
HOUSE BILL 1468

State of Washington

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By Representatives Roach and Kirby

Read first time 01/25/2005. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to placing limitations on the release of consumer
2 information by consumer reporting agencies; amending RCW 19.182.010;
3 adding new sections to chapter 19.182 RCW; and prescribing penalties.

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

5 **Sec. 1.** RCW 19.182.010 and 1993 c 476 s 3 are each amended to read
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

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

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

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

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

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

1 (b) "Adverse action" does not include:
2 (i) A refusal to extend additional credit under an existing credit
3 arrangement if:
4 (A) The applicant is delinquent or otherwise in default with
5 respect to the arrangement; or
6 (B) The additional credit would exceed a previously established
7 credit limit; or
8 (ii) A refusal or failure to authorize an account transaction at a
9 point of sale.
10 (2) "Attorney general" means the office of the attorney general.
11 (3) "Consumer" means an individual.
12 (4)(a) "Consumer report" means a written, oral, or other
13 communication of information by a consumer reporting agency bearing on
14 a consumer's creditworthiness, credit standing, credit capacity,
15 character, general reputation, personal characteristics, or mode of
16 living that is used or expected to be used or collected in whole or in
17 part for:
18 (i) The purpose of serving as a factor in establishing the
19 consumer's eligibility for credit or insurance to be used primarily for
20 personal, family, or household purposes;
21 (ii) Employment purposes; or
22 (iii) Other purposes authorized under RCW 19.182.020.
23 (b) "Consumer report" does not include:
24 (i) A report containing information solely as to transactions or
25 experiences between the consumer and the person making the report;
26 (ii) An authorization or approval of a specific extension of credit
27 directly or indirectly by the issuer of a credit card or similar
28 device;
29 (iii) A report in which a person who has been requested by a third
30 party to make a specific extension of credit directly or indirectly to
31 a consumer conveys his or her decision with respect to the request, if
32 the third party advises the consumer of the name and address of the
33 person to whom the request was made and the person makes the
34 disclosures to the consumer required under RCW 19.182.070;
35 (iv) A list compiled by a consumer reporting agency to be used by
36 its client for direct marketing of goods or services not involving an
37 offer of credit;

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

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

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

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

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

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

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

36 (10) "Investigative consumer report" means a consumer report or
37 portion of it in which information on a consumer's character, general
38 reputation, personal characteristics, or mode of living is obtained

1 through personal interviews with neighbors, friends, or associates of
2 the consumer reported on or with others with whom the consumer is
3 acquainted or who may have knowledge concerning any items of
4 information. However, the information does not include specific
5 factual information on a consumer's credit record obtained directly
6 from a creditor of the consumer or from a consumer reporting agency
7 when the information was obtained directly from a creditor of the
8 consumer or from the consumer.

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

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

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

21 (14) "Security freeze" means a notice placed in a consumer's credit
22 report, at the request of the consumer, that prohibits a consumer
23 reporting agency from releasing the consumer's credit report or any
24 information from it, except in accordance with specified exceptions,
25 without the express authorization of the consumer.

26 NEW SECTION. Sec. 2. A new section is added to chapter 19.182 RCW
27 to read as follows:

28 (1) A consumer may elect to place a security freeze on his or her
29 credit report by making a request in writing by certified mail to a
30 consumer reporting agency. If a security freeze is in place,
31 information from a consumer's credit report may not be released to a
32 third party without prior express authorization from the consumer.
33 This subsection does not prohibit a consumer reporting agency from
34 advising a third party that a security freeze is in effect with respect
35 to the consumer's credit report.

36 (2) A consumer reporting agency shall place a security freeze on a

1 consumer's credit report no later than five business days after
2 receiving a written request from the consumer.

3 (3) The consumer reporting agency shall send a written confirmation
4 of the security freeze to the consumer within ten business days and
5 shall provide the consumer with a unique personal identification number
6 or password to be used by the consumer when providing authorization for
7 the release of his or her credit for a specific party or period of
8 time.

9 (4) If the consumer wishes to allow his or her credit report to be
10 accessed for a specific party or period of time while a freeze is in
11 place, he or she shall contact the consumer reporting agency, request
12 that the freeze be temporarily lifted, and provide the following:

13 (a) Proper identification, which shall consist of information
14 generally deemed sufficient to identify a person. If the consumer is
15 unable to reasonably identify himself or herself with this information,
16 a consumer reporting agency may require additional information
17 concerning the consumer's employment and personal or family history in
18 order to verify his or her identity;

19 (b) The unique personal identification number or password provided
20 by the consumer reporting agency under subsection (3) of this section;
21 and

22 (c) Information adequate for the identification of the third party
23 who is to receive the credit report and/or the time period during which
24 the report shall be available to users of the credit report.

25 (5) A consumer reporting agency that receives a request from a
26 consumer to temporarily lift a freeze on a credit report under
27 subsection (4) of this section shall comply with the request no later
28 than three business days after receiving the request.

29 (6) A consumer reporting agency may develop procedures involving
30 the use of telephone, fax, internet, or other electronic media to
31 receive and process a request from a consumer to temporarily lift a
32 freeze on a credit report under subsection (4) of this section in an
33 expedited manner.

34 (7) A consumer reporting agency shall remove or temporarily lift a
35 freeze placed on a consumer's credit report only in the following
36 cases:

37 (a) Upon consumer request, under subsection (4) or (10) of this
38 section; or

1 (b) If the consumer's credit report was frozen due to a material
2 misrepresentation of fact by the consumer. If a consumer reporting
3 agency intends to remove a freeze upon a consumer's credit report under
4 this subsection, the consumer reporting agency shall notify the
5 consumer in writing prior to removing the freeze on the consumer's
6 credit report.

7 (8) If a third party requests access to a consumer credit report
8 that is subject to a security freeze, and this request is in connection
9 with an application for credit or any other use, and the consumer does
10 not allow his or her credit report to be accessed by that specific
11 party or during that period of time, the third party may treat the
12 application as incomplete.

13 (9) If a consumer requests a security freeze, the consumer
14 reporting agency shall disclose to the consumer the process of placing
15 and temporarily lifting a freeze, and the process for allowing access
16 to information from the consumer's credit report for a specific party
17 or period of time while the freeze is in place.

18 (10) A security freeze shall remain in place until the consumer
19 requests that the security freeze be removed. A consumer reporting
20 agency shall remove a security freeze within three business days of
21 receiving a request for removal from the consumer, who provides both of
22 the following:

23 (a) Proper identification, as described under subsection (4)(a) of
24 this section; and

25 (b) The unique personal identification number or password provided
26 by the consumer reporting agency under subsection (3) of this section.

27 (11) A consumer reporting agency shall require proper
28 identification from the person making a request to place or remove a
29 security freeze, as described under subsection (4)(a) of this section.

30 (12) This section does not apply to the use of a consumer report by
31 any of the following:

32 (a) A person or entity, or a subsidiary, affiliate, or agent of
33 that person or entity, or an assignee of a financial obligation owing
34 by the consumer to that person or entity, or a prospective assignee of
35 a financial obligation owing by the consumer to that person or entity
36 in conjunction with the proposed purchase of the financial obligation,
37 with which the consumer has or had prior to assignment an account or
38 contract, including a demand deposit account, or to whom the consumer

1 issued a negotiable instrument, for the purposes of reviewing the
2 account or collecting the financial obligation owing for the account,
3 contract, or negotiable instrument. For purposes of this subsection,
4 "reviewing the account" includes activities related to account
5 maintenance, monitoring, credit line increases, and account upgrades
6 and enhancements;

7 (b) A subsidiary, affiliate, agent, assignee, or prospective
8 assignee of a person to whom access has been granted under subsection
9 (4) of this section for purposes of facilitating the extension of
10 credit or other permissible use;

11 (c) Any state or local agency, law enforcement agency, trial court,
12 or private collection agency acting under a court order, warrant, or
13 subpoena;

14 (d) The department of social and health services or other
15 designated public agency acting pursuant to chapter 74.20 RCW or Title
16 IV-D of the social security act (42 U.S.C. et seq.) with respect to the
17 collection of child support;

18 (e) The department of revenue or its agents or assigns acting to
19 investigate or collect delinquent taxes or unpaid court orders or to
20 fulfill any of its other statutory responsibilities;

21 (f) The use of credit information for the purposes of prescreening;

22 (g) Any person or entity administering a credit file monitoring
23 subscription service to which the consumer has subscribed; or

24 (h) Any person or entity for the purpose of providing a consumer
25 with a copy of his or her credit report upon the consumer's request.

26 (13) This section does not prevent a consumer reporting agency from
27 charging a reasonable fee, not to exceed ten dollars, to a consumer who
28 elects to impose a security freeze, remove a security freeze, or
29 temporarily lift a security freeze. A consumer reporting agency may
30 not charge a fee for the imposition of a security freeze with respect
31 to the victim of the crime of identity theft under RCW 9.35.020, who
32 has reported such crime to a law enforcement agency and who provides
33 proof of such report to the consumer reporting agency.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 19.182 RCW
35 to read as follows:

36 If a security freeze is in place, a consumer reporting agency shall
37 not change any of the following official information in a consumer

1 report without sending a written confirmation of the change to the
2 consumer within thirty days of the change being posted to the
3 consumer's file: Name, date of birth, social security number, and
4 address. Written confirmation is not required for technical
5 modifications of a consumer's official information, including name and
6 street abbreviations, complete spellings, or transposition of numbers
7 or letters. In the case of an address change, the written confirmation
8 shall be sent to both the new address and to the former address.

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

11 The following entities are not required to place a security freeze
12 on a consumer report:

13 (1) A check services or fraud prevention services company, which
14 issues reports on incidents of fraud or authorizations for the purpose
15 of approving or processing negotiable instruments, electronic funds
16 transfers, or similar methods of payments; or

17 (2) A demand deposit account information service company, which
18 issues reports regarding account closures due to fraud, substantial
19 overdrafts, ATM abuse, or similar negative information regarding a
20 consumer, to inquiring banks or other financial institutions for use
21 only in reviewing a consumer request for a demand deposit account at
22 the inquiring bank or financial institution.

23 NEW SECTION. **Sec. 5.** A new section is added to chapter 19.182 RCW
24 to read as follows:

25 (1) Any consumer who suffers damages as a result of a violation of
26 this chapter by any person may bring an action in a court of
27 appropriate jurisdiction against that person to recover the following:

28 (a) In the case of a negligent violation, actual damages, including
29 court costs, loss of wages, attorneys' fees and, when applicable, pain
30 and suffering.

31 (b) In the case of a willful violation:

32 (i) Actual damages as set forth in (a) of this subsection;

33 (ii) Punitive damages of not less than one hundred dollars nor more
34 than five thousand dollars for each violation; and

35 (iii) Any other relief that the court deems proper.

1 (c) With respect to a person who obtains a consumer report under
2 false pretenses or for a purpose other than those allowed under this
3 chapter, an award of actual damages pursuant to (a) or (b)(i) of this
4 subsection shall be in an amount of not less than two thousand five
5 hundred dollars.

6 (2) Injunctive relief shall be available to any consumer aggrieved
7 by a violation or a threatened violation of this chapter whether or not
8 the consumer seeks any other remedy under this section.

9 (3) Notwithstanding any other provision of this section, any person
10 who willfully violates any requirement imposed under this chapter may
11 be liable for punitive damages in the case of a class action, in an
12 amount that the court may allow. In determining the amount of award in
13 any class action, the court shall consider, among other relevant
14 factors, the amount of any actual damages awarded, the frequency of the
15 violations, the resources of the violator, and the number of persons
16 adversely affected.

17 (4) The prevailing plaintiffs in any action commenced under this
18 section shall be entitled to recover court costs and reasonable
19 attorneys' fees.

20 NEW SECTION. **Sec. 6.** A new section is added to chapter 19.182 RCW
21 to read as follows:

22 An action to enforce any liability created under this chapter may
23 be brought in an appropriate court of competent jurisdiction within two
24 years from the date the plaintiff knew of, or should have known of, the
25 violation of this chapter, but not more than seven years from the
26 earliest date on which liability could have arisen, except that where
27 a defendant has materially and willfully misrepresented any information
28 required under this chapter to be disclosed to a consumer and the
29 information so misrepresented is material to the establishment of the
30 defendant's liability to the consumer under this chapter, the action
31 may be brought at any time within two years after the discovery by the
32 consumer of the misrepresentation.

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