

# MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

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ONE HUNDRED AND EIGHTH LEGISLATURE

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Legislative Document

No. 2052

H. P. 1963

House of Representatives, January 11, 1978

The Committee on Business Legislation suggested. Approved for introduction by the Legislative Council pursuant to Joint Rule 24 and 2,500 ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Howe of South Portland.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-EIGHT

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AN ACT to Clarify and Define Certain Existing Provisions of the Maine Fair Credit Reporting Act.

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Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 10 MRSA § 1312, sub-§ 3, as enacted by PL 1977, c. 514, is amended to read:

3. **Consumer report.** "Consumer report" means any written, oral or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, credit history and employment status which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for credit or insurance to be used primarily for personal, family or household purposes or employment purposes or other purposes authorized under section 1313. This term does not include any report containing information solely as to transactions or experiences between the consumer and the person making the report or any authorization or approval of a specific extension of credit directly or indirectly by the issuance of a credit card or similar device or any report in which a person who has been requested by a 3rd party to make a specific extension of credit directly or indirectly to a consumer conveys his decision with respect to that request, if the 3rd party advises the consumer of the name and address of the person to whom the request was made and that person makes the disclosures to the consumer required under section 1320.

Sec. 2. 10 MRSA § 1312, sub-§ 8, as enacted by PL 1977, c. 514, is repealed and the following enacted in its place:

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

Sec. 3. 10 MRSA § 1312, sub-§ 9, as enacted by PL 1977, c. 514, is repealed.

Sec. 4. 10 MRSA § 1312, sub-§ 10-A is enacted to read:

10-A. Source. "Source" means any person who provides information to a consumer reporting agency pursuant to a contract or for a fee or who otherwise regularly provides information to a consumer reporting agency.

Sec. 5. 10 MRSA § 1314, sub-§ 1, as enacted by PL 1977, c. 514, is repealed and the following enacted in its place:

1. Notice to consumer required. A person may not procure or cause to be prepared an investigative consumer report on any consumer unless:

A. That person has provided the consumer with clear and conspicuous written notice of the requested procurement or preparation and the consumer has, in turn, given a specific, dated and separately signed written authorization for each procurement or preparation; or

B. The report is to be used in connection with hiring or promotion of the consumer to a position for which the consumer has not specifically applied.

Sec. 6. 10 MRSA § 1314, sub-§ 2, ¶ A, as enacted by PL 1977, c. 514, is amended to read:

A. Shall inform the consumer of the names, ~~central or~~ local office addresses and telephone numbers of any and all consumer reporting agencies which will be requested to prepare or disseminate consumer reports about the particular consumer;

Sec. 7. 10 MRSA § 1314, sub-§ 2, as enacted by PL 1977, c. 514, is repealed and the following enacted in its place:

2. Notice of contents. The notice to the consumer, which is required by the subsection 1, shall contain the following information:

A. The types of information expected to be collected about him from 3rd parties and that are not collected on the application and, as to information regarding character, general reputation and mode of living, each area of inquiry;

B. The techniques that may be used to collect that type of information;

C. The types of sources that are expected to be asked to provide each type of information about him;

D. The types of parties to whom and circumstances under which information about the individual may be disclosed without his authorization and the types of information that may be disclosed;

E. The procedures established by statute by which the individual may gain access to any resulting record about himself;

F. The procedures whereby the individual may correct, amend, delete or dispute any resulting record about himself; and

**G. The fact that information in any report prepared by a consumer reporting agency, as defined by the Fair Credit Reporting Act, may be retained by that organization and subsequently disclosed by it to others.**

Sec. 8. 10 MRSA § 1316, sub-§ 2, ¶ C, 1st ¶, as enacted by PL 1977, c. 514, is repealed and the following enacted in its place:

**By providing the consumer with a copy of his complete file either in person or through the mail if he has made a written request with proper identification, a charge for photocopying and mailing not to exceed the agency's actual costs for that photocopying and mailing, plus a disclosure fee not to exceed \$3, or, for a total fee equal to the fee charged to a user, whichever is less. The agency shall provide the consumer with that copy of his report within 10 days of receipt of that request.**

Sec. 9. 10 MRSA § 1317, sub-§ 2, as enacted by PL 1977, c. 514, is amended to read:

**2. Reinvestigation by consumer reporting agency.** If a consumer disputes any item of information contained in his file on the ground that it is inaccurate, irrelevant or misleading and such dispute is directly conveyed to the consumer reporting agency by the consumer, the consumer reporting agency shall promptly reinvestigate and record the current status of such information, unless it has reasonable grounds to believe that the dispute by the consumer is ~~unreasonable~~ frivolous, and it shall promptly notify the consumer of the result of its investigation and his rights pursuant to subsections 4, 5 and 6. The presence of contradictory information in a consumer's file shall not, in and of itself, constitute reasonable grounds for believing the dispute is ~~unreasonable~~ frivolous.

Sec. 10. 10 MRSA § 1317, sub-§ 4, ¶¶ A, B and C, as enacted by PL 1977, c. 514, are repealed and the following enacted in their place:

- A. Promptly expunge the item and otherwise correct the file; and**
- B. Refrain from reporting the item in subsequent consumer reports.**

Sec. 10-A. 10 MRSA § 1317, sub-§ 5, ¶ B, as enacted by PL 1977, c. 514, is amended to read:

**B. Permit the consumer to file a statement containing the nature of the dispute. The agency may limit such statements to not more than 100 200 words if it provides the consumer with assistance in writing a clear summary of the dispute:**

Sec. 11. 10 MRSA § 1317, sub-§ 6, as enacted by PL 1977, c. 514, is repealed and the following enacted in its place:

**6. Agency notification of deletion.** Following any deletion of information which is found to be inaccurate or the accuracy of which can no longer be verified or any notation as to disputed information, the consumer reporting agency shall, at the request of the consumer, furnish notification that the item has been deleted, furnish the corrected information and include a copy of the consumer's statement, where applicable, in accordance with subsection 5, to any person who has received a consumer report within 2 years prior thereto, received a consumer report or investigative consumer report for employment purposes or within 6 months prior thereto received a consumer report or investigative consumer report for any other purpose which contained the deleted or disputed information. The consumer reporting agency shall clearly and conspicuously disclose to the consumer his right to make such a request. That disclosure shall be made at or prior to the time the information is deleted or the consumer's statement regarding the disputed information is received.

Sec. 12. 10 MRSA § 1319, sub-§ 1, as enacted by PL 1977, c. 514, is amended to read:

**1. Inclusion of adverse information in subsequent report.** Whenever a consumer reporting agency prepares an investigative consumer report, no adverse information in the consumer report, other than information which is a matter of public record, may be included in a subsequent consumer report unless such adverse information has been verified in the process of making such subsequent consumer report or the adverse information was received within the 6-month 3-month period preceding the date the subsequent report is furnished.

Sec. 13. 10 MRSA § 1320, sub-§ 1, as enacted by PL 1977, c. 514, is repealed.

Sec. 13-A. 10 MRSA § 1320, sub-§ 1-A is enacted to read:

**1-A. Procedures when adverse action taken because of consumer report information.** Whenever any credit or insurance for personal, family or household purposes, or any other goods, benefit or service, or employment involving a consumer is denied, or the charge for that credit, insurance, goods, benefit or service is increased either wholly or partly because of information contained in a consumer report or investigative consumer report from a consumer reporting agency, the user taking that action:

A. Shall disclose in writing to the consumer against whom the adverse action has been taken:

- (1) The name, street address and telephone number of the consumer reporting agency making the report;
- (2) The fact that the consumer has the right to inspect and receive a copy of the report by contacting the consumer reporting agency; and
- (3) The reason for denying or increasing the charge for credit, insurance, goods, benefits or services. Upon request of the consumer, the user shall identify in writing the particular item or items of information contained in the report upon which that action has been wholly or partly based; and

B. In addition to the requirements of paragraph A, when any such report is used for the purpose of evaluating an application for credit, shall furnish to the consumer the reasons for any adverse action in relation to that application in conformance with the requirements of the Federal Equal Credit Opportunity Act (P.L. 93-495, 15USC 1691 et seq.) as that statute may from time to time be amended.

Sec. 14. 10 MRSA § 1321, sub-§§ 1, 2 and 3, as enacted by PL 1977, c. 514, are repealed and the following enacted in their place:

**1. Information relative to criminal charges.** No consumer reporting agency shall prepare, use or report information relative to an arrest or a criminal charge unless there has been a criminal conviction for that offense or unless the charge is still pending.

**2. Other prohibited information.** No consumer reporting agency shall collect, evaluate, prepare, use or report information based on uncorroborated hearsay, or information about a consumer's race, religion, color, ancestry, ethnic origin, sexual behavior or activities, or political affiliation, except to the extent required by governmentally imposed record keeping requirements.

3. Irrelevant or obsolete information. No consumer reporting agency shall collect, evaluate, prepare, use or report information which is obsolete or which it has reason to know is inaccurate or irrelevant.

4. Procedures to insure report accuracy. A consumer reporting agency shall adopt and follow reasonable procedures designed to assure maximum possible accuracy of the information concerning the individual to whom the report relates, including verifying the accuracy and relevancy of that information and excluding inaccurate and irrelevant information from its files.

Sec. 15. 10 MRSA § 1323, sub-§ 2, as enacted by PL 1977, c. 514, is repealed and the following enacted in its place:

2. Special or compensatory damages. Such amount of special or compensatory damages as the court may allow, but not less than \$100 for each item of erroneous information reported which lead to the denial of employment or the denial of or increase in charges for credit, insurance, goods, services or benefits; and

Sec. 16. 10 MRSA § 1327, as enacted by PL 1977, c. 514, is repealed.

#### STATEMENT OF FACT

This bill is intended to clarify and define certain existing terms and provisions of the Maine Fair Credit Reporting Act about which some questions have been raised as to their precise meaning and effect.