

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1123

H.P. 791

House of Representatives, March 13, 1991

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.

Reference to the Committee on Business Legislation suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative STEVENS of Sabattus.

Cosponsored by Representative CONSTANTINE of Bar Harbor, Senator RICH of Cumberland and Senator THERIAULT of Aroostook.

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STATE OF MAINE

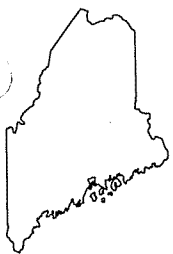
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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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**An Act to Improve Credit Reporting.**

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

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3  
4 Sec. 1. 10 MRSA §1313, sub-§§3 and 4, as repealed and replaced  
by PL 1981, c. 610, §5, are amended to read:

6 3. To certain persons. To a person who it has reason to  
believe intends to use the report for the purposes enumerated in  
8 section 1312, subsection 3; or

10 4. Administrative enforcement. Pursuant to the provisions  
of section 1328, but limited by the Federal Fair Credit Reporting  
12 Act, Section 608, the United States Code, Title 15, Section  
1681f; or

14 Sec. 2. 10 MRSA §1313, sub-§5 is enacted to read:

16 5. To the administrator. To the administrator or the  
18 administrator's designee pursuant to section 1328.

20 Sec. 3. 10 MRSA §1316, sub-§2, as amended by PL 1987, c. 306,  
§1, is further amended to read:

22 2. Methods. The disclosures required under section 1315  
24 shall must be made to the consumer by one or more of the  
following methods at the option of the consumer:

26 A. In person, if he the consumer appears in person and  
28 furnishes proper identification, and, in any such case, the  
consumer shall must be permitted a personal visual  
30 inspection of his the consumer's file and, upon his the  
32 consumer's request, shall must be furnished copies of any  
report at a charge not to exceed the agency's actual costs  
for photocopying or otherwise producing the report;

34 B. By telephone, if he the consumer presents proper  
36 identification over the telephone, and the toll charge, if  
any, for the telephone call is prepaid by or charged  
38 directly to the consumer; or

40 C. By promptly mailing a copy of the consumer's file to him  
42 the consumer, if he the consumer has made a written request  
by ordinary mail with proper identification, at a charge not  
44 to exceed the agency's actual costs for photocopying or  
otherwise producing the report and mailing it.

46 In the event that the request for a copy of a consumer's file is  
48 made within 60 days after an adverse credit determination, the  
cost of the disclosure shall must be paid by the consumer  
reporting agency. In addition, a consumer has the right to  
50 obtain a copy of the consumer's report, without charge, from any  
consumer reporting agency once during any 12-month period. The  
52 agency shall may not be held responsible for improper disclosure

2 of a consumer's file resulting from improper delivery by the  
3 United States Postal Service when the agency properly mailed the  
4 file, correctly addressed, to the consumer who is the subject of  
5 the file nor may the agency be held responsible for improper  
6 telephone disclosures under paragraph B, when the agency used  
7 reasonable procedures to ensure proper identification of the  
8 consumer who called for the disclosure.

9  
10 **Sec. 4. 10 MRSA §1317, sub-§4, ¶B, as amended by PL 1977, c.**  
11 **677, §7, is further amended to read:**

12 B. Refrain from reporting the item in subsequent consumer  
13 reports, unless the item is later verified. If verified,  
14 the item may not be reported until the consumer is notified,  
15 by regular mail at the last known address, of the specific  
16 item and the fact that it will again be reported.

17  
18 **Sec. 5. 10 MRSA §1320, sub-§§1-B and 2-A are enacted to read:**

19  
20 **1-B. Information to be provided to consumer at time of**  
21 **application. A user may not receive a consumer report in**  
22 **connection with an application from a consumer, unless the**  
23 **consumer is first informed in writing, or in the same manner in**  
24 **which the application is made, that a consumer report may be**  
25 **requested in connection with the application and that the user**  
26 **will disclose, upon request, the name, address and telephone**  
27 **number of the credit reporting agency or credit reporting**  
28 **agencies that furnish the report or reports.**

29  
30 **2-A. Release of report to consumer. A user of a consumer**  
31 **report or an investigative consumer report may release a copy of**  
32 **that report or any portion of that report to the consumer about**  
33 **whom the report has been prepared.**

34  
35 **Sec. 6. 10 MRSA §1320-A is enacted to read:**

36 **§1320-A. Use of identifying information**

37  
38 **Before requesting a report from a consumer reporting agency,**  
39 **a user must request that the consumer provide a social security**  
40 **number and date of birth except if prohibited by federal law. If**  
41 **the consumer provides one or both of those items of identifying**  
42 **information, the user must include that information with the**  
43 **request for the consumer report and include that information when**  
44 **transmitting subsequent credit information to a credit reporting**  
45 **agency. If the user provides that information to the credit**  
46 **reporting agency, the credit reporting agency must use the**  
47 **information when providing a consumer report and when accepting**  
48 **credit data from the user.**

49  
50

2           Sec. 7. 10 MRSA §1328, sub-§1, ¶¶E and F, as enacted by PL  
1979, c. 636, §2, are amended to read:

4           E. Issue advisory rulings designed to clarify the  
applicability of any statutory provision; and

6           F. Maintain a public file of all enforcement proceedings  
8           instituted and of their disposition, including all  
10           assurances of voluntary compliance accepted and their terms  
and the pleadings and briefs in all actions in which the  
12           administrator is a party;

14           Sec. 8. 10 MRSA §1328, sub-§1, ¶¶G and H are enacted to read:

16           G. Adopt, amend or repeal rules pursuant to the Maine  
Administrative Procedure Act to carry out the purposes of  
this chapter; and

18           H. Request registration and annual reregistration of credit  
20           reporting agencies located in this State or serving users  
within this State and set an annual registration fee not to  
22           exceed \$100, the aggregate of which must be used by the  
administrator to enforce this chapter.

24           Sec. 9. 32 MRSA §11013, sub-§4 is enacted to read:

26           4. Reporting to a consumer reporting agency. A debt  
28           collector may not report in its own name any credit or debt  
information to a consumer reporting agency, as defined by Title  
30           10, section 1312, subsection 4. A debt collector may, with the  
express written consent of the creditor, report to a credit  
32           reporting agency in the creditor's name.

34           **STATEMENT OF FACT**

36           This bill, which resulted from a working group convened by  
38           the Superintendent of the Bureau of Consumer Credit Protection,  
clarifies the consumer protections of the Fair Credit Reporting  
40           Act and makes the credit reporting system more responsive to the  
needs of consumers and business users.

42           The bill requires that a merchant or lender offer to  
44           disclose to a consumer the name of the credit reporting agency  
the lender or creditor will use to make the credit decision.  
46           This allows the consumer to contact the credit reporting agency  
to check the accuracy and completeness of that consumer's credit  
48           file.

50           The bill directs creditors to ask consumers to supply  
identifying information, including a social security number. It

2 does not require that the consumer provide that information. If  
3 the consumer chooses to provide the information, the bill  
4 requires that the creditor use that information in reporting  
5 credit data and further requires that the credit reporting  
6 agencies use that information in their files. Increased use of  
7 social security number or other identifying information reduces  
8 the incidence of credit information being listed on the wrong  
9 consumer's file.

10 The bill grants rule-making authority to the Bureau of  
11 Consumer Credit Protection to allow minor procedural requirements  
12 to be implemented without all parties having to appear before the  
13 Legislature.

14 The bill authorizes the registration of credit reporting  
15 agencies operating in the State.

16 The bill clarifies the right of consumers to receive credit  
17 information in response to a telephone request and insulates  
18 credit reporting agencies from liability for improper  
19 disclosures, as long as reasonable measures are in place to  
20 prevent those mistaken disclosures.

21 The bill prohibits debt collectors from listing debt  
22 collection companies on consumers' credit reports. The name of  
23 the actual creditor may be listed, as long as the creditor has  
24 given the debt collector permission. This measure allows both  
25 consumers and credit reporting agencies to better identify the  
26 source of a debt listed on a consumer's report.

27 The bill allows consumers enhanced access to their own  
28 credit reports by allowing consumers to obtain free copies of  
29 their reports once each year. This measure removes the final  
30 barrier between consumers and their reports, and fosters  
31 increased accuracy by encouraging periodic reviews of reports.

32 The bill allows a credit reporting agency to put an item of  
33 credit information back in a consumer's report, if the  
34 information is verified and notice has been sent to the consumer,  
35 notifying the consumer that the item will be reappearing on the  
36 report.

37 The bill provides that a consumer has 60 days following  
38 denial of credit in which to request a free copy of the credit  
39 report from that consumer's credit reporting agency.

40 The bill clarifies that a creditor may show a credit report  
41 to a consumer to whom the report pertains. While this is  
42 currently allowed by law, the wording of the provision is not  
43 clear.

2           The bill requires that a consumer's report be provided to  
3           the Superintendent of the Bureau of Consumer Credit Protection  
4           upon request, if necessary to assist a consumer who has filed an  
          inquiry or complaint with the Bureau of Consumer Credit  
          Protection.