

By Representative Trovillion

1 A bill to be entitled
2 An act relating to consumer credit reporting;
3 creating s. 817.569, F.S.; providing
4 definitions; requiring consumer credit
5 reporting agencies to establish requirements
6 with respect to the furnishing of consumer
7 credit reports to prospective users of such
8 reports; specifying requirements; requiring the
9 keeping of certain records; requiring consumer
10 credit reporting agencies to follow specified
11 procedures to assure the accuracy of
12 information concerning individuals who are the
13 subject of consumer credit reports; providing
14 that no consumer credit reporting agency may
15 prohibit any user of a consumer credit report
16 from disclosing the contents of such report if
17 adverse action may be taken by the user based
18 on the report; requiring consumer credit
19 reporting agencies to provide specified written
20 notice; requiring consumer credit reporting
21 agencies to reinvestigate certain items of
22 information disputed by a consumer; providing
23 exceptions; providing for certain notice;
24 providing for notification of the termination
25 of a reinvestigation; providing that
26 information deleted from a consumer's file may
27 not be reinserted; providing an exception;
28 providing for notification in the case of a
29 reinsertion; requiring consumer credit
30 reporting agencies to provide notice to a
31 consumer of the results of any reinvestigation;

1 authorizing consumers to file a statement with
2 respect to a dispute under specified
3 circumstances; providing requirements of the
4 consumer credit reporting agency when a
5 statement of dispute is filed; providing
6 specified notice requirements following the
7 deletion of information or the filing of a
8 statement of dispute; providing for certain
9 disclosure of rights to consumers; requiring
10 consumer credit reporting agencies to maintain
11 reasonable procedures to prevent the
12 reappearance of deleted information; exempting
13 consumer credit reporting agencies from certain
14 requirements when a dispute is resolved;
15 requiring consumer credit reporting agencies to
16 block the reporting of specified information;
17 requiring certain notice; providing conditions
18 under which blocked information shall be
19 unblocked; requiring certain notice; providing
20 that consumers may make a written demand to
21 correct certain information resulting from a
22 reinvestigation; providing that a consumer may
23 require a consumer credit reporting agency to
24 delete or correct inaccurate or incorrect items
25 of information; providing for damages;
26 providing for injunctive relief; providing for
27 the recovery of court costs and attorney's
28 fees; providing for enforcement of action;
29 providing an effective date.

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31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Section 817.569, Florida Statutes, is
2 created to read:

3 817.569 Furnishing of consumer credit reports by
4 consumer credit reporting agency.--

5 (1) As used in this section, the following terms shall
6 have the following meanings:

7 (a) "Consumer credit reporting agency" or "agency"
8 means any consumer credit reporting agency regulated under 15
9 U.S.C. ss. 1681 et seq. and doing business in this state.

10 (b) "Personal identification information" shall have
11 the same meaning as that term is defined in s. 817.568, and
12 shall include any identifying information deemed necessary by
13 a consumer credit reporting agency to confirm the identity of
14 a consumer, including, but not limited to, place of
15 employment, current residence address, previous residence
16 address, or social security number.

17 (c) "Retail seller" or "seller" means a person engaged
18 in the business of selling goods or furnishing services to
19 retail buyers.

20 (2) Every consumer credit reporting agency shall
21 establish and maintain reasonable procedures which require
22 that prospective users of information contained in consumer
23 credit reports obtained from the agency identify themselves,
24 certify the purposes for which the information is sought,
25 specify the purposes for which the information is sought, and
26 certify that the information will be used for no purposes
27 other than those specified to the agency. Each consumer
28 credit reporting agency shall keep a detailed record of the
29 purposes for which the information is sought as specified by
30 the user. Each consumer credit reporting agency shall make a
31 reasonable effort to verify the identity of a new prospective

1 user of consumer credit information and the uses certified by
2 the prospective user prior to furnishing the user a consumer
3 credit report. No consumer credit reporting agency may
4 furnish a consumer credit report to any person unless the
5 agency has reasonable grounds for believing that the consumer
6 credit report will be used only for the purposes specified to
7 the agency pursuant to this section. A consumer credit
8 reporting agency does not have reasonable grounds for
9 believing that a consumer credit report will be used by the
10 prospective user for the purposes specified to the agency
11 unless all of the following requirements are met:

12 (a) If the prospective user of information is a retail
13 seller, as defined in subsection (1), and intends to issue
14 credit to a consumer who appears in person on the basis of an
15 application for credit submitted in person, the consumer
16 credit reporting agency shall, with a reasonable degree of
17 certainty, match at least three items of personal
18 identification information within the file maintained by the
19 consumer credit reporting agency on the consumer with the
20 information provided to the consumer credit reporting agency
21 by the retail seller. The items of personal identification
22 information may include, but are not limited to, first and
23 last name, month and date of birth, driver's license number,
24 place of employment, current residence address, previous
25 residence address, or social security number. The items of
26 information shall not include mother's maiden name.

27 (b) If the prospective user of information is a retail
28 seller, as defined in subsection (1), and intends to issue
29 credit to a consumer who appears in person on the basis of an
30 application for credit submitted in person, the retail seller
31 shall certify, in writing, to the consumer credit reporting

1 agency that it instructs its employees and agents to inspect a
2 photo identification of the consumer at the time the
3 application was submitted in person. This paragraph does not
4 apply to an application for credit submitted by mail.

5 (c) If the prospective user intends to extend credit
6 by mail pursuant to a solicitation by mail, the extension of
7 credit shall be mailed to the same address that appears on the
8 solicitation unless the prospective user verifies any address
9 change by, among other methods, contacting the person to whom
10 the extension of credit will be mailed.

11 (3) Whenever a consumer credit reporting agency
12 prepares a consumer credit report, it shall follow reasonable
13 procedures to assure maximum possible accuracy of the
14 information concerning the individual about whom the report
15 relates. These reasonable procedures shall include, but not
16 be limited to, permanent retention by the consumer credit
17 reporting agency in the consumer's file, or a separately
18 individualized file, of that portion of the data in the file
19 that is used by the consumer credit reporting agency to
20 identify the individual consumer pursuant to paragraph (2)(a).
21 This permanently retained data shall be available for use in
22 either a reinvestigation pursuant to subsection (6), an
23 investigation where the consumer has filed a police report
24 pursuant to subsection (16), or the restoration of a file
25 involving the consumer. If the permanently retained personal
26 identification information is retained in a consumer's file,
27 it shall be clearly identified in the file in order to easily
28 distinguish between the permanently stored personal
29 identification information and any other identifying
30 information that may be a part of the file. This retention
31 requirement shall not apply to data that is reported in error,

1 that is obsolete, or that is found to be inaccurate through
2 the results of a reinvestigation initiated by a consumer
3 pursuant to subsection (6).

4 (4) No consumer credit reporting agency may prohibit
5 any user of any consumer credit report furnished by the agency
6 from disclosing the contents of the consumer credit report to
7 the consumer who is the subject of the report if adverse
8 action may be taken by the user based in whole or in part on
9 the consumer credit report. The act of disclosure to the
10 consumer by the user of the contents of a consumer credit
11 report shall not be a basis for liability of the consumer
12 credit reporting agency or the user under subsections
13 (18)-(21).

14 (5) A consumer credit reporting agency shall provide a
15 written notice to any person who regularly and in the ordinary
16 course of business supplies information to the consumer credit
17 reporting agency concerning any consumer or to whom a consumer
18 credit report is provided by the consumer credit reporting
19 agency specifying the person's obligations under this act. A
20 copy of this section of the Florida Statutes shall satisfy the
21 requirement of this section.

22 (6) If the completeness or accuracy of any item of
23 information contained in a consumer's file is disputed by the
24 consumer, and the dispute is conveyed directly to the consumer
25 credit reporting agency by the consumer or by the user on
26 behalf of the consumer, the consumer credit reporting agency
27 shall, within a reasonable period of time and without charge,
28 reinvestigate the completeness or accuracy of the disputed
29 item of information and record the current status of the
30 disputed information within 30 business days after the date on
31 which the agency receives notice of the dispute from the

1 consumer or user, unless the consumer credit reporting agency
2 has reasonable grounds to believe and determines that the
3 dispute by the consumer is frivolous or irrelevant. Grounds
4 that a dispute by a consumer is frivolous or irrelevant shall
5 include failure of the consumer to provide sufficient
6 information, as requested by the consumer credit reporting
7 agency, to resolve the dispute. Unless the consumer credit
8 reporting agency determines that the dispute is frivolous or
9 irrelevant, the agency shall notify any person who provided
10 the information in dispute within 5 business days after the
11 date on which the agency receives notice of dispute under this
12 section at the address and in the manner specified by the
13 person. A consumer credit reporting agency may require that
14 disputes by consumers be in writing.

15 (7) In conducting such a reinvestigation the consumer
16 credit reporting agency shall review and consider all relevant
17 information submitted by the consumer with respect to the
18 disputed item of information. If the consumer credit
19 reporting agency determines that the dispute is frivolous or
20 irrelevant, it shall notify the consumer by mail or, if
21 authorized by the consumer for that purpose, by any other
22 means available to the agency, within 5 business days after
23 the determination is made to terminate reinvestigation of the
24 item of information. The notification shall state the
25 specific reasons why the agency has determined that the
26 consumer's dispute is frivolous or irrelevant. If the
27 disputed item of information is found to be inaccurate,
28 missing, or can no longer be verified by the evidence
29 submitted, the agency shall promptly add, correct, or delete
30 that information from the consumer's file.

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1 (8) No information may be reinserted in a consumer's
2 file after having been deleted pursuant to this section unless
3 the person who furnished the information verifies that the
4 information is accurate. If any information deleted from a
5 consumer's file is reinserted in the file, the consumer credit
6 reporting agency shall promptly notify the consumer of the
7 reinsertion in writing or, if authorized by the consumer for
8 that purpose, by any other means available to the agency. As
9 part of or in addition to this notice, the consumer credit
10 reporting agency shall, within 5 business days after
11 reinserting the information, provide to the consumer in
12 writing:

13 (a) A statement that the disputed information has been
14 reinserted.

15 (b) A notice that the agency will provide to the
16 consumer, within 15 days following a request, the name,
17 address, and telephone number of any furnisher of information
18 contacted by or which contacted the consumer credit reporting
19 agency in connection with the reinsertion.

20 (c) The toll-free telephone number of the consumer
21 credit reporting agency in order that the consumer can obtain
22 the name, address, and telephone number of the furnisher of
23 information.

24 (d) A notice that the consumer has the right to a
25 reinvestigation of the information reinserted by the consumer
26 credit reporting agency and the right to add a statement to
27 his or her file disputing the accuracy or completeness of the
28 information.

29 (9) A consumer credit reporting agency shall provide
30 notice to the consumer of the results of any reinvestigation
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1 under this section within 5 days of completion of the
2 reinvestigation. The notice shall include:
3 (a) A statement that the reinvestigation has been
4 completed.
5 (b) A consumer credit report that is based on the
6 consumer's file as that file is revised as a result of the
7 reinvestigation.
8 (c) A description or indication of any changes made in
9 the consumer credit report as a result of the revisions to the
10 consumer's file.
11 (d) A notice that, if requested by the consumer, a
12 description of the procedure used to determine the accuracy
13 and completeness of the information shall be provided to the
14 consumer by the consumer credit reporting agency, including
15 the name, business address, and telephone number of any
16 furnisher of information contacted in connection with that
17 information.
18 (e) A notice that the consumer has the right to add a
19 statement to his or her file disputing the accuracy or
20 completeness of the information.
21 (f) A notice that the consumer has the right to
22 request that the consumer credit reporting agency furnish
23 notifications under subsection (13).
24
25 A consumer credit reporting agency shall provide the notice
26 pursuant to this subsection regarding the procedure used to
27 determine the accuracy and completeness of information not
28 later than 15 days after receiving a request from the
29 consumer.
30 (10) The presence of information in the consumer's
31 file that contradicts the contention of the consumer shall

1 not, in and of itself, constitute reasonable grounds for
2 believing the dispute to be frivolous or irrelevant.
3 (11) If the consumer credit reporting agency
4 determines that the dispute is frivolous or irrelevant, or if
5 the reinvestigation does not resolve the dispute, or if the
6 information is reinserted into the consumer's file pursuant to
7 subsection (8), the consumer may file a brief statement
8 setting forth the nature of the dispute. The consumer credit
9 reporting agency may limit these statements to not more than
10 100 words if it provides the consumer with assistance in
11 writing a clear summary of the dispute.

12 (12) Whenever a statement of dispute is filed, the
13 consumer credit reporting agency shall, in any subsequent
14 consumer credit report containing the information in question,
15 clearly note that the information is disputed by the consumer
16 and include in the report either the consumer's statement or a
17 clear and accurate summary thereof.

18 (13) Following the deletion of information from a
19 consumer's file pursuant to this section, or following the
20 filing of a statement of dispute pursuant to subsection (11),
21 the consumer credit reporting agency shall, at the request of
22 the consumer, furnish notification that the item of
23 information has been deleted or that the item of information
24 is disputed. In the case of disputed information, the
25 notification shall include the statement or summary of the
26 dispute filed pursuant to subsection (11). This notification
27 shall be furnished to any person specifically designated by
28 the consumer who has, within 2 years prior to the deletion or
29 the filing of the dispute, received a consumer credit report
30 concerning the consumer for employment purposes or who has,
31 within 6 months after the deletion or the filing of the

1 dispute, received a consumer credit report concerning the
2 consumer for any other purpose, if such consumer credit
3 reports contained the deleted or disputed information. The
4 consumer credit reporting agency shall clearly and
5 conspicuously disclose to the consumer his or her rights to
6 make a request for this notification. The disclosure shall be
7 made at or prior to the time the information is deleted
8 pursuant to this section or the consumer's statement regarding
9 the disputed information is received pursuant to subsection
10 (11).

11 (14) A consumer credit reporting agency shall maintain
12 reasonable procedures designed to prevent the reappearance in
13 a consumer's file and in consumer credit reports of
14 information that has been deleted pursuant to this section and
15 not reinserted pursuant to subsection (8).

16 (15) If the consumer's dispute is resolved by deletion
17 of the disputed information within 3 business days, beginning
18 with the day the consumer credit reporting agency received
19 notice of the dispute in accordance with subsection (6), and
20 provided that verification thereof is provided to the consumer
21 in writing within 5 business days following the deletion, then
22 the consumer credit reporting agency shall be exempt from
23 requirements for further action under subsections (9), (11),
24 and (12).

25 (16) If a consumer submits to a credit reporting
26 agency a copy of a valid police report filed pursuant to s.
27 817.568, the consumer credit reporting agency shall promptly
28 and permanently block the reporting of any information that
29 the consumer alleges appears on his or her credit report as a
30 result of a violation of s. 817.568 so that the information
31 cannot be reported. The consumer credit reporting agency

1 shall promptly notify the furnisher of the information that
2 the information has been so blocked. Furnishers of
3 information and consumer credit reporting agencies shall
4 ensure that blocked information is unblocked only upon a
5 preponderance of the evidence establishing the facts required
6 under paragraphs (a)-(c). The permanently blocked information
7 shall be unblocked only if:
8 (a) The information was blocked due to fraud; or
9 (b) The consumer agrees that the blocked information,
10 or portions of the blocked information, were blocked in error;
11 or
12 (c) The consumer knowingly obtained possession of
13 credit, goods, services, or moneys as a result of the blocked
14 transaction or transactions or the consumer should have known
15 that he or she obtained possession of credit, goods, services,
16 or moneys as a result of the blocked transaction or
17 transactions.
18
19 If blocked information is unblocked pursuant to this
20 subsection, the consumer shall be promptly notified in the
21 same manner as provided in subsection (8) for reinsertion of
22 information. The prior presence of the blocked information in
23 the consumer credit reporting agency's file on the consumer
24 shall not constitute evidence of whether the consumer knew or
25 should have known that he or she obtained possession of any
26 credit, goods, services, or moneys as a result of the blocked
27 transaction or transactions. For the purposes of this
28 subsection, fraud may be demonstrated by circumstantial
29 evidence. In unblocking information pursuant to this
30 subsection, furnishers of information and consumer credit
31 reporting agencies shall be subject to their respective

1 requirements pursuant to this act regarding the completeness
2 and accuracy of information.

3 (17) Upon notification of the results of a consumer
4 credit reporting agency's reinvestigation pursuant to this
5 section, a consumer may make a written demand on any person
6 furnishing information to the consumer credit reporting agency
7 to correct any information which the consumer believes to be
8 inaccurate. The person upon whom the written demand is made
9 shall acknowledge the demand within 30 days after receipt.
10 The consumer may require the consumer credit reporting agency
11 to indicate on any subsequent reports issued during the
12 dispute that the item or items of information are in dispute.
13 If, upon investigation, the information is found to be
14 inaccurate or incorrect, the consumer may require the consumer
15 credit reporting agency to delete or correct the item or items
16 of information within a reasonable time. If within 90 days
17 the consumer credit reporting agency does not receive any
18 information from the person requested to furnish the
19 information, or any other communication relative to this
20 information from such person, the consumer credit reporting
21 agency shall delete the information from the report.

22 (18) Any consumer who suffers damages as a result of a
23 violation of this act by any person may bring an action in a
24 court of appropriate jurisdiction against that person to
25 recover the following:

26 (a) In the case of a negligent violation, actual
27 damages, including court costs, loss of wages, attorney's
28 fees, and, when applicable, pain and suffering.

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

30 1. Actual damages as set forth in paragraph (a).

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1 2. Punitive damages of not less than \$100 or more than
2 \$5,000 for each violation as the court deems proper.

3 3. Any other relief which the court deems proper.

4 (c) In the case of liability of a natural person for
5 obtaining a consumer credit report under false pretenses or
6 knowingly without a permissible purpose, an award of actual
7 damages pursuant to paragraph (a) or subparagraph (b)1. shall
8 be in an amount of not less than \$2,500.

9 (19) Injunctive relief shall be available to any
10 consumer aggrieved by a violation or a threatened violation of
11 this section whether or not the consumer seeks any other
12 remedy under this section.

13 (20) A person who willfully violates any requirement
14 imposed under this section may be liable for punitive damages
15 in the case of a class action, in an amount that the court may
16 allow. In determining the amount of award in any class
17 action, the court shall consider among relevant factors the
18 amount of any actual damages awarded, the frequency of the
19 violations, the resources of the violator, and the number of
20 persons adversely affected.

21 (21) The prevailing parties in any action commenced
22 under this section shall be entitled to recover court costs
23 and reasonable attorney's fees.

24 (22) An action to enforce any liability created under
25 this section may be brought in any appropriate court of
26 competent jurisdiction within 2 years from the date the
27 plaintiff knew of, or should have known of, the violation of
28 this section, but not more than 7 years from the earliest date
29 on which liability could have arisen, except that where a
30 defendant has materially and willfully misrepresented any
31 information required under this act to be disclosed to a

1 consumer and the information so misrepresented is material to
2 the establishment of the defendant's liability to the consumer
3 under this act, the action may be brought at any time within 2
4 years after the discovery by the consumer of the
5 misrepresentation.

6 Section 2. This act shall take effect July 1, 2000.

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HOUSE SUMMARY

With respect to consumer credit reporting, requires consumer credit reporting agencies to establish requirements with respect to the furnishing of consumer credit reports to prospective users of such reports. Requires the keeping of certain records. Requires consumer credit reporting agencies to follow specified procedures to assure the accuracy of information concerning individuals who are the subject of consumer credit reports. Provides that no consumer credit reporting agency may prohibit any user of a consumer credit report from disclosing the contents of such report if adverse action may be taken by the user based on the report.

Requires consumer credit reporting agencies to reinvestigate certain items of information disputed by a consumer. Provides exceptions. Provides that information deleted from a consumer's file may not be reinserted. Provides an exception. Provides for notification in the case of a reinsertion. Requires consumer credit reporting agencies to provide notice to a consumer of the results of any reinvestigation. Authorizes consumers to file a statement with respect to a dispute under specified circumstances. Provides requirements of the consumer credit reporting agency when a statement of dispute is filed. Provides specified notice requirements following the deletion of information or the filing of a statement of dispute. Requires consumer credit reporting agencies to maintain reasonable procedures to prevent the reappearance of deleted information. Requires consumer credit reporting agencies to block the reporting of specified information. Provides conditions under which blocked information shall be unblocked. Provides that consumers may make a written demand to correct certain information resulting from a reinvestigation. Provides that a consumer may require a consumer credit reporting agency to delete or correct inaccurate or incorrect items of information.

Provides for damages, injunctive relief, recovery of court costs and attorney's fees, and enforcement of action for violations under the act.