

56:11-28 to 56:11-41

LEGISLATIVE HISTORY CHECKLIST
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(NJ Fair Credit Reporting Act)

NJSA: 56:11-28 to 56:11-41

LAWS OF: 1997 CHAPTER: 172

BILL NO: S1910

SPONSOR(S): Inverso

DATE INTRODUCED: March 20, 1997

COMMITTEE: ASSEMBLY: ---

SENATE: State Management

AMENDED DURING PASSAGE: Yes Amendments during passage denoted
First reprint enacted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: June 23, 1997

SENATE: June 19, 1997

DATE OF APPROVAL: July 29, 1997

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: No

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:
REPORTS: No

HEARINGS: No

See newspaper clippings--attached:

"N.J. gets credit reporting law," 7-30-97, Asbury Park Press.

"New law gives consumers better credit protection," 7-30-97, Atlantic City Press.

"Checking credit record gets easier," 7-30-97, Bergen Record.

KBP:pp

[Passed Both Houses]

[Corrected Copy]

[First Reprint]

SENATE, No. 1910

STATE OF NEW JERSEY

INTRODUCED MARCH 20, 1997

**By Senators INVERSO, BRYANT,
Assemblymen Corodemus, Bateman and Bagger**

1 **AN ACT** concerning consumer credit reports and supplementing Title
2 56 of the Revised Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. This act shall be known and may be cited as the "New Jersey
8 Fair Credit Reporting Act."

9

10 2. The Legislature finds and declares that:

11 a. Recent amendments to the federal "Fair Credit Reporting Act,"
12 enacted as the "Consumer Credit Reporting Reform Act of 1996,"
13 (Subtitle D, Chapter 1, Pub.L.104-208), add important new
14 substantive provisions, some of which strengthen the federal law and
15 its enforcement.

16 b. Among these amendments is subsection (c) added to the
17 enforcement section, 15 U.S.C. §1681s, which specifically provides
18 that a state can take action to enjoin a person from violating the
19 provisions of the federal "Fair Credit Reporting Act" and to recover
20 damages for residents of the state for such violations.

21 c. The designation of a specific agency of the State to have
22 enforcement authority and to be a source of information for consumers
23 about their rights under the federal law and this act will increase the
24 confidence of consumers in the State that credit reporting problems

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SSM committee amendments adopted June 12, 1997.

1 will be vigorously investigated and that persons violating the federal
2 law and the provisions of this act will be prosecuted;

3 d. While the amendments to the federal "Fair Credit Reporting
4 Act" contained in the "Consumer Credit Reporting Reform Act of
5 1996" specifically preempt states from establishing requirements or
6 prohibitions with respect to the provisions of certain sections of the
7 federal "Fair Credit Reporting Act," the provisions of the other
8 sections of that act are left subject to actions by states as long as the
9 provisions enacted in state law are not inconsistent with federal law;

10 e. The purpose of this act therefore is to provide additional
11 consumer protection with respect to consumer credit reports and
12 credit reporting agencies consistent with the provisions of the "Federal
13 Fair Credit Reporting Act."
14

15 3. As used in this act:

16 "Adverse action" has the same meaning as in subsection (k) of
17 section 603 of the federal "Fair Credit Reporting Act," 15 U.S.C.
18 §1681a.

19 "Consumer" means an individual.

20 "Consumer report" (1) means any written, oral or other
21 communication of any information by a consumer reporting agency
22 bearing on a consumer's credit worthiness, credit standing, credit
23 capacity, character, general reputation, personal characteristics or
24 mode of living which is used or expected to be used or collected in
25 whole or in part for the purpose of serving as a factor in establishing
26 the consumer's eligibility for:

27 (a) credit or insurance to be used primarily for personal, family or
28 household purposes;

29 (b) employment purposes; or

30 (c) any other purpose authorized under section 4 of this act.

31 (2) The term "consumer report" does not include:

32 (a) any:

33 (i) report containing information solely on transactions or
34 experiences between the consumer and the person making the report;

35 (ii) communication of that information among persons related by
36 common ownership or affiliated by corporate control; or

37 (iii) communication of other information among persons related by
38 common ownership or affiliated by corporate control, if it is clearly
39 and conspicuously disclosed to the consumer that the information may
40 be communicated among those persons and the consumer is given the
41 opportunity, before the time that the information is initially
42 communicated, to direct that the information not be communicated
43 among those persons;

44 (b) any authorization or approval of a specific extension of credit
45 directly or indirectly by the issuer of a credit card or similar device;

46 (c) any report in which a person, who has been requested by a third

1 party to make a specific extension of credit directly or indirectly to a
2 consumer, conveys his decision with respect to that request, if the
3 third party advises the consumer of the name and address of the person
4 to whom the request was made, and the person makes the disclosures
5 to the consumer required under 15 U.S.C. §1681m; or

6 (d) communication excluded from the definition of consumer
7 report pursuant to subsection (o) of section 603 of the federal "Fair
8 Credit Reporting Act," 15 U.S.C. §1681a.

9 "Consumer reporting agency" means any person which, for
10 monetary fees, dues, or on a cooperative nonprofit basis, regularly
11 engages, in whole or in part, in the practice of assembling or
12 evaluating consumer credit information or other information on
13 consumers for the purpose of furnishing consumer reports to third
14 parties, and which uses any means or facility for the purpose of
15 preparing or furnishing consumer reports.

16 "Director" means the Director of the Division of Consumer Affairs
17 in the Department of Law and Public Safety.

18 "Division" means the Division of Consumer Affairs in the
19 Department of Law and Public Safety.

20 "Employment purposes" means, when used in connection with a
21 consumer report, a report used for the purpose of evaluating a
22 consumer for employment, promotion, reassignment or retention as an
23 employee.

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

28 "Investigative consumer report" means a consumer report or a
29 portion thereof in which information on a consumer's character,
30 general reputation, personal characteristics or mode of living is
31 obtained through personal interviews with neighbors, friends or
32 associates of the consumer who is the subject of the report or with
33 others with whom the consumer is acquainted or who may have
34 knowledge concerning any of those items of information. However,
35 this information shall not include specific factual information on a
36 consumer's credit record obtained directly from a creditor of the
37 consumer or from a consumer reporting agency when the information
38 was obtained directly from a creditor of the consumer or from the
39 consumer.

40 "Medical information" means information or records obtained, with
41 the consent of the individual to whom it relates, from licensed
42 physicians or medical practitioners, hospitals, clinics, or other medical
43 or medically related facilities.

44
45 4. a. A consumer reporting agency may furnish a consumer report
46 under the following circumstances and no other:

1 (1) In response to the order of a court having jurisdiction to issue
2 such an order, or a subpoena issued in connection with proceedings
3 before a State or federal grand jury.

4 (2) In accordance with the written instructions of the consumer to
5 whom it relates.

6 (3) To a person which it has reason to believe:

7 (a) intends to use the information in connection with a credit
8 transaction involving the consumer on whom the information is to be
9 furnished and involving the extension of credit to, or review or
10 collection of an account of, the consumer;

11 (b) intends to use the information for employment purposes; or

12 (c) intends to use the information in connection with the
13 underwriting of insurance involving the consumer;

14 (d) intends to use the information in connection with a
15 determination of the consumer's eligibility for a license or other benefit
16 granted by a governmental instrumentality required by law to consider
17 an applicant's financial responsibility or status;

18 (e) intends to use the information, as a potential investor or
19 servicer, or current insurer, in connection with a valuation of, or an
20 assessment of the credit or prepayment risks associated with, an
21 existing credit obligation; or

22 (f) otherwise has a legitimate business need for the information:

23 (i) in connection with a business transaction that is initiated by the
24 consumer; or

25 (ii) to review an account to determine whether the consumer
26 continues to meet the terms of the account.

27 (4) In response to a request by the head of a State or local child
28 support enforcement agency (or a State or local government official
29 authorized by the head of such an agency), if the person making the
30 request certifies to the consumer reporting agency that:

31 (a) the consumer report is needed for the purpose of establishing an
32 individual's capacity to make child support payments or determining
33 the appropriate level of those payments;

34 (b) the paternity of the consumer for the child to which the
35 obligation relates has been established or acknowledged by the
36 consumer in accordance with State laws under which the obligation
37 arises (if required by those laws);

38 (c) the person has provided at least 10 days' prior notice to the
39 consumer whose report is requested, by certified or registered mail to
40 the last known address of the consumer, that the report will be
41 requested; and

42 (d) the consumer report will be kept confidential, will be used solely
43 for a purpose described in paragraph (1) of this subsection, and will
44 not be used in connection with any other civil, administrative, or
45 criminal proceeding, or for any other purpose.

46 (5) To an agency administering a State plan under section 42

1 U.S.C. §654 for use to set an initial or modified child support award.

2 b. A consumer reporting agency may furnish a consumer report for
3 employment purposes only if:

4 (1) the person who obtains the report from the agency certifies to
5 the agency that:

6 (a) the person has complied with subsection c. of this section with
7 respect to the consumer report, and the person will comply with
8 subsection d. of this section with respect to the consumer report if that
9 subsection becomes applicable; and

10 (b) information from the consumer report will not be used in
11 violation of any applicable federal or State equal employment
12 opportunity law or regulation; and

13 (2) the consumer reporting agency provides with the report a
14 summary of the consumer's rights under the federal "Fair Credit
15 Reporting Act," 15 U.S.C. §1681 et seq.

16 c. A person may not procure a consumer report, or cause a
17 consumer report to be procured, for employment purposes with
18 respect to any consumer, unless:

19 (1) a clear and conspicuous disclosure has been made in writing to
20 the consumer at any time before the report is procured or caused to be
21 procured, in a document that consists solely of the disclosure, that a
22 consumer report may be obtained for employment purposes; and

23 (2) the consumer has authorized in writing the procurement of the
24 report by that person.

25 d. A consumer reporting agency shall not furnish for employment
26 purposes, or in connection with a credit or insurance transaction or a
27 direct marketing transaction, a consumer report that contains medical
28 information about a consumer unless the consumer consents to the
29 furnishing of the report in writing.

30 e. In using a consumer report for employment purposes, before
31 taking any adverse action based in whole or in part on the report, the
32 person intending to take an adverse action shall provide to the
33 consumer to whom the report relates:

34 (1) a copy of the report; and

35 (2) a description in writing of the rights of the consumer under this
36 act and the federal "Fair Credit Reporting Act," 15 U.S.C. §1681 et
37 seq.

38 f. Consumer reporting agencies may furnish a consumer report
39 relating to any consumer pursuant to subparagraph (a) or (c) of
40 paragraph (3) of subsection a. of this section in connection with any
41 credit or insurance transaction that is not authorized by the consumer
42 only if the consumer reporting agency complies with the requirements
43 of subsections (c) and (e) of section 604 of the federal "Fair Credit
44 Reporting Act," 15 U.S.C. §1681b.

45 g. A person shall not use or obtain a consumer report for any
46 purpose unless:

1 (1) the consumer report is obtained for a purpose for which the
2 consumer report is authorized to be furnished under this section; and

3 (2) the purpose for its use is certified in accordance with section
4 5 of this act by a prospective user of the report.

5
6 5. a. Every consumer reporting agency shall maintain reasonable
7 procedures designed to limit the furnishing of consumer reports to the
8 purposes listed under section 4 of this act. These procedures shall
9 require that prospective users of the information identify themselves,
10 certify each purpose for which the information is sought, and certify
11 that the information will be used for no other purpose. Every
12 consumer reporting agency shall make a reasonable effort to verify the
13 identity of a new prospective user and each use certified by the
14 prospective user prior to furnishing the user a consumer report. No
15 consumer reporting agency may furnish a consumer report to any
16 person if it has reasonable grounds for believing that the consumer
17 report will not be used for a purpose listed in section 4 of this act.

18 b. Whenever a consumer reporting agency prepares a consumer
19 report it shall follow reasonable procedures to assure maximum
20 possible accuracy ¹and completeness¹ of the information concerning
21 the individual about whom the report relates.

22 c. A consumer reporting agency may not prohibit the user of a
23 consumer report furnished by the agency from disclosing the contents
24 of the report to the consumer, if adverse action against the consumer
25 has been taken by the user based in whole or in part on the report.

26 d. A person may not procure a consumer report for the purpose of
27 reselling the report unless the person discloses to the consumer
28 reporting agency that originally furnishes the report:

29 (1) the identity of the end-user of the report; and

30 (2) each permissible purpose under section 4 of this act for which
31 the report is furnished to the end-user of the report.

32 e. A person who procures a consumer report for the purposes of
33 reselling the report shall:

34 (1) establish and comply with reasonable procedures designed to
35 ensure that the report is resold by the person only for a purpose for
36 which the report may be furnished under section 4 of this act,
37 including procedures designed to ensure that each person to which the
38 report is resold and that resells or provides the report to any other
39 person:

40 (a) identifies to the person from whom the report was
41 purchased each end-user of the resold report;

42 (b) certifies to the person from whom the report was
43 purchased each purpose for which the report will be used; and

44 (c) certifies to the person from whom the report was
45 purchased that the report will be used for no other purpose; and

46 (2) before reselling the report, make reasonable efforts to verify the

1 identifications and certifications made under paragraph (1) of this
2 subsection.

3 f. For the purposes of subsections d. and e. of this section,
4 "report" means the consumer report as furnished by a consumer
5 reporting agency or any information contained in ¹["or developed
6 from"]¹ that consumer report.

7
8 6. a. A person may not procure or cause to be prepared an
9 investigative consumer report on any consumer unless:

10 (1) It is clearly and accurately disclosed in writing to the consumer,
11 prior to requesting the consumer reporting agency to prepare the
12 report, that an investigative consumer report commonly includes
13 information regarding the consumer's character, general reputation,
14 personal characteristics, and mode of living, and the disclosure
15 includes the precise nature and scope of the investigation requested
16 and the right of the consumer to have a copy of the report upon
17 request; and

18 (2) the consumer provides the person requesting the report written
19 permission to obtain the investigative consumer report prior to the
20 person making the request to the consumer reporting agency.

21 b. The consumer reporting agency shall, upon the request of the
22 consumer, provide to the consumer a copy of the report upon its
23 completion.

24 c. No person may be held liable for any violation of any provision
25 of this section if that person proves by a preponderance of the
26 evidence that at the time of the violation reasonable procedures to
27 assure compliance with the provisions of this section were maintained.

28
29 7. Every consumer reporting agency shall, upon request and proper
30 identification of any consumer, clearly and accurately disclose to the
31 consumer:

32 a. ¹["The nature and substance of all"] All¹ information ¹["], except
33 medical information,"¹ in ¹["its files on the consumer"] the consumer's
34 file¹ at the time of the request ¹["], including, but not limited to:

35 (1) any information concerning credit scores or any other risk
36 scores or predictors, whether contained in the consumer's file at the
37 time of the request, provided previously as part of the consumer
38 report to a user or that would be provided to a user who requests a
39 consumer report on that consumer under current practices of the
40 consumer reporting agency. If information is given concerning credit
41 scores or any other risk scores or predictors, that information shall
42 include an explanation of how these scores were derived and the
43 meaning of each score; and

44 (2) for each person whose name is given to the consumer pursuant
45 to subsection c. of this section, the certifications provided by that
46 person pursuant to section 5 of this act]¹.

1 b. The sources of the information; except that the sources of
2 information acquired solely for use in preparing an investigative
3 consumer report and actually used for no other purpose need not be
4 disclosed: provided, that if an action is brought under this act or the
5 federal "Fair Credit Reporting Act," such sources shall be available to
6 the plaintiff under appropriate discovery procedures in the court in
7 which the action is brought.

8 c. (1) The identification of each person, including each end-user
9 identified under subsections d. and e. of section 5 of this act, that
10 procured a consumer report:

11 (a) for employment purposes, during the two-year period
12 preceding the date on which the request is made; or

13 (b) for any other purpose, during the one-year period
14 preceding the date on which the request is made.

15 (2) An identification of a person under paragraph (1) shall include:

16 (a) the name of the person, or, if applicable, the trade name
17 written in full under which the person conducts business; and

18 (b) upon request of the consumer, the address and telephone
19 number of the person.

20 d. The dates, original payees, and amounts of any checks upon
21 which is based any adverse characterization of the consumer, included
22 in the file at the time of the disclosure.

23 e. A record of all inquiries received by the agency during the one-
24 year period preceding the request that identified the consumer in
25 connection with a credit or insurance transaction that was not initiated
26 by the consumer.

27

28 8. a. A consumer reporting agency shall make the disclosures
29 required under section 7 of this act during normal business hours and
30 on reasonable notice.

31 b. The disclosures required under section 7 of this act shall be
32 made to the consumer:

33 (1) in person if the consumer appears in person and furnishes proper
34 identification; or

35 (2) by telephone if the consumer has made a written request, with
36 proper identification, for telephone disclosure and the toll charge, if
37 any, for the telephone call is prepaid by or charged directly to the
38 consumer.

39 c. Any consumer reporting agency shall provide trained personnel
40 to explain to the consumer any information furnished to the consumer
41 pursuant to section 7 of this act.

42 d. The consumer shall be permitted to be accompanied by one
43 other person of the consumer's choosing, who shall furnish reasonable
44 identification. A consumer reporting agency may require the consumer
45 to furnish a written statement granting permission to the consumer
46 reporting agency to discuss the consumer's file in that person's

1 presence.

2 e. Except as provided in sections 11 and 12 of this act and sections
3 616 and 617 of the federal "Fair Credit Reporting Act," 15 U.S.C.
4 §1681n and 15 U.S.C. §1681o, no consumer may bring any action or
5 proceeding in the nature of defamation, invasion of privacy, or
6 negligence with respect to the reporting of information against any
7 consumer reporting agency, any user of information, or any person
8 who furnishes information to a consumer reporting agency, based on
9 information disclosed pursuant to section 7 of this act or this section
10 or sections 609, 610 or 615 of the federal "Fair Credit Reporting Act,"
11 15 U.S.C. §1681g, 15 U.S.C. §1681h, or 15 U.S.C. §1681m, ¹or based
12 on information disclosed by a user of a consumer report to or for a
13 consumer against whom the user has taken adverse action, based in
14 whole or in part on the report.¹ except as to false information
15 furnished with malice or willful intent to injure the consumer.

16

17 9. a. (1) If the completeness or accuracy of any item of
18 information contained in a consumer's file at a consumer reporting
19 agency is disputed by a consumer and the consumer notifies the agency
20 directly of the dispute, the agency shall reinvestigate free of charge
21 and record the current status of the disputed information, or delete the
22 item from the file in accordance with subsection e. of this section,
23 before the end of the 30-day period beginning on the date on which the
24 agency receives the notice of dispute from the consumer.

25 (2) Except as provided in paragraph (3) of this subsection, the 30-
26 day period described in paragraph (1) of this subsection may be
27 extended for not more than 15 additional days if the consumer
28 reporting agency receives information from the consumer during that
29 30-day period that is relevant to the reinvestigation.

30 (3) Paragraph (2) of this subsection shall not apply to any
31 reinvestigation in which, during the 30-day period described in
32 paragraph (1) of this subsection, the information that is the subject of
33 the reinvestigation is found to be inaccurate or incomplete or the
34 consumer reporting agency determines that the information cannot be
35 verified.

36 b. (1) Before the expiration of the five-business-day period
37 beginning on the date on which a consumer reporting agency receives
38 notice of a dispute from any consumer in accordance with subsection
39 a. of this section, the agency shall provide notification of the dispute
40 to any person who provided any item of information in dispute, at the
41 address and in the manner established with the person. The notice
42 shall include all relevant information regarding the dispute that the
43 agency has received from the consumer.

44 (2) The consumer reporting agency shall promptly provide to the
45 person who provided the information in dispute all relevant
46 information regarding the dispute that is received by the agency from

1 the consumer after the period referred to in paragraph (1) of this
2 subsection and before the end of the period referred to in subsection
3 a. of this section.

4 c. (1) Notwithstanding the provisions of subsection a. of this
5 section, a consumer reporting agency may terminate a reinvestigation
6 of information disputed by a consumer under that subsection if the
7 agency reasonably determines that the dispute by the consumer is
8 frivolous or irrelevant, including by reason of a failure by a consumer
9 to provide sufficient information to investigate the disputed
10 information.

11 (2) Upon determining that a dispute is frivolous or irrelevant, a
12 consumer reporting agency shall notify the consumer of that
13 determination not later than five business days after making that
14 determination, by mail or, if authorized by the consumer for that
15 purpose, by any other means available to the agency.

16 (3) A notice under paragraph (2) of this subsection shall include:

17 (a) the reasons for the determination under paragraph (1) of this
18 subsection; and

19 (b) the identification of any information required to investigate the
20 disputed information, which may consist of a standardized form
21 describing the general nature of the information.

22 d. In conducting any reinvestigation under subsection a. of this
23 section with respect to disputed information in the file of any
24 consumer, the consumer reporting agency shall review and consider all
25 relevant information submitted by the consumer in the period
26 described in paragraph (1) of subsection a. of this section with respect
27 to the disputed information.

28 e. (1) If after any reinvestigation under subsection a. of this
29 section of any information disputed by a consumer, an item of the
30 information is found to be inaccurate or incomplete or cannot be
31 verified, the consumer reporting agency shall promptly delete that item
32 of information from the consumer's file or modify that item of
33 information, as appropriate, based on the results of the reinvestigation.

34 (2) (a) If any information is deleted from a consumer's file
35 pursuant to paragraph (1) of this subsection, the information shall not
36 be reinserted in the file by the consumer reporting agency unless the
37 person who furnishes the information certifies that the information is
38 complete and accurate

39 (b) If any information that has been deleted from a consumer's file
40 pursuant to paragraph (1) of this subsection is reinserted in the file, the
41 consumer reporting agency shall notify the consumer of the reinsertion
42 in writing not later than five business days after the reinsertion or, if
43 authorized by the consumer for that purpose, by any other means
44 available to the agency.

45 (c) As part of, or in addition to, the notice under subparagraph (b)
46 of paragraph (2) of this subsection, a consumer reporting agency shall

1 provide to the consumer in writing not later than five business days
2 after the date of the reinsertion:

- 3 (i) a statement that the disputed information has been reinserted;
4 (ii) the business name and address of any furnisher of information
5 contacted and the telephone number of the furnisher, if reasonably
6 available, or of any furnisher of information that contacted the
7 consumer reporting agency, in connection with the reinsertion of the
8 disputed information; and
9 (iii) a notice that the consumer has the right to add a statement to
10 the consumer's file disputing the accuracy or completeness of the
11 disputed information.

12 (3) A consumer reporting agency shall maintain reasonable
13 procedures designed to prevent the reappearance in a consumer's file,
14 and in consumer reports on the consumer, of information that is
15 deleted pursuant to this section, other than information that is
16 reinserted in accordance with this section.

17 (4) Any consumer reporting agency that compiles and maintains
18 files on consumers on a nationwide basis shall implement an automated
19 system through which furnishers of information to a consumer
20 reporting agency may report the results of a reinvestigation that finds
21 incomplete or inaccurate information in a consumer's file to other
22 consumer reporting agencies.

23 f. (1) A consumer reporting agency shall provide written notice to
24 a consumer of the results of a reinvestigation under this subsection not
25 later than five business days after the completion of the
26 reinvestigation, by mail or, if authorized by the consumer for that
27 purpose, by any other means available to the agency.

28 (2) As part of, or in addition to, the notice under paragraph (1) of
29 this subsection, a consumer reporting agency shall provide to a
30 consumer in writing before the expiration of the five-day period
31 referred to in paragraph (1) of this subsection:

- 32 (a) a statement that the reinvestigation is completed;
33 (b) a consumer report that is based on the consumer's file as that
34 file is revised as a result of the reinvestigation;
35 (c) a notice that, if requested by the consumer, a description of the
36 procedure used to determine the accuracy and completeness of the
37 information shall be provided to the consumer by the agency, including
38 the business name and address of any furnisher of information
39 contacted in connection with that information and the telephone
40 number of the furnisher, if reasonably available;
41 (d) a notice that the consumer has the right to add a statement to
42 the consumer's file disputing the accuracy or completeness of the
43 information; and
44 (e) a notice that the consumer has the right to request that the
45 consumer reporting agency furnish notifications under subsection k. of
46 this section.

1 g. A consumer reporting agency shall provide to a consumer a
2 description referred to in subparagraph (c) of paragraph (2) of
3 subsection f. of this section not later than 15 days after receiving a
4 request from the consumer for that description.

5 h. If a dispute regarding an item of information in a consumer's file
6 at a consumer reporting agency is resolved in accordance with
7 paragraph (1) of subsection e. of this section by the deletion of the
8 disputed information not later than three business days after the date
9 on which the agency receives notice of the dispute from the consumer
10 in accordance with paragraph (1) of subsection a. of this section, then
11 the agency shall not be required to comply with subsections b., f. and
12 g. of this section with respect to that dispute if the agency:

13 (1) provides prompt notice of the deletion to the consumer by
14 telephone;

15 (2) includes in that notice, or in a written notice that accompanies
16 a confirmation and consumer report provided in accordance with
17 paragraph (3) of this subsection, a statement of the consumer's right
18 to request that the agency furnish notifications under subsection k. of
19 this section; and

20 (3) provides written confirmation of the deletion and a copy of a
21 consumer report on the consumer that is based on the consumer's file
22 after the deletion, not later than five business days after making the
23 deletion.

24 i. If the reinvestigation does not resolve the dispute, the consumer
25 may file a brief statement setting forth the nature of the dispute. The
26 consumer reporting agency may limit a statement to not more than one
27 hundred words if it provides the consumer with assistance in writing
28 a clear summary of the dispute.

29 j. Whenever a statement of a dispute is filed, unless there is
30 reasonable grounds to believe that it is frivolous or irrelevant, the
31 consumer reporting agency shall, in any subsequent consumer report
32 containing the information in question, clearly note that it is disputed
33 by the consumer and provide either the consumer's statement or a clear
34 and accurate codification or summary thereof.

35 k. Following any deletion of information which is found to be
36 inaccurate or whose accuracy can no longer be verified or any notation
37 as to disputed information, the consumer reporting agency shall, at the
38 request of the consumer, furnish notification that the item has been
39 deleted or if disputed, the statement, codification or summary filed or
40 developed pursuant to subsection i. or j. of this section, to any person
41 specifically designated by the consumer who has within two years prior
42 thereto received a consumer report for employment purposes, or
43 within one year prior thereto received a consumer report for any other
44 purpose, which contained the deleted or disputed information.

45
46 10. a. Except as provided in subsections b., c. ¹[and] ¹d. ¹and

1 e.¹ of this section, a consumer reporting agency may impose a
2 reasonable charge on a consumer for :

3 (1) making a disclosure to the consumer pursuant to section 7 of
4 this act if the request is the second or subsequent request in a 12
5 month period of time and is not made pursuant to subsection b. of this
6 section; the charge for this disclosure shall not exceed \$8 and shall be
7 indicated to the consumer before making the disclosure;

8 (2) furnishing to a person designated by the consumer pursuant to
9 subsection k. of section 9 of this act a statement, codification, or
10 summary filed or developed under subsection i. or j. of section 9 of
11 this act, after notification of the consumer under subsection f. of
12 section 9 of this act with respect to the reinvestigation; this charge
13 shall not exceed the charge that the agency would impose on each
14 designated recipient for a consumer report and shall be indicated to the
15 consumer before furnishing this information.

16 b. Each consumer reporting agency that maintains a file on a
17 consumer shall make all disclosures ¹required pursuant to section
18 ¹[9]7 of this act without charge to the consumer if, not later than 60
19 days after receipt by the consumer of a notification of an adverse
20 action or notification from a debt collection agency affiliated with the
21 consumer reporting agency stating that the consumer's credit rating
22 may be or has been adversely affected, the consumer makes a request
23 under section 7 of this act.

24 c. Upon the request of the consumer, a consumer reporting agency
25 shall make all disclosures required pursuant to section 7 of this act
26 once during any 12 month period without charge to the consumer.

27 d. A consumer reporting agency shall not impose any charge on a
28 consumer for providing any notification required by this act, including
29 but not limited to, the notification required pursuant to subsection k.
30 of section 9 of this act following deletion of information from a
31 consumer's file pursuant to section 9 of this act, or making any
32 disclosure required by this act, except as authorized by subsection a.
33 of this section.

34 ¹e. Upon request of the consumer, a consumer reporting agency
35 shall make all disclosures required pursuant to section 7 of this act
36 once during any 12-month period without charge to that consumer if
37 the consumer certifies in writing that the consumer:

38 (1) is unemployed and intends to apply for employment in the 60-
39 day period beginning on the date on which certification is made;

40 (2) is a recipient of assistance under the Work First New Jersey
41 Program; or

42 (3) has reason to believe that the file on the consumer at the
43 agency contains inaccurate information due to fraud.¹

44
45 11. a. Any person who willfully fails to comply with any
46 requirement imposed under this act with respect to any consumer is

1 liable to that consumer in an amount equal to the sum of:

2 (1) (a) any actual damages sustained by the consumer as a
3 result of the failure or damages of not less than \$100 and not more
4 than \$1,000], whichever is greater ; or

5 (b) in the case of liability of a natural person for obtaining a
6 consumer report under false pretenses or knowingly without a
7 permissible purpose, actual damages sustained by the consumer as a
8 result of the failure or \$1,000, whichever is greater;

9 (2) such amount of punitive damages as the court may allow;
10 and

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

14 b. Any person who obtains a consumer report from a consumer
15 reporting agency under false pretenses or knowingly without a
16 permissible purpose shall be liable to the consumer reporting agency
17 for actual damages sustained by the consumer reporting agency or
18 \$1,000, whichever is greater.

19 c. Upon a finding by the court that an unsuccessful pleading,
20 motion, or other paper filed in connection with an action under this
21 section was filed in bad faith or for purposes of harassment, the court
22 shall award to the prevailing party attorneys' fees reasonable in relation
23 to the work expended in responding to the pleading, motion, or other
24 paper.

25

26 12. a. Any person who is negligent in failing to comply with any
27 requirement imposed under this act with respect to any consumer is
28 liable to that consumer in an amount equal to the sum of:

29 (1) any actual damages sustained by the consumer as a result of the
30 failure; and

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

34 b. On a finding by the court that an unsuccessful pleading, motion,
35 or other paper filed in connection with an action under this section was
36 filed in bad faith or for purposes of harassment, the court shall award
37 to the prevailing party attorneys' fees reasonable in relation to the
38 work expended in responding to the pleading, motion, or other paper.

39

40 13. Any person who knowingly and willfully obtains information
41 on a consumer from a consumer reporting agency under false pretenses
42 shall be guilty of a crime of the fourth degree.

43

44 14. a. Pursuant to subsection (c) of section 621 of the federal
45 "Fair Credit Reporting Act," 15 U.S.C. §1681s, the Division of
46 Consumer Affairs in the Department of Law and Public Safety is

1 designated as the agency in this State to enforce the provisions of the
2 federal "Fair Credit Reporting Act," and this act.

3 b. The director shall make every effort to keep the residents of this
4 State informed with respect to their rights under the federal "Fair
5 Credit Reporting Act," and this act, including, but not limited to, press
6 releases upon the establishment of toll-free telephone numbers by the
7 major credit reporting agencies as required under federal law and the
8 provision, on the division's web page, of the that same information and
9 other information on basic consumer rights and protections with
10 respect to credit reports under the federal act and this act.

11

12 15. This act shall take effect on the 180th day after enactment.

13

14

15

16

17 The "New Jersey Fair Credit Reporting Act."

1 (1) any actual damages sustained by the consumer as a result of the
2 failure; and

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

6 b. On a finding by the court that an unsuccessful pleading, motion,
7 or other paper filed in connection with an action under this section was
8 filed in bad faith or for purposes of harassment, the court shall award
9 to the prevailing party attorneys' fees reasonable in relation to the
10 work expended in responding to the pleading, motion, or other paper.

11
12 13. Any person who knowingly and willfully obtains information
13 on a consumer from a consumer reporting agency under false pretenses
14 shall be guilty of a crime of the fourth degree.

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16 14. a. Pursuant to subsection (c) of section 621 of the federal
17 "Fair Credit Reporting Act," 15 U.S.C. §1681s, the Division of
18 Consumer Affairs in the Department of Law and Public Safety is
19 designated as the agency in this State to enforce the provisions of the
20 federal "Fair Credit Reporting Act," and this act.

21 b. The director shall make every effort to keep the residents of this
22 State informed with respect to their rights under the federal "Fair
23 Credit Reporting Act," and this act, including, but not limited to, press
24 releases upon the establishment of toll-free telephone numbers by the
25 major credit reporting agencies as required under federal law and the
26 provision, on the division's web page, of the that same information and
27 other information on basic consumer rights and protections with
28 respect to credit reports under the federal act and this act.

29
30 15. This act shall take effect on the 180th day after enactment.

31
32
33 STATEMENT

34
35 This bill enacts the "New Jersey Fair Credit Reporting Act." The
36 purpose of the bill is to provide consumers in this State with greater
37 protection with respect to their consumer reports and greater
38 confidence that the State will be active in informing consumers of their
39 rights and aggressive in protecting consumers under the federal "Fair
40 Credit Reporting Act" and this bill.

41 In addition to the requirement of the federal act, the bill requires
42 that, upon the request of a consumer for a copy of the consumer's
43 credit report, credit reporting agencies are to provide consumers with:
44 (1) the credit scores or other numerical indicators of credit worthiness,
45 if such scores or indicators are given to recipients of consumer
46 reports, along with an explanation of how the scores or indicators

1 were derived from the information in the consumer's file; and (2) the
2 certification given by certain recipients of the consumer's consumer
3 report.

4 The bill provides that credit reporting agencies may charge an
5 amount not to exceed \$8 for disclosing to a consumer the content of
6 the consumer's credit file except as follows: (1) one disclosure free of
7 charge during each 12 month period; (2) no charge if the request is
8 made within 60 days of an adverse action taken with respect to the
9 consumer; and (3) if an item that was disputed by a consumer is
10 deleted from the consumer's file, no charge is to be imposed for
11 sending notification of that deletion, upon request of the consumer, to
12 certain persons who had previously received the consumer's report.
13 However, if a dispute is not resolved and the consumer files a notice
14 of dispute and requests that the notice or a summary of that notice be
15 sent to persons designated by the consumer who had previously
16 received that consumer's report, the credit reporting agency is
17 permitted to assess a reasonable charge. If a consumer requests more
18 than one consumer report during any 12-month period of time and the
19 request is not in response to an adverse action taken with respect to
20 the consumer, a consumer reporting agency may charge the consumer
21 for each additional report an amount not to exceed \$8.

22 The bill designates the Division of Consumer Affairs in the
23 Department of Law and Public Safety as the agency in this State
24 responsible under subsection (c) of section 621 of the federal "Fair
25 Credit Reporting Act," 15 U.S.C. 1681s, for enforcing the provisions
26 of the federal act and this bill. The bill requires the division to make
27 every effort to keep consumers in this State informed of their rights
28 and protections under the federal law and this bill, including public
29 notices when the credit reporting agencies establish toll-free telephone
30 numbers, as required under the amendments to the federal act, and also
31 to provide similar information on its web page.

32 This bill provides that any person who knowingly and willfully
33 obtains information on a consumer from a consumer reporting agency
34 under false pretenses shall be guilty of a crime of the fourth degree.

35

36

37

38

39 The "New Jersey Fair Credit Reporting Act."

SENATE STATE MANAGEMENT, INVESTMENT AND
FINANCIAL INSTITUTIONS COMMITTEE

STATEMENT TO

SENATE, No. 1910

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 12, 1997

The Senate State Management, Investment and Financial Institutions Committee reports favorably and with committee amendments Senate Bill No. 1910.

This bill, as amended, enacts the "New Jersey Fair Credit Reporting Act." The purpose of the bill is to provide consumers in this State with greater protection with respect to their consumer credit reports and greater confidence that the State will be active in informing consumers of their rights and aggressive in protecting consumers under the federal "Fair Credit Reporting Act" and this bill.

The bill provides that credit reporting agencies may charge an amount not to exceed \$8 for disclosing to a consumer the content of the consumer's credit file, except that: (1) one disclosure shall be free of charge during each 12 month period; (2) there is no charge if the request is made within 60 days of an adverse action taken with respect to the consumer; (3) if an item that was disputed by a consumer is deleted from the consumer's file, no charge is to be imposed for sending notification of that deletion, upon request of the consumer, to certain persons who had previously received the consumer's report; and (4) no charge will apply if the person making the request certifies that at the time of making the request, that person is a consumer who: is unemployed and intends to apply for employment in the 60-day period beginning on the date on which certification is made; is a recipient of assistance under the Work First New Jersey Program; or has reason to believe that the file on the consumer at the agency contains inaccurate information due to fraud. However, if a dispute is not resolved and the consumer files a notice of dispute and requests that the notice or a summary of that notice be sent to persons designated by the consumer who had previously received that consumer's report, the credit reporting agency is permitted to assess a reasonable charge. If a consumer requests more than one consumer report during any 12-month period of time and the request is not in response to an adverse action taken with respect to the consumer, a consumer reporting agency may charge the consumer for each

additional report an amount not to exceed \$8.

The bill designates the Division of Consumer Affairs in the Department of Law and Public Safety as the agency in this State responsible under subsection (c) of section 621 of the federal "Fair Credit Reporting Act," 15 U.S.C. §1681s, for enforcing the provisions of the federal act and this bill. The bill requires the division to make every effort to keep consumers in this State informed of their rights and protections under the federal law and this bill, including public notices when the credit reporting agencies establish toll-free telephone numbers, as required under the amendments to the federal act, and also to provide similar information on its web page.

This bill provides that any person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses shall be guilty of a crime of the fourth degree.

As amended, Senate, No.1910 is identical to Assembly, No. 2787(1R).

COMMITTEE AMENDMENT

The committee amended the bill to remove the requirement that a consumer reporting agency include information on credit scores and certifications in the information provided a consumer with respect to a request for information on the contents in the consumer's file; conform the language of the bill more closely with the federal "Fair Credit Reporting Act," by deleting the word "complete" in the requirement for consumer reporting agencies when preparing a consumer report; add the provision that a person on unemployment, receiving aid under the New Jersey Work First Program or who has reason to believe that the file on the consumer at the agency contains inaccurate information due to fraud can receive a free report; and change the amount of civil penalties in one circumstance.