

SENATE BILL NO. 212

INTRODUCED BY HAMLETT, BLEWETT, MEHLHOFF

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CREDIT REPORTING LAWS; DEFINING "CREDIT INQUIRY" AND "FICO SCORE"; LIMITING THE EFFECT THAT MULTIPLE CREDIT INQUIRIES MAY HAVE ON A CONSUMER'S FICO SCORE; REQUIRING NOTIFICATION OF CONSUMERS WHEN FICO SCORES ARE LOWERED; CLARIFYING THAT CONSUMER REPORTING AGENCIES ARE SUBJECT TO THE FEDERAL FAIR CREDIT ACT; AND AMENDING SECTIONS 31-3-102 AND 31-3-124, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 31-3-102, MCA, is amended to read:

"31-3-102. Definitions and rules of construction. (1) Definitions and rules of construction set forth in this section are applicable for the purposes of this part.

(2) The term "consumer" means an individual.

(3) (a) The term "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, character, general reputation, personal characteristics, or mode of living that 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:

(i) credit or insurance to be used primarily for personal, family, or household purposes;

(ii) employment purposes; or

(iii) other purposes authorized under 31-3-111.

(b) The term does not include:

(i) any report containing information solely as to transactions or experiences between the consumer and the person making the report;

(ii) any authorization or approval of a specific extension of credit, directly or indirectly, by the issuer of a credit card or similar device; or

(iii) any report in which a person who has been requested by a third party to make a specific extension of credit, directly or indirectly, to a consumer conveys the consumer's decision with respect to the request if the third party advises the consumer of the name and address of the person to whom the request was made and that

1 person makes the disclosures to the consumer required under 31-3-131.

2 (4) The term "consumer reporting agency" means any person that, for monetary fees, dues, or on a
3 cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating
4 consumer credit information or other information on consumers for the purpose of furnishing consumer reports
5 to third parties.

6 (5) The term "credit inquiry" means an item on a consumer's credit report that shows that someone with
7 a permissible purpose under this part or under the Fair Credit Reporting Act, 15 U.S.C. 1681, et seq., has
8 previously requested a copy of the consumer's credit report.

9 ~~(5)(6)~~ The term "employment purposes", when used in connection with a consumer report, means a
10 report used for the purpose of evaluating a consumer for employment, promotion, reassignment, or retention as
11 an employee.

12 (7) The term "FICO score" means a credit score or consumer report produced from models developed
13 by the Fair Isaac corporation that is used by lenders and others to assess the credit risk of a prospective borrower
14 or an existing customer in order to make credit and marketing decisions.

15 ~~(6)(8)~~ The term "file", when used in connection with information on any consumer, means all of the
16 information on that consumer recorded and retained by a consumer reporting agency regardless of how the
17 information is stored.

18 ~~(7)(9)~~ The term "investigative consumer report" means a consumer report or portion of a consumer report
19 in which information on a consumer's character, general reputation, personal characteristics, or mode of living
20 is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with
21 others with whom the consumer is acquainted or who may have knowledge concerning any items of information.
22 However, the information may not include specific factual information on a consumer's credit record obtained
23 directly from a creditor of the consumer or from a consumer reporting agency when the information was obtained
24 directly from a creditor of the consumer or from the consumer.

25 ~~(8)(10)~~ The term "medical information" means information or records obtained, with the consent of the
26 individual to whom it relates, from licensed physicians or medical practitioners, hospitals, clinics, or other medical
27 or medically related facilities.

28 ~~(9)(11)~~ The term "person" means any individual, partnership, corporation, trust, estate, cooperative,
29 association, government or governmental subdivision or agency, or other entity."
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1 NEW SECTION. **Section 2. Adverse effect on FICO score caused by multiple credit inquiries --**
 2 **notice to consumer.** (1) A consumer reporting agency may not lower a consumer's FICO score based upon
 3 multiple credit inquiries made within 45 days of the scoring if the credit inquiries are for a mortgage, motor vehicle,
 4 EQUIPMENT, or student loan.

5 (2) (a) If a consumer reporting agency lowers a consumer's FICO score based on multiple credit inquiries
 6 that are not for a mortgage, motor vehicle, EQUIPMENT, or student loan, the consumer reporting agency shall give
 7 notice to the consumer of the lowered FICO score within 15 days of lowering the FICO score.

8 (b) In addition to the notice required in subsection (2)(a), the consumer reporting agency shall provide
 9 the consumer with information on procedures for disputing errors on consumer reports that exist under the Fair
 10 Credit Reporting Act, 15 U.S.C. 1681, et seq.

11
 12 **Section 3.** Section 31-3-124, MCA, is amended to read:

13 "**31-3-124. Procedure in case of disputed accuracy.** (1) If the completeness or accuracy of any item
 14 of information contained in this file is disputed by a consumer and the dispute is directly conveyed to the
 15 consumer reporting agency by the consumer, the consumer reporting agency shall within a reasonable period
 16 of time reinvestigate and record the current status of that information unless it has reasonable grounds to believe
 17 that the dispute by the consumer is frivolous or irrelevant. If after ~~such a~~ reinvestigation ~~such the~~ information is
 18 found to be inaccurate or can no longer be verified, the consumer reporting agency shall promptly delete the
 19 information and notify all users, of whom the consumer reporting agency has records, of the information's
 20 deletion. The users shall also delete the information.

21 (2) If the reinvestigation does not resolve the dispute, the consumer may file a brief statement setting
 22 forth the nature of the dispute.

23 (3) Whenever a statement of a dispute is filed, unless there are reasonable grounds to believe that it is
 24 frivolous or irrelevant, the consumer reporting agency shall, in any subsequent consumer report containing the
 25 information in question, clearly note that it is disputed by the consumer and provide either the consumer's
 26 statement or a clear and accurate codification or summary ~~thereof~~ of the consumer's statement. The consumer
 27 reporting agency shall notify the consumer of all users, of whom it has records, who have the disputed
 28 information.

29 (4) In addition to the procedures provided in this section, a consumer reporting agency shall comply with
 30 the requirements of the Fair Credit Reporting Act, 15 U.S.C. 1681, et seq."

