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SENATE BILL 5274

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State of Washington

60th Legislature

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By Senators Kohl-Welles and Brandland

Read first time 01/15/2007. Referred to Committee on Consumer Protection & Housing.

1 AN ACT Relating to the accuracy and completeness of information  
2 available in background check reports; and amending RCW 19.182.005,  
3 19.182.010, 19.182.040, and 19.182.070.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 19.182.005 and 1993 c 476 s 1 are each amended to read  
6 as follows:

7 The federal fair credit reporting act (15 U.S.C. Sec. 1681 et seq.)  
8 requires that consumer reporting agencies adopt reasonable procedures  
9 for meeting the needs of commerce for consumer credit, personnel,  
10 insurance, and other information in a manner that is fair and equitable  
11 to the consumer with regard to the confidentiality, accuracy, and  
12 proper utilization of information contained in consumer reports.

13 The legislature finds and declares that consumers have a vital  
14 interest in establishing and maintaining creditworthiness. The  
15 legislature further finds that an elaborate mechanism using credit  
16 reports has developed for investigating and evaluating a consumer's  
17 creditworthiness, credit capacity, and general reputation and  
18 character. As such, credit reports are used for evaluating credit  
19 card, loan, mortgage, and small business financing applications, as

1 well as for decisions regarding employment and the rental or leasing of  
2 dwellings. Moreover, financial institutions and other creditors depend  
3 upon fair and accurate credit reports to efficiently and accurately  
4 evaluate creditworthiness. Unfair or inaccurate reports undermine both  
5 public and creditor confidences in the reliability of credit granting  
6 systems.

7 The legislature finds and declares that consumers also have a vital  
8 interest in maintaining their general reputation and character. The  
9 legislature finds there has been an increased reliance on background  
10 information obtained from web-based information brokers. This practice  
11 increases the possibility of inaccurate reports. In order to ensure  
12 the accuracy and completeness of this information, the legislature  
13 finds that the provisions of this chapter also apply to background  
14 checks.

15 Therefore, this chapter is necessary to (~~assure~~) ensure accurate  
16 (~~credit~~) data collection, maintenance, and reporting on the citizens  
17 of the state. It is the policy of the state that (~~credit~~) consumer  
18 reporting agencies maintain accurate information and credit reports,  
19 resolve disputed reports promptly and fairly, and adopt reasonable  
20 procedures to promote consumer confidentiality and the proper use of  
21 (~~credit~~) data in accordance with (~~this chapter~~) federal and state  
22 law.

23 **Sec. 2.** RCW 19.182.010 and 1993 c 476 s 3 are each amended to read  
24 as follows:

25 (~~Unless the context clearly requires otherwise,~~) The definitions  
26 in this section apply throughout this chapter unless the context  
27 clearly requires otherwise.

28 (1)(a) "Adverse action" includes:

29 (i) Denial of, increase in any charge for, or reduction in the  
30 amount of insurance for personal, family, or household purposes;

31 (ii) Denial of employment or any other decision for employment  
32 purposes that adversely affects a current or prospective employee;

33 (iii) Action or determination with respect to a consumer's  
34 application for credit that is adverse to the interests of the  
35 consumer; and

36 (iv) Action or determination with respect to a consumer's

1 application for the rental or leasing of residential real estate that  
2 is adverse to the interests of the consumer.

3 (b) "Adverse action" does not include:

4 (i) A refusal to extend additional credit under an existing credit  
5 arrangement if:

6 (A) The applicant is delinquent or otherwise in default with  
7 respect to the arrangement; or

8 (B) The additional credit would exceed a previously established  
9 credit limit; or

10 (ii) A refusal or failure to authorize an account transaction at a  
11 point of sale.

12 (2) "Attorney general" means the office of the attorney general.

13 (3) "Consumer" means an individual.

14 (4)(a) "Consumer report" means a written, oral, or other  
15 communication of information by a consumer reporting agency bearing on  
16 a consumer's creditworthiness, credit standing, credit capacity,  
17 character, general reputation, personal characteristics, or mode of  
18 living that is used or expected to be used or collected in whole or in  
19 part for:

20 (i) The purpose of serving as a factor in establishing the  
21 consumer's eligibility for credit or insurance to be used primarily for  
22 personal, family, or household purposes;

23 (ii) Employment purposes; or

24 (iii) Other purposes authorized under RCW 19.182.020.

25 (b) "Consumer report" includes both investigative consumer or  
26 background check reports and credit reports.

27 (c) "Consumer report" does not include:

28 (i) A report containing information solely as to transactions or  
29 experiences between the consumer and the person making the report;

30 (ii) An authorization or approval of a specific extension of credit  
31 directly or indirectly by the issuer of a credit card or similar  
32 device;

33 (iii) A report in which a person who has been requested by a third  
34 party to make a specific extension of credit directly or indirectly to  
35 a consumer conveys his or her decision with respect to the request, if  
36 the third party advises the consumer of the name and address of the  
37 person to whom the request was made and the person makes the  
38 disclosures to the consumer required under RCW 19.182.070;

1 (iv) A list compiled by a consumer reporting agency to be used by  
2 its client for direct marketing of goods or services not involving an  
3 offer of credit;

4 (v) A report solely conveying a decision whether to guarantee a  
5 check in response to a request by a third party; or

6 (vi) A report furnished for use in connection with a transaction  
7 that consists of an extension of credit to be used for a commercial  
8 purpose.

9 (5) "Consumer reporting agency" means a person who, for monetary  
10 fees, dues, or on a cooperative nonprofit basis, regularly engages in  
11 whole or in part in the business of assembling or evaluating consumer  
12 credit information or other information on consumers for the purpose of  
13 furnishing consumer reports to third parties, and who uses any means or  
14 facility of commerce for the purpose of preparing or furnishing  
15 consumer reports. "Consumer reporting agency" does not include a  
16 person solely by reason of conveying a decision whether to guarantee a  
17 check in response to a request by a third party or a person who obtains  
18 a consumer report and provides the report or information contained in  
19 it to a subsidiary or affiliate of the person.

20 (6) "Credit transaction that is not initiated by the consumer" does  
21 not include the use of a consumer report by an assignee for collection  
22 or by a person with which the consumer has an account, for purposes of  
23 (a) reviewing the account, or (b) collecting the account. For purposes  
24 of this subsection "reviewing the account" includes activities related  
25 to account maintenance and monitoring, credit line increases, and  
26 account upgrades and enhancements.

27 (7) "Direct solicitation" means the process in which the consumer  
28 reporting agency compiles or edits for a client a list of consumers who  
29 meet specific criteria and provides this list to the client or a third  
30 party on behalf of the client for use in soliciting those consumers for  
31 an offer of a product or service.

32 (8) "Employment purposes," when used in connection with a consumer  
33 report, means a report used for the purpose of evaluating a consumer  
34 for employment, promotion, reassignment, or retention as an employee.

35 (9) "File," when used in connection with information on any  
36 consumer, means all of the information on that consumer recorded and  
37 retained by a consumer reporting agency regardless of how the  
38 information is stored.

1 (10) "Investigative consumer report" means a background check or  
2 consumer report or portion of it in which information on a consumer's  
3 character, general reputation, personal characteristics, or mode of  
4 living is obtained through personal interviews with neighbors, friends,  
5 or associates of the consumer reported on or with others with whom the  
6 consumer is acquainted or who may have knowledge concerning any items  
7 of information. However, the information does not include specific  
8 factual information on a consumer's credit record obtained directly  
9 from a creditor of the consumer or from a consumer reporting agency  
10 when the information was obtained directly from a creditor of the  
11 consumer or from the consumer.

12 (11) "Medical information" means information or records obtained,  
13 with the consent of the individual to whom it relates, from a licensed  
14 physician or medical practitioner, hospital, clinic, or other medical  
15 or medically related facility.

16 (12) "Person" includes an individual, corporation, government or  
17 governmental subdivision or agency, business trust, estate, trust,  
18 partnership, association, and any other legal or commercial entity.

19 (13) "Prescreening" means the process in which the consumer  
20 reporting agency compiles or edits for a client a list of consumers who  
21 meet specific credit criteria and provides this list to the client or  
22 a third party on behalf of the client for use in soliciting those  
23 consumers for an offer of credit.

24 **Sec. 3.** RCW 19.182.040 and 1993 c 476 s 6 are each amended to read  
25 as follows:

26 (1) Except as authorized under subsection (2) of this section, no  
27 consumer reporting agency may make a consumer report containing any of  
28 the following items of information:

29 (a) Bankruptcies that, from date of adjudication of the most recent  
30 bankruptcy, antedate the report by more than ten years;

31 (b) Suits and judgments that, from date of entry, antedate the  
32 report by more than seven years or until the governing statute of  
33 limitations has expired, whichever is the longer period;

34 (c) Paid tax liens that, from date of payment, antedate the report  
35 by more than seven years;

36 (d) Accounts placed for collection or charged to profit and loss  
37 that antedate the report by more than seven years;

1       ~~(e) ((Records of arrest, indictment, or conviction of crime that,~~  
2 ~~from date of disposition, release, or parole, antedate the report by~~  
3 ~~more than seven years;~~

4       ~~(f))~~ Records of a conviction that have been vacated;

5       (f) Any other adverse item of information that antedates the report  
6 by more than seven years.

7       (2) Subsection (1) of this section is not applicable in the case of  
8 a consumer report to be used in connection with:

9       (a) A credit transaction involving, or that may reasonably be  
10 expected to involve, a principal amount of fifty thousand dollars or  
11 more; or

12       (b) The underwriting of life insurance involving, or that may  
13 reasonably be expected to involve, a face amount of fifty thousand  
14 dollars or more(~~;~~ ~~or~~

15       ~~(c) The employment of an individual at an annual salary that~~  
16 ~~equals, or that may reasonably be expected to equal, twenty thousand~~  
17 ~~dollars or more)).~~

18       **Sec. 4.** RCW 19.182.070 and 1993 c 476 s 9 are each amended to read  
19 as follows:

20       (1) A consumer reporting agency shall, upon request and proper  
21 identification by the consumer, clearly and accurately disclose:

22       ~~((1))~~ (a) All information in the file on the consumer at the time  
23 of request, except that medical information may be withheld. The  
24 agency shall inform the consumer of the existence of medical  
25 information, and the consumer has the right to have that information  
26 disclosed to the health care provider of the consumer's choice.  
27 Nothing in this chapter prevents, or authorizes a consumer reporting  
28 agency to prevent, the health care provider from disclosing the medical  
29 information to the consumer. The agency shall inform the consumer of  
30 the right to disclosure of medical information at the time the consumer  
31 requests disclosure of his or her file.

32       ~~((2))~~ (b) All items of information in its files on that consumer,  
33 including disclosure of the sources of the information, except that  
34 sources of information acquired solely for use in an investigative  
35 report may only be disclosed to a plaintiff under appropriate discovery  
36 procedures.

1        ~~((3))~~ (c) Identification of ~~((a))~~ (i) each person who for  
2 employment purposes within the two-year period before the request, and  
3 ~~((b))~~ (ii) each person who for any other purpose within the six-month  
4 period before the request, procured a consumer report.

5        ~~((4))~~ (d) A record identifying all inquiries received by the  
6 agency in the six-month period before the request that identified the  
7 consumer in connection with a credit transaction that is not initiated  
8 by the consumer.

9        ~~((5))~~ (e) An identification of a person under ~~((subsection(3))~~  
10 (c) or ~~((4))~~ (d) of this subsection must include ~~((a))~~ (i) the name  
11 of the person or, if applicable, the trade name under which the person  
12 conducts business; and ~~((b))~~ (ii) upon request of the consumer, the  
13 address of the person.

14        (2) An employer who relies on a consumer report to support an  
15 adverse action shall provide:

16        (a) The consumer with a preadverse action disclosure that includes  
17 a copy of the consumer's consumer report and a summary of the  
18 consumer's rights;

19        (b) Notice of the adverse action in writing;

20        (c) The name, address, and phone number of the consumer reporting  
21 agency that supplied the report; and

22        (d) Notice of the consumer's right to dispute the accuracy or  
23 completeness of any information the agency furnished, and the  
24 consumer's right to an additional consumer report from the agency upon  
25 request within sixty days.

26        (3) A consumer may be charged a reasonable fee for the reproduction  
27 of materials in this section, with the exception of the consumer  
28 report, which must be provided at no cost to the consumer.

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