

56: 11-1 et seq.

LEGISLATIVE HISTORY CHECKLIST

NJSA 56:11-1 et seq.

Laws of 1974 Chapter 146

Bill No. S 972

Sponsor(s) Martindell & others

Date Introduced March 18

Committee: Assembly --

Senate Revenue, Finance & Appropriations

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks

Date of passage: Assembly October 21

Senate May 6

Date of approval November 11

Following statements are attached if available:

Sponsor statement ~~Yes~~ No

Committee Statement: Assembly ~~Yes~~ No

Senate Yes ~~No~~

Fiscal Note ~~Yes~~ No

Veto message ~~Yes~~ No

Message on signing ~~Yes~~ No

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

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JFB 1377

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SENATE, No. 972

STATE OF NEW JERSEY

INTRODUCED MARCH 18, 1974

By Senators MARTINDELL, MERLINO, BUEHLER, DWYER
and FAY

Referred to Committee on Revenue, Finance and Appropriations

AN ACT concerning creditor billing errors in connection with certain consumer credit transactions and supplementing Title 56 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. As used in this act:

2 "Consumer" means a natural person.

3 "Creditor" means a person, partnership, corporation, associa-
4 tion or other entity who, in the ordinary course of business, regu-
5 larly extends consumer credit.

6 "Consumer credit" means credit extended to a consumer,
7 primarily for personal, family or household purposes, pursuant to
8 a plan under which the creditor may permit the consumer to make
9 purchases or obtain loans, from time to time, directly from the
10 creditor or indirectly by use of a credit card, check or other device,
11 as the plan may provide.

12 "Billing error" means the initial occurrence of an error by omis-
13 sion or commission by the creditor in a billing statement given to
14 the consumer by the creditor in (a) posting any debit or credit or
15 (b) the computation of any amount or (c) any similar error of an
16 accounting nature.

1 2. This act shall not apply to statements of accounts rendered
2 to customers by public utilities whose billing practices are subject
3 to the jurisdiction and regulation of the Board of Public Utility
4 Commissioners.

1 3. If a creditor, having transmitted to a consumer a statement
2 of the consumer's account, receives from the consumer at an ad-
3 dress designated therefor by the creditor in accordance with sec-
4 tion 5 of this act, within 30 days of the mailing of said statement,

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

9 tion 3 of this act. Provided, however, that with respect to an
10 existing account on which there is no debit or credit balance on the
11 effective date of this act a creditor shall have the option of sending
12 such notice with or before the first billing statement issued on such
13 account after the effective date of this act.

1 7. Any creditor, having received a notice from a consumer as
2 provided in section 3 of this act, who fails to comply with the re-
3 quirements of that section:

4 a. If such an amount is not in fact a billing error, forfeits any
5 rights to collect from the consumer any finance charge or other
6 charge imposed by the creditor in connection with the amount so
7 specified, from the date of the mailing of such notice to the date
8 the creditor complies with section 3 of this act; and

9 b. If such amount is in fact a billing error, is liable to the con-
10 sumer in an amount equal to the sum of:

11 (1) the actual damages sustained by the consumer as a result of
12 the failure of the creditor to comply with such section;

13 (2) twice the amount of the billing error shown in the statement
14 of the consumer's account except that liability under this para-
15 graph shall not be greater than \$100.00; and (3) in the case of any
16 successful action to enforce the foregoing liability, the costs of the
17 action together with a reasonable attorney's fee as determined by
18 the court.

19 c. If such amount is in fact a billing error but the creditor shows
20 by a preponderance of evidence that the violation was not inten-
21 tional and resulted from bona fide error made despite the mainte-
22 nance of procedures reasonably adopted to avoid any such error,
23 the creditor shall be liable to the consumer only to the extent of
24 the actual damages sustained by the consumer as a result of the
25 failure of the creditor to comply with such section and the costs
26 of any action brought to enforce collection of such erroneous bill
27 together with a reasonable attorney's fee as determined by the
28 court.

1 8. This act shall take effect ***[immediately]*** **6 months after its*
2 *enactment**.

LAURENCE J. COVATY
SENATOR

SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
SENATE, No. 972

STATE OF NEW JERSEY

DATED MAY 2, 1974

This bill provides that if a creditor receives notice from a consumer of a suspected billing error, the creditor must, within 30 days of receipt of such notice, mail a written acknowledgment to the consumer, and within 90 days of such notice, provide the consumer with a written statement declaring that the amount believed to be in error has been corrected or the reasons why the creditor believes the account of the consumer was shown correctly.

Within 60 days of the effective date of the act, all creditors are required to provide, with or before the first billing statement, a written notice describing the procedures to be followed regarding notice and acknowledgment of suspected billing errors.

Any creditor who does not comply with the provisions of the act regarding notice and acknowledgment is subject to penalties as follows:

(a) If there was not in fact a billing error, the creditor nevertheless forfeits the right to collect a finance charge or any other charge in connection with the questioned amount from the date of notice by the consumer to the date the creditor complies with the provisions of the act.

(b) If there was in fact a billing error the creditor is liable to the consumer in an amount equal to the actual damages sustained by the consumer as a result of the creditor's noncompliance, plus twice the amount of the billing error, but not more than \$100.00. In addition if a successful action is brought to enforce that liability, the creditor is to pay the cost of the action, together with a reasonable attorney's fee as determined by the court.

(c) If there is in fact a billing error, but the creditor shows by a preponderance of evidence that every effort is made to avoid erroneous billing, the creditor's liability to the consumer is limited to the actual damages sustained as a result of noncompliance in addition to the costs of any action brought to enforce collection of an erroneous bill together with reasonable attorney's fees as determined by the court.

The bill provides by statute a process for reconciliation of differences between creditor and consumer with regard to contested billing amounts and provides reasonable penalties to encourage creditors to comply with the procedure.

5 a written notice, on a document other than a document provided
6 by the creditor to accompany payment, by registered or certified
7 mail, return receipt requested, setting forth sufficient information
8 to enable the creditor to identify the consumer and the account,
9 the amount and transaction shown in the statement which the con-
10 sumer in good faith believes to be a billing error, and the facts
11 providing the basis for the consumer's belief that the statement is
12 in error; the creditor shall:

13 a. Not later than 30 days after receipt of the notice, mail a
14 written acknowledgment to the consumer; and

15 b. Not later than 90 days after receipt of the notice and prior
16 to taking any action to collect the amount believed by the consumer
17 to be a billing error, (1) make appropriate corrections in the ac-
18 count of the consumer and mail to the consumer a written notice
19 stating that the amount believed to be in error has been corrected
20 and will be shown on the next statement mailed to the consumer
21 or (2) send a written notice to the consumer setting forth the
22 reasons why the creditor believes the account of the consumer was
23 correctly shown in the statement; and

24 c. Not communicate unfavorable credit information concerning
25 the consumer to any person, including but not limited to credit
26 bureaus or credit reporting agencies, based upon the consumer's
27 failure to pay the amount believed by him to be a billing error, until
28 the creditor has complied with this section.

1 4. Notwithstanding the receipt by a creditor of a notice from a
2 consumer as described in section 3 of this act, a creditor may,
3 subject to the provisions of section 7 of this act, transmit statements
4 of account to the consumer which include an amount believed by
5 the consumer to be a billing error, and the creditor, further, may
6 undertake collection procedures not attributable to such consumer's
7 failure to pay, nor directed at, such disputed amount.

1 5. Every statement of account rendered by a creditor to a con-
2 sumer shall include the address to be used by the consumer in
3 making inquiries concerning his statement.

1 6. Not later than 60 days after the effective date of this act, a
2 creditor shall send to each consumer, whose account was in exist-
3 ence on the effective date of this act, and with or before the first
4 billing statement on any consumer credit plan issued or offered
5 to a new consumer after the effective date of this act and upon each
6 subsequent renewal of a consumer's account a written notice (by
7 any means reasonably assuring the receipt thereof by the con-
8 sumer) which describes the procedures to be followed under sec-