
**Insurance, Financial Services &
Consumer Protection Committee**

HB 1546

Brief Description: Applying the provisions of chapter 19.182 RCW, the fair credit reporting act, to background check reports.

Sponsors: Representatives Kirby and Dickerson.

Brief Summary of Bill

- Alters definitions of "a consumer report" and "investigative consumer report."
- Includes records of vacations of criminal convictions from the information that is generally included in a consumer report.
- Removes older information regarding records of arrest, indictment, or conviction of crime that, from date of disposition, release, or parole from the information that is generally prohibited in a consumer report.
- Creates duties regarding employer use of a consumer report.

Hearing Date: 1/30/07

Staff: Jon Hedegard (786-7127).

Background:

Consumer reports

A consumer report is a written, oral, or other communication of information by a consumer reporting agency (CRA) bearing on a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that 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 credit or insurance to be used primarily for personal, family, or household purposes;

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- employment purposes; or
- other authorized purposes.

The use of credit reports and consumer reports is regulated under the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.) and the state Fair Credit Reporting Act (Chapter 19.182 RCW). Both the federal and state laws require that consumer reporting agencies establish procedures to ensure that the information is accurate and is provided only for appropriate purposes. State procedures include a requirement that prospective users identify themselves, certify the use of the purpose for which the information will be used, and certify that the information will not be used for other purposes. A CRA must take reasonable effort to verify the identity of a prospective user and the uses certified by the prospective user before providing a report.

It is unlawful to obtain information knowingly and under false pretenses. A person who violates the law is subject to a fine of \$5,000, up to a year in prison, or both. It is also unlawful to knowingly provide information to a person who is not authorized to receive the information. An officer or employee of a CRA who violates the law is subject to a fine of \$5,000, up to a year in prison, or both.

There are mechanisms in state and federal law to dispute the completeness and accuracy of information on a consumer report.

Generally Excluded Information

Under state law, certain types of information must not generally be included in a consumer report. This information includes:

- bankruptcies that precede the report by more than 10 years;
- suits and judgments that are entered more seven years earlier or until the governing statute of limitations has expired, whichever is the longer period;
- paid tax liens that precede the report by more than seven years;
- accounts placed for collection, or charged to profit and loss, that precede the report by more than seven years;
- records of arrest, indictment, or conviction of crime that, from date of disposition, release, or parole, precede the report by more than seven years; and
- any other adverse item of information is older than seven years.

The excluded information may be included in a consumer report in the following cases:

- a credit transaction involving, or that may reasonably be expected to involve, a principal amount of \$50,000 or more;
- the underwriting of life insurance involving, or that may reasonably be expected to involve, a face amount of \$50,000 or more; or
- the employment of an individual at an annual salary that equals, or that may reasonably be expected to equal, \$20,000 or more.

Use of credit reports by employers under state law

Consumer reports may be used for employment purposes. Employment purposes include evaluating applicants for employment, promotion, reassignment or retention. A person may not obtain a consumer report for employment purposes with respect to any consumer who is not an employee at the time unless either:

- the consumer has received written disclosure that a consumer report may be obtained for purposes of considering the consumer for employment. This disclosure must be made prior to the employer obtaining the report. The disclosure may be contained in a written statement contained in employment application materials; or
- the consumer authorizes the procurement of the report.

A person may not obtain a consumer report for employment purposes with respect to an employee unless the employee was provided with written notice that consumer reports may be used for employment purposes. A written statement in employee guidelines or manuals available is adequate notice. These requirements do not apply with respect to a consumer report of an employee who the employer has reasonable cause to believe has engaged in specific activity that constitutes a violation of law.

In using a consumer report for employment purposes, before taking any adverse action based in whole or part on the report, a person must provide to the consumer with:

- the name, address, and telephone number of the consumer reporting agency providing the report;
- a description of the consumer's rights regarding consumer reports obtained for employment purposes; and
- a reasonable opportunity to respond to any information in the report that is disputed by the consumer.

Summary of Bill:

The definition of "consumer report" is amended to include investigative consumer reports and "background check reports and credit reports." The definition of "investigative consumer report" is amended to include a "background check."

A consumer may only provide information to a consumer if the consumer provides proper identification.

Records of vacations of criminal convictions are included in the information that is generally prohibited in a consumer report.

Records of arrest, indictment, or conviction of crime that, from date of disposition, release, or parole are removed from the information that is generally prohibited in a consumer report.

An employee that makes at least a salary of \$20,000 is removed from the list that allows an employer to receive a consumer report that includes generally exempt information.

Employer use of consumer reports

An employer who relies on a consumer report to support an adverse action must provide the consumer with:

- a disclosure notice before the adverse action that includes a copy of the consumer's report and a summary of the consumer's rights;
- notice of the adverse action in writing;
- the name, address, and phone number of the consumer reporting agency that supplied the report; and

- notice of the consumer's right to dispute the accuracy or completeness of any information the agency furnished and the consumer's right to an additional consumer report from the agency upon request within 60 days.

A consumer reporting agency may not charge for the credit report but may charge a consumer a reasonable fee for the reproduction of other required materials.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.