

By Senator Siplin

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1 A bill to be entitled

2 An act relating to consumer credit reports; defining the  
3 terms "creditor" and "negative credit information";  
4 providing that a creditor may submit negative credit  
5 information concerning a consumer to a consumer reporting  
6 agency only if the creditor notifies the affected  
7 consumer; providing procedures for notifying the consumer;  
8 providing that the giving of notice by a creditor does not  
9 create a requirement for the creditor to actually submit  
10 negative credit information to a consumer credit reporting  
11 agency; providing that a creditor is liable for failing to  
12 provide notice to a consumer unless the creditor shows  
13 that at the time of the failure to give correct notice the  
14 creditor maintained reasonable procedures to comply with  
15 the law; providing an effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
19 Section 1. Reports of negative credit information.--

20 (1) As used in this section, the term:

21 (a) "Creditor" means a creditor or the agent or assignee of  
22 a creditor, including an agent engaged in administering or  
23 collecting the creditor's accounts.

24 (b) "Negative credit information" means information  
25 concerning the credit history of a consumer which, because of the  
26 consumer's past delinquencies, late or irregular payment history,  
27 insolvency, or any form of default, would reasonably be expected  
28 to adversely affect the consumer's ability to obtain or maintain  
29 credit. The term does not include information or credit histories

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30 arising from a nonconsumer transaction and does not include  
31 inquiries about a consumer's credit record.

32 (2) A creditor may submit negative credit information  
33 concerning a consumer to a consumer reporting agency only if the  
34 creditor notifies the affected consumer. After providing this  
35 notice, a creditor may submit additional information to the  
36 consumer reporting agency concerning the same transaction or  
37 extension of credit that gave rise to the original negative credit  
38 information without providing additional notice.

39 (3) The notice to the consumer must be in writing and must  
40 be delivered in person or mailed first class, postage prepaid, to  
41 the consumer's last known address within 30 days after the  
42 creditor reports the negative credit information.

43 (a) The notice may be part of any notice of default, billing  
44 statement, or other correspondence, and may be included as  
45 reprinted or standard-form language in any such notice from the  
46 creditor to the consumer.

47 (b) The notice is sufficient if it is in substantially the  
48 following form:

49  
50 As required by law, you are notified that a negative credit  
51 report reflecting on your consumer credit record may be  
52 submitted to a consumer reporting agency if you fail to  
53 fulfill the terms of your credit obligations.

54  
55 (c) The notice may be more specific than the form provided  
56 in paragraph (b). The notice may include, but need not be limited  
57 to, particular information regarding an account or information  
58 concerning the approximate date on which the creditor submitted or

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59 intends to submit a negative credit report.

60 (d) The giving of notice by a creditor as provided in this  
61 subsection does not create any requirement for the creditor to  
62 actually submit negative credit information to a consumer credit  
63 reporting agency. However, this section does not authorize the use  
64 of notice as provided in this subsection in violation of the  
65 federal Fair Debt Collection Practices Act.

66 (4) A creditor is liable for failing to provide notice  
67 pursuant to this section unless the creditor establishes, by a  
68 preponderance of the evidence, that at the time of the failure to  
69 give correct notice the creditor maintained reasonable procedures  
70 to comply with this section.

71 Section 2. This act shall take effect July 1, 2008.