

BILL ANALYSIS

Senate Research Center

S.B. 27
By: Harris
State Affairs
4-24-97
Committee Report (Amended)

DIGEST

Currently, the use of consumer reporting agencies is expanding quickly as consumer credit transactions become the rule rather than the exception in consumer purchasing. Consumer credit reports by consumer reporting agencies include certain credit information used to establish a consumer's eligibility for credit, insurance, or employment. There are concerns that there is a need to ensure that consumer reporting agencies exercise their responsibilities with impartiality, fairness, and consideration. This bill set forth regulations for consumer reporting agencies and provides civil penalties.

PURPOSE

As proposed, S.B. 27 sets forth regulations for consumer reporting agencies and provides civil penalties.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 2, Business & Commerce Code, by adding Chapter 20, as follows:

CHAPTER 20. REGULATION OF CONSUMER CREDIT REPORTING AGENCIES

Sec. 20.01. DEFINITIONS. Defines "adverse action," "consumer," "consumer file," "consumer report," "consumer reporting agency," and "investigative consumer report."

Sec. 20.02. PERMISSIBLE PURPOSES; PROHIBITION; USE OF CONSUMER'S SOCIAL SECURITY NUMBER. Authorizes a consumer reporting agency (agency) to furnish a consumer report (report) only in certain circumstances. Prohibits an agency from prohibiting a user of a consumer report or investigative consumer report from disclosing certain matters under certain conditions. Prohibits a user of a consumer credit report or an agency from being found liable or otherwise held responsible for a disclosed or copied report when acting under this subsection. Provides that the disclosure or copy of report does not make a user of the report an agency. Sets forth the conditions under which a social security number is to be used by a consumer reporting agency when furnished by the consumer for use in obtaining a consumer report.

Sec. 20.03. DISCLOSURES TO CONSUMERS. Sets forth the procedure for an agency when disclosing certain information to a consumer. Requires the information to be disclosed in a clear, accurate manner that is understandable to the consumer. Requires a consumer reporting agency to provide a copy of the consumer report to the consumer on the request of the consumer and on evidence of proper identification, as described in a certain manner.

Sec. 20.04. CHARGES FOR CERTAIN DISCLOSURES. Authorizes an agency to impose a reasonable charge on a consumer for the disclosure of information pertaining to the consumer, except as provided by Subsection (b). Prohibits the amount of the charge from

exceeding \$8. Prohibits an agency from charging a fee for certain actions.

Sec. 20.05. REPORTING OF INFORMATION PROHIBITED. Prohibits an agency from furnishing a consumer report containing information relating to certain matters. Authorizes an agency to furnish a consumer report that contains information described by Subsection (a) if the information is provided in connection with certain matters. Prohibits an agency from furnishing medical information about a consumer in a consumer report that is being obtained for certain purposes unless the consumer consents to the furnishing of the medical information.

Sec. 20.06. DISPUTE PROCEDURE. Requires the agency to reinvestigate disputed information free of charge and record the current status of the disputed information by a certain date under certain conditions. Requires the agency to provide the consumer with the option of notifying the agency of a dispute concerning the consumer's file by speaking directly to a representative of the agency. Requires the agency to provide notice of the dispute to each person who provided any information related to the dispute and each person requesting information about the consumer under certain conditions. Authorizes an agency to terminate a reinvestigation of information disputed by a consumer under certain conditions. Sets forth the procedure for a terminated reinvestigation. Sets forth the procedure to be enforced if disputed information is found to be inaccurate or cannot be verified. Prohibits information deleted under Subsection (d) from being reinserted in the consumer's file under certain conditions. Requires an agency to provide written notice of the results of a reinvestigation made under this section not later than a certain date. Requires the notice to contain certain information. Provides that this section does not require a person who obtains a consumer report for resale to another person to alter or correct an inaccuracy in the consumer report if the report was not assembled or prepared by the person.

Sec. 20.07. CORRECTION OF INACCURATE INFORMATION. Set forth the procedure for correcting inaccurate information contained within consumer credit information provided to an agency.

Sec. 20.08. CONSUMER'S RIGHT TO FILE ACTION IN COURT OR ARBITRATE DISPUTES. Sets forth the procedure for an action to enforce an obligation of an agency to a consumer. Provides that a decision rendered by an arbitrator does not affect the validity of an obligation or debt owed by the consumer to any party. Requires a prevailing party in an action or arbitration to be compensated for certain fees and costs as determined by the court or arbitration. Prohibits a consumer from submitting to arbitration more than one action against a particular agency during any 120-day period. Requires the results of an arbitration in this state to be communicated in a timely manner to other agencies doing business in this state. Sets forth provisions to be followed if a determination is made in favor of a consumer after submission of a dispute to arbitration.

Sec. 20.09. CIVIL LIABILITY. Set forth the procedure for an agency that is found liable after violating this chapter or the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.). Provides that an agency that does not correct a consumer's file and consumer report before a certain date is also liable for \$1,000 a day until the inaccuracy is corrected.

Sec. 20.10. REMEDIES CUMULATIVE. Provides that an action taken under this chapter does not prohibit a consumer from taking any other action authorized by law, with an exception.

SECTION 2. Effective date: September 1, 1997.

SECTION 3. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Amendment 1.

- (1) Page 2, line 22, insert new Subdivisions (D) and (E).
- (2) Page 3, line 27, strike "only if the consumer consents in writing to the furnishing of the report" and replace with "as authorized under the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), as amended, and regulations adopted under that Act."
- (3) Page 4, lines 3-4, makes a conforming change.
- (4) Page 4, line 18, strike "and explaining."
- (5) Page 5, lines 22-27, strike Subsection (c) and replace with new Subsection (c), as follows:
 - (c) A consumer reporting agency shall provide a copy of the consumer report to the consumer on the request of the consumer and on evidence of proper identification, as directed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), as amended, and regulations adopted under that Act.
- (6) Page 6, lines 5-7, strike "the retail price of a written report rendered in the normal course of business to other customers of the agency for each request for information" and replace with "\$8."
- (7) Page 7, line 27, and page 8, lines 1-6, strike proposed Subsection (d).
- (8) Page 9, line 11, between "and" and "each" insert ", on the request of the consumer, to."