

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

SECOND SPECIAL SESSION

September 25, 1981

AND

THIRD SPECIAL SESSION

December 9, 1981

AND

SECOND REGULAR SESSION

January 6, 1982 to April 13, 1982

AND AT THE

FOURTH SPECIAL SESSION

April 28, 1982 to April 29, 1982

AND AT THE

FIFTH SPECIAL SESSION

May 13, 1982

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co.
Augusta, Maine
1981

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND AND THIRD SPECIAL SESSIONS

and

SECOND REGULAR SESSION

and

FOURTH AND FIFTH SPECIAL SESSIONS

of the

ONE HUNDRED AND TENTH LEGISLATURE

1981

Maine Administrative Procedure Act, Title 5, chapter
375.

Effective July 13, 1982.

CHAPTER 610

H.P. 1727 - L.D. 1712

**AN ACT to Revise the Fair Credit Reporting Act and to
Conform it to Recent Maine Judicial Decisions.**

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

Sec. 1. 10 MRSA §1311-A is enacted to read:

§1311-A. Statement of purpose

1. Findings. The Legislature makes the following findings.

A. Creditors, insurers and prospective employers are dependent upon fair and accurate consumer reporting. Inaccurate consumer reports directly impair the efficiency of economic decisions, and unfair consumer reporting methods undermine the public confidence which is essential to our economic system.

B. An elaborate mechanism has been developed for investigating and evaluating the credit worthiness, credit standing, credit capacity, character and general reputation of consumers.

C. Consumer reporting agencies have assumed a vital role in assembling and evaluating consumer credit and other information on consumers.

D. There is a need to ensure that consumer reporting agencies exercise their grave responsibilities with fairness, impartiality and a respect for the consumer's right to privacy.

2. Purposes. The purposes of this chapter are to:

A. Require consumer reporting agencies to adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance and other information in a manner which is fair and equitable to the consumer, with regard for confidentiality, accuracy, relevancy and proper utilization of this information in accordance with the requirements of this chapter; and

B. Supplement the provisions of the United States Fair Credit Reporting Act of the United States Consumer Credit Protection Act, Public Law 90-321, United States Code, Title 15, Section 1681, et seq.

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

2. Consumer. "Consumer," for purposes of section 1314 only, means an individual who makes an application while physically in this State to a user located in this State, or to a person located in this State accepting applications on behalf of a user, for an economic benefit, and about whom the user reasonably believes a consumer report or an investigative consumer report will be prepared in this State by a consumer reporting agency, or an office of a consumer reporting agency. "Consumer," for all other purposes and for this chapter, means an individual about whom a consumer report or an investigative consumer report has been prepared in this State by a consumer reporting agency, or an office of a consumer reporting agency.

Sec. 3. 10 MRSA §1312, sub-§3, as amended by PL 1977, c. 677, §1, is repealed and the following enacted in its place:

3. Consumer report. The term "consumer report" has the following meaning.

A. "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, debts, check-writing experience, insurability, character, general reputation, personal characteristics, including, but not limited to, information regarding the consumer's medical history or condition, which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor:

(1) In connecton with a credit transaction primarily for personal, family or household purposes involving the consumer on whom the information is

to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer;

(2) In connection with the underwriting of insurance primarily for personal, family or household purposes involving the consumer;

(3) In determining the consumer's eligibility or suitability for employment, promotion, reassignment or retention as an employee;

(4) In determining the consumer's eligibility for a license or other benefit granted by a governmental instrumentality; or

(5) In a business transaction involving the consumer primarily for personal, family or household purposes where the recipient has a legitimate business need for the information.

B. The term does not include:

(1) Any report containing information solely as to transactions or experiences between the consumer and the person making the report, provided that the term does include a report containing information obtained:

(a) By covert physical surveillance of the consumer, other than through observation or supervision in the ordinary course of the relationship; or

(b) Through examination of the consumer using a polygraph or other truth verification device;

(2) Any report in which a person, who has been requested by a 3rd party to make specific extension of credit directly or indirectly to a consumer, conveys his decision with respect to the 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;

(3) Any transfer of information to the guarantor, insurer or other similar person participating in the same transaction if the transmitting party advises the consumer of the name and address of

the other person and that other person makes any disclosure required by section 1320;

(4) Any transfer of information collected by a creditor in connection with a consumer's credit application to a subsequent purchaser of the transaction, if the purchaser agrees to use the information only in connection with the purchased transaction; or

(5) Any transfer of information collected by an insurer in connection with a consumer's insurance application or claim to a reinsurer or an insurer with potential liability under the same claim, if the recipient agrees to use the information only in connection with the insurance transaction.

C. A communication of information of the type described by this subsection is a consumer report notwithstanding the fact that:

(1) The information is used other than for a purpose referred to in paragraph A if the information was, in whole or in part, collected, used or expected to be used for a purpose referred to in paragraph A; or

(2) The information is maintained, collected and used only to alert the user to the need for further investigation, but is not intended to be used in whole or part to deny or increase the charge for credit, insurance, employment or other benefit.

Sec. 4. 10 MRSA §1312, sub-§7, first sentence, as enacted by PL 1977, c. 514, is amended to read:

"Investigative consumer report" means a consumer report or portion thereof which includes information bearing on a consumer's character, general reputation, personal characteristics or mode of living which is obtained through personal or telephone interviews with neighbors, friends or associates of the consumer or with others with whom he is acquainted or who may have knowledge concerning any such items of information ~~or by other means.~~

Sec. 5. 10 MRSA §1313, as enacted by PL 1977, c. 514, is repealed and the following enacted in its place:

§1313. Permissible purposes of consumer reports

A consumer reporting agency may furnish a consumer

report under the following circumstances and no other:

1. In response to order. In response to the order of a court having jurisdiction to issue such an order;

2. In accordance with written instruction of consumer. In accordance with the specific written instructions of the consumer to whom the report relates, stating the name of the person to receive the report and valid for a period not exceeding one year or such longer period of time as provided in Title 24-A, section 2507, for the contestability of an insurance policy based on information provided by a consumer in the application, provided that the consumer reporting agency may, at its option, send a copy of the report directly to the consumer;

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

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

Sec. 6. 10 MRSA §1314, sub-§1, as repealed and replaced by PL 1977, c. 677, §4, 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 a clear and conspicuous written notice as required by subsection 2 and delivered to the consumer either at the time of the application or any time not less than 3 business days before the date on which the requested investigation is begun, provided that delivery shall be accomplished personally or by mail and, if by mail, shall be sufficient upon compliance with Title 9-A, section 5-110, subsection 1.

Sec. 7. 10 MRSA §1314, sub-§2, ¶B, as repealed and replaced by PL 1977, c. 677, §4, is amended to read:

B. Inform the consumer that he may request and receive from the person who intends to procure such a report, within 5 business days of that person's receipt of his request, the name, address and telephone number of the nearest unit designated to handle inquiries of each consumer reporting agency making issuing an investiga-

tive consumer report about him; and

Sec. 8. 10 MRSA §1317, sub-§1, as amended by PL 1977, c. 677, §7, is further amended by adding at the end a new sentence to read:

For the purposes of this section, "inaccurate information" includes materially incomplete information within the scope of the report requested.

Sec. 9. 10 MRSA §1320, sub-§1, first sentence, as amended by PL 1977, c. 677, §10, is further amended to read:

Whenever credit or insurance for personal, family or household purposes, or employment involving a consumer is denied or the charge for that credit or insurance is increased a charge is increased or a benefit denied by a user because of information contained in a consumer report or investigative consumer report, or partly because of information contained in a consumer report or investigative consumer report from a consumer reporting agency, the user taking such action shall:

Sec. 10. 10 MRSA §1320, sub-§1, ¶A, sub-¶(2), as enacted by PL 1977, c. 514, is amended to read:

(2) The name, street address and telephone number for the nearest unit designated to handle inquiries of the consumer reporting agency making issuing the report; and

Sec. 11. 10 MRSA §1320, sub-§3, as enacted by PL 1977, c. 514, is amended to read:

3. Dissemination of consumer report information prohibited. Every user of a consumer report or an investigative consumer report shall be prohibited from disseminating to any other person, other than the consumer who is the subject of the report, any such report other than information contained in its own files as a result of its direct experience with the consumer. Except for medical information and sources as described in section 1315, subsection 1, a consumer reporting agency may not by contract or otherwise prohibit a user of any consumer report or investigative consumer report from disclosing the contents of the report to the consumer to whom it relates. A contractual provision in violation of this section shall be unenforceable.

Sec. 12. 10 MRSA §1321, as amended by PL 1977, c. 677, §§11 and 12, is repealed and the following enacted in its place:

§1321. Prohibited information, accuracy of information in reports

1. Procedures to avoid violations. Every consumer reporting agency shall maintain reasonable procedures designed to limit the furnishing of consumer reports to the purposes listed under section 1313. These procedures shall require that prospective users of the information identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose. Every consumer reporting agency shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by such prospective user prior to furnishing such user a consumer report. No consumer reporting agency may furnish a consumer report to any person if it has reasonable grounds for believing that the consumer report will not be used for a purpose listed in section 1313.

2. Accuracy. Whenever a consumer reporting agency prepares a consumer report, it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates and refrain from reporting inaccurate information and information which cannot be verified, unless efforts to verify the information are also contained in the report.

3. Listing of denial of credit prohibited in certain situations. No consumer reporting agency may issue a consumer report which lists a person as having been denied credit if the sole reason for that denial is lack of sufficient information to grant credit, unless the report states that the denial was for that reason.

Sec. 13. 10 MRSA §1323, sub-§2, as repealed and replaced by PL 1977, c. 677, §13, is amended to read:

2. Additional damages. Such amount of additional damages as the court may allow, but not less than \$100 for each violation of this chapter involving negligence, and for each consumer report containing any item of information that was inaccurate or that the consumer reporting agency had reason to believe was not relevant to the purpose for which it was sought and that contributed in whole or in part to the decision to take adverse action against the consumer.