1 omission of certain relevant facts and if the consumer reporting  
2 agency is unwilling to expunge the item from the individual's  
3 file and refrain from including it on subsequent reports, the  
4 consumer reporting agency shall: (i) clearly mark the item as  
5 disputed; (ii) permit the individual to file a statement  
6 containing the additional facts; (iii) send a copy of that  
7 statement to all previous recipients of the item in question if  
8 the individual so requests; and (iv) include the statement in  
9 all subsequent reports. This action shall be without charge to  
10 the individual other than reimbursement for postage for sending  
11 the individual's statement to previous recipients of the item in  
12 question.

13       Section 19. Disclosure of Nature of Information.--Any  
14 creditor who denies consumer credit to an individual or who  
15 increases his charge for consumer credit either wholly or partly  
16 because of information obtained from a person other than a  
17 consumer reporting agency bearing upon that individual's credit  
18 worthiness, credit standing, credit capacity, character, general  
19 reputation, personal characteristics, or mode of living shall  
20 promptly disclose the nature of that information to the  
21 individual.

22       Section 20. Keeping Information Current.--A consumer  
23 reporting agency shall maintain reasonable procedures designed  
24 to keep its information current and up to date. Whenever  
25 information that an individual's account is past due or that an  
26 attempt to collect an individual's account has been made is  
27 regularly reported by a creditor to a consumer reporting agency,  
28 the creditor shall promptly report the disposition of the  
29 account to the consumer reporting agency.

30       Section 21. Discarding Obsolete Information.--(a) A consumer

1 reporting agency shall maintain procedures designed to discard  
2 information in its files after it has become obsolete or after  
3 the expiration of a reasonable period of time. For the purposes  
4 of this section the following information shall not be reported  
5 after the period so indicated and shall be removed from the file  
6 as soon as practical after the expiration of that period:

7 (1) Bankruptcies of all types may not be reported for longer  
8 than fourteen years from the date of adjudication of the most  
9 recent bankruptcy.

10 (2) Records of accounts placed for collection and records of  
11 accounts charged to profit and loss may not be reported for  
12 longer than three years.

13 (3) Suits, judgments, and tax liens may not be reported for  
14 longer than seven years from date of entry.

15 (4) Records of arrest, indictment, or conviction of crimes  
16 may not be reported for longer than three years from the date of  
17 release or parole if the offense is a misdemeanor or seven years  
18 if the offense is a felony. Such items may no longer be reported  
19 if at any time it is learned that in the case of a conviction a  
20 full pardon has been granted, or in the case of an arrest or  
21 indictment a conviction did not result within two years.

22 (5) Derogatory information obtained pursuant to an  
23 investigative credit report may not be included on subsequent  
24 reports unless the information has been reverified.

25 (6) Any other adverse data not otherwise specified in this  
26 section may not be reported for longer than three years.

27 (b) A consumer reporting agency shall delete as soon as  
28 practical any item of derogatory information from an  
29 individual's file whenever it is ascertained that the source of  
30 the information can no longer verify the item in question.

1       Section 22. Public Record Information.--A consumer reporting  
2 agency which compiles and reports items of information on  
3 individuals which are matters of public record and are likely to  
4 have an adverse effect upon an individual's ability to obtain  
5 credit, insurance, or employment shall:

6       (1) Notify the individual on whom the adverse public record  
7 information has been obtained that the information is being  
8 reported to a client of the consumer reporting agency together  
9 with the name and address of the client at the time such  
10 information is reported; and

11       (2) Maintain strict procedures designed to insure that  
12 whenever such information is reported it is complete and up to  
13 date.

14 For purposes of this section, items of public record relating to  
15 arrests, indictments, convictions, suits, tax liens, and  
16 outstanding judgments shall not be considered up to date unless  
17 the status of the public record not earlier than seven business  
18 days prior to the date the report is furnished is given.

19       Section 23. Relevance of Information.--No consumer reporting  
20 agency may report information which is not reasonably relevant  
21 to the purpose for which it is sought or which constitutes an  
22 undue infringement of the individual's right to privacy. The  
23 bureau shall, upon request, determine whether the forms,  
24 questionnaires, or other devices used by a consumer reporting  
25 agency for gathering and reporting information are in violation  
26 of this section and the regulations issued thereunder. A  
27 consumer reporting agency is not in violation of this section if  
28 its forms, questionnaires, and similar devices have been  
29 approved by the bureau. The bureau may, however, revoke any such  
30 approval after thirty days' written notice, if it finds that the

1 information being reported by a consumer reporting agency is not  
2 consistent with the purposes of this section.

3 Section 24. Disclosure by Users of Investigative Reports.--

4 No person may procure, prepare, or furnish an investigative  
5 consumer report on any individual unless, in each instance, the  
6 preparer, purpose, details, and scope of the investigation are  
7 disclosed in advance to the individual and his written  
8 permission is obtained before the investigation is begun.

9 Whenever the information contained in an investigative consumer  
10 report is transmitted on a standardized form, a blank copy of  
11 the form shall be furnished the individual at the time the  
12 details and scope of the investigation are disclosed.

13 Section 25. Restrictions on Investigative Reports.--Where a  
14 consumer reporting agency prepares an investigative consumer  
15 report for the purpose of establishing an individual's  
16 eligibility for credit or insurance, no information in that  
17 report may be included in a subsequent report furnished for any  
18 purpose unless:

19 (1) The written permission of the individual concerned is  
20 newly obtained for the subsequent report, and

21 (2) The information has been reverified in the process of  
22 preparing the subsequent report.

23 Section 26. Effective Date.--This act shall take effect on  
24 the first day of the seventh calendar month which begins after  
25 the date of enactment.