

SENATE BILL REPORT

SB 5574

AS REPORTED BY COMMITTEE ON LABOR & COMMERCE, MARCH 2, 1993

**Brief Description:** Regulating credit information use.

**SPONSORS:** 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

**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, proposals have been considered to expand the FCRA and various state laws. These proposals address areas that have been the subject of complaints by and concerns of 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 the 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 transactions not initiated by the consumer or those marketing efforts that utilize prescreened lists. 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 and toll-free telephone number so that consumers can contact the agency 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 transaction involves a firm offer of credit and 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. Moreover, a consumer reporting agency operating on a nationwide basis must provide a toll-free number that the consumer can use to contact the agency.

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.

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, the name of the agency providing the report, and a summary of the consumer's rights.

If a person uses a credit report in certain credit transactions not initiated by the consumer, the person must disclose the circumstances surrounding the offer of credit and the consumer's right to exclude his or her name from such offers.

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. 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.

**EFFECT OF PROPOSED SUBSTITUTE:**

The provisions specifying those employment situations when a credit report can be obtained are deleted. In addition, the limitations concerning credit transactions not initiated by the consumer are deleted.

When a consumer reporting agency discloses information to a consumer, the agency does not have to provide a toll-free number. An agency that operates nationwide must provide a toll-free number to a consumer who disputes information.

A person who takes an adverse action against a consumer based on a credit report must provide notice of such action and disclose the name, address, and telephone number of the credit reporting agency.

Violations of this chapter still enable applications of the Consumer Protection Act (CPA) but the recovery is limited in comparison to the CPA. A person injured by a violation of the chapter may recover actual damages, costs and attorney fees, and a monetary penalty of \$500.

**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