

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 795 Session of
1993

INTRODUCED BY SAURMAN, NAILOR, FARMER, LEH, GEIST, SEMMEL,
FAIRCHILD, ARMSTRONG, BUNT, HARLEY, TIGUE, OLASZ, TOMLINSON,
KENNEY, TRELLO, LAUB AND FREEMAN, MARCH 22, 1993

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MARCH 22, 1993

AN ACT

1 Requiring disclosure of a consumer credit report in cases of
2 disapproval; providing for reinvestigation in case of dispute
3 by consumer; and imposing penalties.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Credit
8 Reporting Agency Act.

9 Section 2. Legislative findings and declarations.

10 The General Assembly finds and declares that:

11 (1) Consumers and the banking industry benefit by an
12 accurate credit reporting system.

13 (2) Increasingly, consumers have been disadvantaged by
14 credit reports which contain erroneous information which, at
15 times, may take a considerable period of time for the credit
16 reporting agency to correct.

17 (3) Congress has passed the Fair Credit Reporting Act
18 (Public Law 91-508, 15 U.S.C. § 1681 et seq.), which

describes the roles to be played by credit reporting agencies and the consumer, but which does not provide for a time certain in regard to the duty of credit reporting agencies to remedy erroneous entries.

(4) The Fair Credit Reporting Act has been supplemented by State statutes.

(5) The State statutes referred to in paragraph (4) have been upheld in Federal court.

(6) To this end, it is incumbent upon the Commonwealth to enact this act as a supplement to the Fair Credit Reporting Act.

Section 3. Definitions.

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

"Consumer report."

(1) Any written, oral or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for any of the following:

(i) Credit or insurance to be used primarily for personal, family or household purposes.

(ii) Employment purposes.

(iii) Other purposes as defined under section 604 of the Fair Credit Reporting Act (Public Law 91-508, 15 U.S.C. § 1681 et seq.).

1 (2) The term does not include:

2 (i) Any report containing information solely as to
3 transactions or experiences between the consumer and the
4 person making the report.

5 (ii) Any authorization or approval of a specific
6 extension of credit directly or indirectly by the issuer
7 of a credit card or similar device.

8 (iii) Any report in which a person who has been
9 requested by a third party to make a specific extension
10 of credit directly or indirectly to a consumer conveys
11 his decision with respect to such a request, if the third
12 party advises the consumer of the name and address of the
13 person to whom the request was made and such person makes
14 the disclosures to the consumer required under section
15 615 of the Fair Credit Reporting Act.

16 "Consumer reporting agency." Any person who, for monetary
17 fees, dues or on a cooperative nonprofit basis, regularly
18 engages in the practice of assembling or evaluating consumer
19 credit information or other information on consumers for the
20 purpose of furnishing consumer reports to third parties and who
21 uses any means to prepare or furnish consumer reports.

22 "File." All of the information on a consumer recorded and
23 retained by a consumer reporting agency regardless of how the
24 information is stored.

25 Section 4. Consumer disclosure.

26 If a consumer has been disapproved for credit on the basis of
27 a credit report the consumer reporting agency issuing the report
28 shall provide the consumer, at no cost, within ten business days
29 of the disapproval, one copy of the following information:

30 (1) The nature and substance of all information, except

1 medical information, in its files on the consumer at that
2 time.

3 (2) The sources of the information, except that those
4 sources of information acquired solely for use in preparing
5 an investigative consumer report and actually used for no
6 other purpose need not be disclosed.

7 (3) The name of the recipients of any consumer report
8 furnished for employment purposes within the two-year period
9 preceding the disapproval or for any purpose within the six-
10 month period preceding the disapproval.

11 Section 5. Reinvestigation in case of disputed accuracy.

12 (a) Dispute by consumer.--If the completeness or accuracy of
13 any item of information contained in his file is disputed by a
14 consumer and the dispute is directly conveyed to the consumer
15 reporting agency in writing, the consumer reporting agency
16 shall, within 30 working days, reinvestigate and record the
17 current status of that information.

18 (b) Notification of deletion of disputed information.--
19 Following the deletion or correction of information in the file
20 which is found on reinvestigation to be inaccurate or whose
21 accuracy can no longer be verified, the consumer reporting
22 agency shall, within five working days, furnish notification
23 that the item has been deleted to any person specifically
24 designated by the consumer who has previously received a
25 consumer report which contained the disputed information.

26 (c) Consumer reporting agency to bear costs.--The consumer
27 reporting agency shall bear the costs of the reinvestigation in
28 subsection (a).

29 Section 6. Penalties.

30 (a) Failure to comply with requirements.--Any consumer

1 reporting agency or user of information which fails to comply
2 with any requirement of this act in a reckless, willful or
3 wanton manner with respect to any consumer is liable for:

4 (1) Any actual damages sustained by the consumer as a
5 result of the failure.

6 (2) Punitive damages.

7 (3) Reasonable attorney fees.

8 (b) Negligence.--Any consumer reporting agency or user of
9 information which is negligent in failing to comply with any
10 requirement imposed under this act with respect to any consumer
11 is liable for:

12 (1) Any actual damages sustained by the consumer as a
13 result of the failure.

14 (2) Reasonable attorney fees.

15 Section 7. Effective date.

16 This act shall take effect in 120 days.