

SENATE BILL REPORT

ESSB 5574

AS PASSED SENATE, MARCH 12, 1993

Brief Description: Regulating credit information use.

SPONSORS: Senate Committee on Labor & Commerce (originally sponsored by Senators Williams, Moore, Pelz and Franklin)

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 5574 be substituted therefor, and the substitute bill do pass.

Signed by Senators Barr, Fraser, Pelz, Prince, Sutherland, Vognild, and Wojahn.

Staff: Benson Porter (786-7470)

Hearing Dates: February 18, 1993; March 2, 1993

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

BACKGROUND:

The Fair Credit Reporting Act of 1970 (FCRA) is the principle federal law governing the practices of credit reporting agencies. In addition, approximately 20 states have enacted laws that address various aspects of the credit reporting industry. Many of these other state provisions track the federal law. In Washington, no laws directly govern the activity of credit reporting agencies. The only related provisions in Washington govern credit service organizations, which assist consumers to obtain credit or repair a consumer's credit record.

Recently, both federal and state proposals have been considered to expand current regulations relating to credit reporting. These proposals address areas that have been the subject of complaints by consumers.

SUMMARY:

The Washington Fair Credit Reporting Act is established.

Requirements of Consumer Reporting Agencies - Consumer reporting agencies are required to have reasonable procedures to maintain proper information within credit reports, ensure maximum possible accuracy, and provide reports under appropriate circumstances.

A consumer reporting agency may only provide a consumer's credit report in certain enumerated circumstances. Examples of these circumstances include when the agency believes the

report will be used in a credit transaction, employment decision, or other legitimate business situation.

Transactions Involving Prescreened Lists - A consumer may elect to be excluded from credit or prescreened direct marketing transactions not initiated by the consumer. Consumer reporting agencies that provide credit reports in these circumstances or that operate nationwide must maintain a consumer notification system. The system must annually publish the agency's address that consumers may use to withdraw their names from such transactions. For credit transactions not initiated by a consumer, the consumer reporting agency may only provide a credit report if the consumer authorized the report or the consumer has not opted out under the notice system.

Disclosure of Report Contents - A consumer is authorized to request all information within his or her credit report file with special provisions for medical information. Along with disclosing the information, the consumer reporting agency must provide a written summary of the consumer's rights and remedies under the act.

Resolution of Disputed Information - When a consumer disputes information within his or her file, the consumer reporting agency must reinvestigate the information within 30 days. An agency may terminate a reinvestigation if it determines the reinvestigation is frivolous or irrelevant. If any information is found to be inaccurate or cannot be verified after the reinvestigation is completed, the information must be deleted from the credit report. In the event of a continuing dispute after the reinvestigation, the consumer may file a brief statement concerning the dispute. Various notice provisions relating to the reinvestigation process and the consumer's rights are established. If the consumer reporting agency operates on a nationwide basis, the agency must provide a toll-free number to persons disputing information in their files.

Credit Report Charges - A consumer reporting agency is required to provide a free copy of a credit report to the consumer if the consumer requests the report within 60 days after receiving notice of adverse action. Otherwise, the agency may charge a fee not to exceed \$8. Additional provisions governing the consumer charges are established.

Responsibilities of Credit Report Users - If a credit report is used for employment purposes, the employer must give notice to the prospective or current employee that a credit report may be considered.

A person taking adverse action against a consumer based upon a credit report must provide notice of the action and the name, address and telephone number of the agency providing the report. Adverse actions are those acts relating to insurance, credit, employment, or residential property rental that are adverse to the consumer's interests.

Penalty Provisions - A violation of the chapter is an unfair or deceptive act and unfair method of competition for purposes of applying the Consumer Protection Act (CPA). However, a consumer's judgment under CPA is limited to actual damages, costs, and attorney fees but may be enhanced by a \$1,000 monetary award when there is a willful failure to comply with the chapter.

In addition, criminal penalties are established for other violations of the act. A person who knowingly and willfully obtains information from a credit report under false pretenses is subject to a fine of up to \$5,000, imprisonment of up to one year, or both. Employees and officers of a consumer reporting agency who provide information to unauthorized persons also are subject to criminal penalties.

Appropriation: none

Revenue: none

Fiscal Note: none requested

Effective Date: January 1, 1994

TESTIMONY FOR:

A state fair credit reporting act will enhance remedies available to this state's residents and provide additional consumer protections.

TESTIMONY AGAINST: None

TESTIFIED: Senator Al Williams, prime sponsor (pro); Paula Selis, Attorney General's office

HOUSE AMENDMENT(S):

The consumer's ability to opt out of prescreened or direct solicitation transactions is clarified.

The definition of adverse creditor actions is amended to permit point of sale denials without invoking various provisions of the proposal.