
SUBSTITUTE SENATE BILL 5196

State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Labor, Commerce & Financial Institutions
(originally sponsored by Senators Prentice and Winsley)

READ FIRST TIME 02/22/01.

1 AN ACT Relating to the fair credit reporting act; amending RCW
2 19.182.005, 19.182.010, 19.182.020, 19.182.080, 19.182.090,
3 19.182.100, and 19.182.110; and adding a new section to chapter
4 19.182 RCW.

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

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

8 The legislature finds and declares that consumers have a vital
9 interest in establishing and maintaining creditworthiness. The
10 legislature further finds that an elaborate mechanism using credit
11 reports and credit scores has developed for investigating and
12 evaluating a consumer's creditworthiness, credit capacity, and
13 general reputation and character. As such, credit reports and
14 credit scores are used for evaluating credit card, loan, mortgage,
15 and small business financing applications, as well as for
16 decisions regarding employment and the rental or leasing of
17 dwellings. Moreover, financial institutions and other creditors
18 depend upon fair and accurate credit reports and credit scores to

1 efficiently and accurately evaluate creditworthiness. Unfair or
2 inaccurate reports and scores undermine both public and creditor
3 confidences in the reliability of credit granting systems.

4 Therefore, this chapter is necessary to assure accurate credit
5 data collection, maintenance, and reporting on the citizens of the
6 state. It is the policy of the state that credit reporting agencies
7 maintain accurate credit reports and credit scores, resolve
8 disputed reports promptly and fairly, and adopt reasonable
9 procedures to promote consumer confidentiality and the proper use
10 of credit data in accordance with this chapter.

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

13 Unless the context clearly requires otherwise, the definitions
14 in this section apply throughout this chapter.

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

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

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

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

23 (iv) Action or determination with respect to a consumer's
24 application for the rental or leasing of residential real estate
25 that is adverse to the interests of the consumer.

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

27 (i) A refusal to extend additional credit under an existing
28 credit arrangement if:

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

31 (B) The additional credit would exceed a previously established
32 credit limit; or

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

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

37 (3) "Consumer" means an individual.

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

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

10 (ii) Employment purposes; or

11 (iii) Other purposes authorized under RCW 19.182.020.

12 (b) "Consumer report" does not include:

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

16 (ii) An authorization or approval of a specific extension of
17 credit directly or indirectly by the issuer of a credit card or
18 similar device;

19 (iii) A report in which a person who has been requested by a
20 third party to make a specific extension of credit directly or
21 indirectly to a consumer conveys his or her decision with respect
22 to the request, if the third party advises the consumer of the
23 name and address of the person to whom the request was made and
24 the person makes the disclosures to the consumer required under
25 RCW 19.182.070;

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

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

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

34 (5) "Consumer reporting agency" means a person who, for
35 monetary fees, dues, or on a cooperative nonprofit basis,
36 regularly engages in whole or in part in the business of
37 assembling or evaluating consumer credit information or other
38 information on consumers for the purpose of furnishing consumer

1 reports to third parties, and who uses any means or facility of
2 commerce for the purpose of preparing or furnishing consumer
3 reports. "Consumer reporting agency" does not include a person
4 solely by reason of conveying a decision whether to guarantee a
5 check in response to a request by a third party or a person who
6 obtains a consumer report and provides the report or information
7 contained in it to a subsidiary or affiliate of the person.

8 (6) "Credit score" means a numerical value or a categorization
9 derived from a statistical tool or modeling system used by a
10 person who makes or arranges a loan to predict the likelihood of
11 certain credit behaviors, including default. The numerical value or
12 the categorization derived from this analysis may also be referred
13 to as a risk predictor or risk score.

14 "Credit score" does not include any score or rating of an
15 automated underwriting system that considers one or more factors
16 in addition to credit information, including, but not limited to,
17 the loan to value ratio, the amount of down payment, consumer
18 income, period of employment, or a consumer's financial
19 assets. "Credit score" does not include other elements of the
20 underwriting process or underwriting decision.

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

28 ((+7)) (8) "Direct solicitation" means the process in which
29 the consumer reporting agency compiles or edits for a client a
30 list of consumers who meet specific criteria and provides this
31 list to the client or a third party on behalf of the client for
32 use in soliciting those consumers for an offer of a product or
33 service.

34 ((+8)) (9) "Employment purposes," when used in connection with
35 a consumer report, means a report used for the purpose of
36 evaluating a consumer for employment, promotion, reassignment, or
37 retention as an employee.

38 ((+9)) (10) "File," when used in connection with information

1 on any consumer, means all of the information on that consumer
2 recorded and retained by a consumer reporting agency regardless of
3 how the information is stored.

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

15 ~~((11))~~ (12) "Key factors" means all relevant elements or
16 reasons adversely affecting the credit score for the particular
17 individual listed in the order of their importance based on their
18 effect on the credit score.

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

23 ~~((12))~~ (14) "Person" includes an individual, corporation,
24 government or governmental subdivision or agency, business trust,
25 estate, trust, partnership, association, and any other legal or
26 commercial entity.

27 ~~((13))~~ (15) "Prescreening" means the process in which the
28 consumer reporting agency compiles or edits for a client a list of
29 consumers who meet specific credit criteria and provides this list
30 to the client or a third party on behalf of the client for use in
31 soliciting those consumers for an offer of credit.

32 **Sec. 3.** RCW 19.182.020 and 1993 c 476 s 4 are each amended to
33 read as follows:

34 (1) A consumer reporting agency may furnish a consumer report
35 or credit score only under the following circumstances:

36 (a) In response to the order of a court having jurisdiction to
37 issue the order;

1 (b) In accordance with the written instructions of the consumer
2 to whom it relates; or

3 (c) To a person that the agency has reason to believe:

4 (i) Intends to use the information in connection with a credit
5 transaction involving the consumer on whom the information is to
6 be furnished and involving the extension of credit to, or review
7 or collection of an account of, the consumer;

8 (ii) Intends to use the information for employment purposes;

9 (iii) Intends to use the information in connection with the
10 underwriting of insurance involving the consumer;

11 (iv) Intends to use the information in connection with a
12 determination of the consumer's eligibility for a license or other
13 benefit granted by a governmental instrumentality required by law
14 to consider an applicant's financial responsibility or status; or

15 (v) Otherwise has a legitimate business need for the
16 information in connection with a business transaction involving
17 the consumer.

18 (2)(a) A person may not procure a consumer report, or cause a
19 consumer report to be procured, for employment purposes with
20 respect to any consumer who is not an employee at the time the
21 report is procured or caused to be procured unless:

22 (i) A clear and conspicuous disclosure has been made in writing
23 to the consumer before the report is procured or caused to be
24 procured that a consumer report may be obtained for purposes of
25 considering the consumer for employment. The disclosure may be
26 contained in a written statement contained in employment
27 application materials; or

28 (ii) The consumer authorizes the procurement of the report.

29 (b) A person may not procure a consumer report, or cause a
30 consumer report to be procured, for employment purposes with
31 respect to any employee unless the employee has received, at any
32 time after the person became an employee, written notice that
33 consumer reports may be used for employment purposes. A written
34 statement that consumer reports may be used for employment
35 purposes that is contained in employee guidelines or manuals
36 available to employees or included in written materials provided
37 to employees constitutes written notice for purposes of this
38 subsection. This subsection does not apply with respect to a

1 consumer report of an employee who the employer has reasonable
2 cause to believe has engaged in specific activity that constitutes
3 a violation of law.

4 (c) In using a consumer report for employment purposes, before
5 taking any adverse action based in whole or part on the report, a
6 person shall provide to the consumer to whom the report relates:

7 (i) The name, address, and telephone number of the consumer
8 reporting agency providing the report; (ii) a description of the
9 consumer's rights under this chapter pertaining to consumer
10 reports obtained for employment purposes; and (iii) a reasonable
11 opportunity to respond to any information in the report that is
12 disputed by the consumer.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 19.182
14 RCW to read as follows:

15 (1) Upon the consumer's request for a credit score, a consumer
16 reporting agency must supply to the consumer a notice that
17 includes the following information:

18 (a) The consumer's current credit score or the consumer's most
19 recent credit score that was previously calculated by the consumer
20 reporting agency for the purpose related to the extension of
21 credit;

22 (b) The range of possible credit scores under the model used;

23 (c) All the key factors that adversely affected the consumer's
24 credit score in the model used, the total number of which must not
25 exceed four;

26 (d) The date the credit score was created;

27 (e) A statement that the credit score and credit score model
28 used by the consumer reporting agency may be different from the
29 credit underwriting system used by a lender; and

30 (f) The name of the person or entity that provided the credit
31 score or credit file upon which the credit score was created.

32 (2) This section must not be construed to require a consumer
33 reporting agency that distributes credit scores developed by
34 another person or entity to provide further explanation of them or
35 to process a dispute regarding such scores under RCW 19.182.090,
36 except that the consumer reporting agency must provide the
37 consumer with the name and address and web site for contacting the

1 person or entity who developed the score or developed the
2 methodology of the score. This subsection does not apply to a
3 consumer reporting agency that develops or modifies scores that
4 are developed by another person or entity.

5 (3) If a consumer reporting agency does not develop or maintain
6 credit scores in its files, nothing in this section may be
7 construed to require the agency to develop or disclose such
8 scores.

9 **Sec. 5.** RCW 19.182.080 and 1993 c 476 s 10 are each amended to
10 read as follows:

11 (1) A consumer reporting agency shall make the disclosures
12 required under RCW 19.182.070 during normal business hours and on
13 reasonable notice.

14 (2) The consumer reporting agency shall make the disclosures
15 required under RCW 19.182.070 to the consumer:

16 (a) In person if the consumer appears in person and furnishes
17 proper identification;

18 (b) By telephone if the consumer has made a written request,
19 with proper identification, for telephone disclosure and the toll
20 charge, if any, for the telephone call is prepaid by or charged
21 directly to the consumer; or

22 (c) By any other reasonable means that are available to the
23 consumer reporting agency if that means is authorized by the
24 consumer.

25 (3) A consumer reporting agency shall provide trained personnel
26 to explain to the consumer, information furnished to the consumer
27 under RCW 19.182.070.

28 (4) The consumer reporting agency shall permit the consumer to
29 be accompanied by one other person of the consumer's choosing, who
30 shall furnish reasonable identification. A consumer reporting
31 agency may require the consumer to furnish a written statement
32 granting permission to the consumer reporting agency to discuss
33 the consumer's file in the other person's presence.

34 (5) If a credit score is provided by a consumer reporting
35 agency to a consumer, the agency shall provide an explanation of
36 the meaning of the credit score under section 4 of this act.

37 (6) Except as provided in RCW 19.182.150, no consumer may bring

1 an action or proceeding in the nature of defamation, invasion of
2 privacy, or negligence with respect to the reporting of
3 information against a consumer reporting agency or a user of
4 information, based on information disclosed under this section or
5 RCW 19.182.070, except as to false information furnished with
6 malice or willful intent to injure the consumer. Except as provided
7 in RCW 19.182.150, no consumer may bring an action or proceeding
8 against a person who provides information to a consumer reporting
9 agency in the nature of defamation, invasion of privacy, or
10 negligence for unintentional error.

11 (7)(a) A consumer reporting agency must provide to a consumer,
12 with each written disclosure by the agency to the consumer under
13 RCW 19.182.070, a written summary of all rights and remedies the
14 consumer has under this chapter.

15 (b) The summary of the rights and remedies of consumers under
16 this chapter must include:

17 (i) A brief description of this chapter and all rights and
18 remedies of consumers under this chapter;

19 (ii) An explanation of how the consumer may exercise the rights
20 and remedies of the consumer under this chapter; and

21 (iii) A list of all state agencies, including the attorney
22 general's office, responsible for enforcing any provision of this
23 chapter and the address, web site, and appropriate phone number of
24 each such agency.

25 **Sec. 6.** RCW 19.182.090 and 1993 c 476 s 11 are each amended to
26 read as follows:

27 (1) If the completeness or accuracy of an item of information
28 contained in a consumer's file at a consumer reporting agency is
29 disputed by the consumer and the consumer notifies the agency
30 directly of the dispute, the agency shall reinvestigate without
31 charge and record the current status of the disputed information
32 before the end of thirty business days, beginning on the date the
33 agency receives the notice from the consumer.

34 (2) Before the end of the five business-day period beginning on
35 the date a consumer reporting agency receives notice of a dispute
36 from a consumer in accordance with subsection (1) of this section,

1 the agency shall notify any person who provided an item of
2 information in dispute.

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

9 (b) Upon making a determination in accordance with (a) of this
10 subsection that a dispute is frivolous or irrelevant, a consumer
11 reporting agency shall notify the consumer within five business
12 days of the determination. The notice shall be made in writing or
13 any other means authorized by the consumer that are available to
14 the agency, but the notice shall include the reasons for the
15 determination and a notice of the consumer's rights under
16 subsection (6) of this section.

17 (4) In conducting a reinvestigation under subsection (1) of
18 this section with respect to disputed information in the file of
19 any consumer, the consumer reporting agency shall review and
20 consider all relevant information submitted by the consumer in the
21 period described in subsection (1) of this section with respect to
22 the disputed information.

23 (5)(a) If, after a reinvestigation under subsection (1) of this
24 section of information disputed by a consumer, the information is
25 found to be inaccurate or cannot be verified, the consumer
26 reporting agency shall promptly delete the information from the
27 consumer's file.

28 (b)(i) If information is deleted from a consumer's file under
29 (a) of this subsection, the information may not be reinserted in
30 the file after the deletion unless the person who furnishes the
31 information verifies that the information is complete and
32 accurate.

33 (ii) If information that has been deleted from a consumer's
34 file under (a) of this subsection is reinserted in the file in
35 accordance with (b)(i) of this subsection, the consumer reporting
36 agency shall notify the consumer of the reinsertion within thirty
37 business days. The notice shall be in writing or any other means
38 authorized by the consumer that are available to the agency.

1 (6) If the reinvestigation does not resolve the dispute or if
2 the consumer reporting agency determines the dispute is frivolous
3 or irrelevant, the consumer may file a brief statement setting
4 forth the nature of the dispute. The consumer reporting agency may
5 limit these statements to not more than one hundred words if it
6 provides the consumer with assistance in writing a clear summary
7 of the dispute.

8 (7) After the deletion of information from a consumer's file
9 under this section or after the filing of a statement of dispute
10 under subsection (6) of this section, the consumer reporting
11 agency shall, at the request of the consumer, furnish notification
12 that the item of information has been deleted or that item of
13 information is disputed. In the case of disputed information, the
14 notification shall include the statement filed under subsection
15 (6) of this section. The notification shall be furnished to any
16 person specifically designated by the consumer, who has, within
17 two years before the deletion or filing of a dispute, received a
18 consumer report concerning the consumer for employment purposes,
19 or who has, within six months of the deletion or the filing of the
20 dispute, received a consumer report concerning the consumer for
21 any other purpose, if these consumer reports contained the deleted
22 or disputed information.

23 (8)(a) Upon completion of the reinvestigation under this
24 section, a consumer reporting agency shall provide notice, in
25 writing or by any other means authorized by the consumer, of the
26 results of a reinvestigation within five business days.

27 (b) The notice required under (a) of this subsection must
28 include:

29 (i) A statement that the reinvestigation is completed;

30 (ii) A consumer report that is based upon the consumer's file
31 as that file is revised as a result of the reinvestigation;

32 (iii) A description or indication of any changes made in the
33 consumer report as a result of those revisions to the consumer's
34 file;

35 (iv) 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,

1 including the name, business address, and telephone number of any
2 person contacted in connection with the information;

3 (v) If the reinvestigation does not resolve the dispute, a
4 summary of the consumer's right to file a brief statement as
5 provided in subsection (6) of this section; and

6 (vi) If information is deleted or disputed after
7 reinvestigation, a summary of the consumer's right to request
8 notification to persons who have received a consumer report as
9 provided in subsection (7) of this section.

10 (9) In the case of a consumer reporting agency that compiles
11 and maintains consumer reports and credit scores on a nationwide
12 basis, the consumer reporting agency must provide to a consumer
13 who has undertaken to dispute the information contained in his or
14 her file a toll-free telephone number and a web site address that
15 the consumer can use to communicate with the agency. A consumer
16 reporting agency that provides a toll-free number and a web site
17 address required by this subsection shall also provide adequately
18 trained personnel to answer basic inquiries from consumers using
19 the toll-free number and web site.

20 **Sec. 7.** RCW 19.182.100 and 1993 c 476 s 12 are each amended to
21 read as follows:

22 (1) Except as provided in subsections (2) and (3) of this
23 section, a consumer reporting agency may charge the following fees
24 to the consumer:

25 (a) For making a disclosure under RCW 19.182.070 and
26 19.182.080, the consumer reporting agency may charge a fee not
27 exceeding eight dollars. Beginning January 1, 1995, the eight-
28 dollar charge may be adjusted on January 1st of each year based on
29 corresponding changes in the consumer price index with fractional
30 changes rounded to the nearest half dollar. For making a disclosure
31 of a credit score under section 4 of this act, the consumer
32 reporting agency may charge a reasonable amount.

33 (b) For furnishing a notification, statement, or summary to a
34 person under RCW 19.182.090(7), the consumer reporting agency may
35 charge a fee not exceeding the charge that the agency would impose
36 on each designated recipient for a consumer report. The amount of

1 any charge must be disclosed to the consumer before furnishing the
2 information.

3 (2) A consumer reporting agency shall make all disclosures
4 under RCW 19.182.070 and 19.182.080 and furnish all consumer
5 reports under RCW 19.182.090 without charge, if requested by the
6 consumer within sixty days after receipt by the consumer of a
7 notification of adverse action under RCW 19.182.110 or of a
8 notification from a debt collection agency affiliated with that
9 consumer reporting agency stating that the consumer's credit
10 rating may be or has been adversely affected.

11 (3) A consumer reporting agency shall not impose any charge for
12 (a) providing notice to a consumer required under RCW 19.182.090,
13 or (b) notifying a person under RCW 19.182.090(7) of the deletion
14 of information that is found to be inaccurate or that can no
15 longer be verified, if the consumer designates that person to the
16 agency before the end of the thirty-day period beginning on the
17 date of notice under RCW 19.182.090(8).

18 **Sec. 8.** RCW 19.182.110 and 1993 c 476 s 13 are each amended to
19 read as follows:

20 If a person takes an adverse action with respect to a consumer
21 that is based, in whole or in part, on information contained in a
22 consumer report or credit score, the person shall:

23 (1) Provide written notice of the adverse action to the
24 consumer, except verbal notice may be given by a person in an
25 adverse action involving a business regulated by the Washington
26 utilities and transportation commission or involving an
27 application for the rental or leasing of residential real estate
28 if such verbal notice does not impair a consumer's ability to
29 obtain a credit report without charge under RCW 19.182.100(2); and

30 (2) Provide the consumer with the name, address, and telephone
31 number of the consumer reporting agency that furnished the report
32 or credit score to the person.

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