

SENATE BILL No. 185

By Committee on Financial Institutions and Insurance

1-31

AN ACT concerning credit scores; enacting the fair credit score disclosure act.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) Every consumer credit reporting agency, upon request and proper identification of any consumer, shall allow the consumer to visually inspect all files maintained regarding that consumer at the time of the request.

(b) Every consumer reporting agency, upon contact by a consumer by telephone, mail or in person regarding information which may be contained in the agency files regarding that consumer, shall promptly advise the consumer of such consumer's rights under sections 7, 8 and 9, and amendments thereto, and of the obligation of the consumer reporting agency to provide disclosure of the files in person, by mail or by telephone pursuant to section 2, and amendments thereto, including the obligation of the consumer reporting agency to provide a decoded written version of the file or a written copy of the file with an explanation of any code, including any credit score used, and the key factors, as defined in section 3, and amendments thereto, if the consumer so requests that copy. The disclosure shall be provided in the manner selected by the consumer, chosen from among any reasonable means available to the consumer credit reporting agency. The consumer reporting agency shall determine the applicability of section 10, and amendments thereto, and inform the consumer of the consumer's rights under such section.

(c) All information on a consumer in the files of a consumer credit reporting agency at the time of a request for inspection under subsection (a), shall be available for inspection, including the names and addresses of the sources of information.

(d) (1) The consumer credit reporting agency also shall disclose the recipients of any consumer credit report on the consumer which the consumer credit reporting agency has furnished:

(A) For employment purposes within the two-year period preceding the request.

(B) For any other purpose within the 12-month period preceding the request.

1 (2) Disclosure of recipients of consumer credit reports for purposes
2 of this subsection shall include the name of the recipient or, if applicable,
3 the fictitious business name under which the recipient does business dis-
4 closed in full. If requested by the consumer, the identification shall also
5 include the address of the recipient.

6 (e) The consumer credit reporting agency shall also disclose a record
7 of all inquiries received by such consumer reporting agency in the 12-
8 month period preceding the request that identified the consumer in con-
9 nection with a credit transaction which is not initiated by the consumer.
10 This record of inquiries shall include the name of each recipient making
11 an inquiry.

12 Sec. 2. (a) A consumer credit reporting agency shall supply files and
13 information required under section 1, and amendments thereto, during
14 normal business hours and on reasonable notice. In addition to the dis-
15 closure provided by this chapter and any disclosures received by the con-
16 sumer, the consumer has the right to request and receive all of the
17 following:

18 (1) Either a decoded written version of the file or a written copy of
19 the file, including all information in the file at the time of the request,
20 with an explanation of any code used.

21 (2) A credit score for the consumer, the key factors and the related
22 information, as defined in and required by section 3, and amendments
23 thereto.

24 (3) A record of all inquiries, by recipient, which:

25 (A) Result in the provision of information concerning the consumer
26 in connection with a credit transaction that is not initiated by the con-
27 sumer; and

28 (B) were received by the consumer credit reporting agency in the 12-
29 month period immediately preceding the request for disclosure under
30 this section.

31 (4) The recipients, including any end user, of any consumer credit
32 report on the consumer which the consumer credit reporting agency has
33 furnished:

34 (A) For employment purposes within the two-year period preceding
35 the request.

36 (B) for any other purpose within the 12-month period preceding the
37 request. For purposes of this paragraph, identification shall include the
38 full disclosure of the name of the recipient or, if applicable, any fictitious
39 business name under which the recipient does business. At the con-
40 sumer's request, the identification shall also include the address of the
41 recipient.

42 (b) Files maintained on a consumer shall be disclosed promptly as
43 follows:

1 (1) In person, at the location where the consumer credit reporting
2 agency maintains the trained personnel required by subsection (d), if such
3 consumer appears in person and furnishes proper identification.

4 (2) By mail, if such consumer makes a written request with proper
5 identification for a copy of the file or a decoded written version of that
6 file to be sent to the consumer at a specified address. A disclosure pur-
7 suant to this paragraph shall be deposited in the United States mail, post-
8 age prepaid, within five business days after the consumer's written re-
9 quest for the disclosure is received by the consumer credit reporting
10 agency. Consumer credit reporting agencies complying with requests for
11 mailings under this section shall not be liable for disclosures to third
12 parties caused by mishandling of mail after the mailings leave the con-
13 sumer reporting agencies.

14 (3) A summary of all information contained in files on a consumer
15 and required to be provided by section 1, and amendments thereto, shall
16 be provided by telephone, if the consumer has made a written request,
17 with proper identification for telephone disclosure.

18 (4) Information in a consumer's file required to be provided in writ-
19 ing under this section may also be disclosed in another form if authorized
20 by the consumer and if available from the consumer credit reporting
21 agency. For this purpose a consumer may request disclosure in person
22 pursuant to section 1, and amendments thereto, by:

23 (A) Telephone upon disclosure of proper identification by the
24 consumer;

25 (B) electronic means if available from the consumer credit reporting
26 agency; or

27 (C) any other reasonable means that is available from the consumer
28 credit reporting agency.

29 (c) "Proper identification," as used in subsection (b), means that in-
30 formation generally deemed sufficient to identify a person. Only if the
31 consumer is unable to reasonably identify such consumer with proper
32 identification, a consumer credit reporting agency may require additional
33 information concerning the consumer's employment and personal or fam-
34 ily history in order to verify such consumer's identity.

35 (d) The consumer credit reporting agency shall provide trained per-
36 sonnel to explain to the consumer any information furnished to such con-
37 sumer pursuant to section 1, and amendments thereto.

38 (e) The consumer shall be permitted to be accompanied by one other
39 person of such consumer's choosing, who also shall furnish reasonable
40 identification. A consumer credit reporting agency may require the con-
41 sumer to furnish a written statement granting permission to the consumer
42 credit reporting agency to discuss the consumer's file in that person's
43 presence.

1 (f) Any written disclosure by a consumer credit reporting agency to
2 any consumer pursuant to this section shall include:

3 (1) A written summary of all rights the consumer has under this title;
4 and

5 (2) a toll-free telephone number which the consumer can use to com-
6 municate with the consumer credit reporting agency whenever the con-
7 sumer credit reporting agency compiles and maintains consumer credit
8 reports on a nationwide basis.

9 The written summary of rights required under this subsection shall be
10 in substantially the following form and printed in boldface type of a min-
11 imum size of 10 points:

12 "You have a right to obtain a copy of your credit file from a consumer
13 credit reporting agency. You may be charged a reasonable fee not ex-
14 ceeding \$8. There is no fee, however, if, within the preceding 60 days,
15 you have been turned down for credit, employment, insurance or a rental
16 dwelling because of information in your credit report. The consumer
17 credit reporting agency must provide someone to help you interpret the
18 information in your credit file.

19 You have a right to dispute inaccurate information by contacting the
20 consumer credit reporting agency directly. However, neither you nor any
21 credit repair company or credit service organization has the right to have
22 accurate, current and verifiable information removed from your credit
23 report. Under the Federal Fair Credit Reporting Act, the consumer credit
24 reporting agency must remove accurate, negative information from your
25 report only if it is over seven years old. Bankruptcy information can be
26 reported for 10 years.

27 If you have notified a credit reporting agency in writing that you dispute
28 the accuracy of information in your file, then within 30 business days the
29 consumer credit reporting agency must reinvestigate and modify or re-
30 move any inaccurate information. The consumer credit reporting agency
31 may not charge a fee for this service. Any pertinent information and cop-
32 ies of all documents you have concerning an error should be given to the
33 consumer credit reporting agency.

34 If reinvestigation does not resolve the dispute to your satisfaction, you
35 may send a brief statement to the consumer credit reporting agency to
36 keep in your file, explaining why you think the record is inaccurate. The
37 consumer credit reporting agency must include your statement about dis-
38 puted information in a report it issues about you.

39 You have a right to receive a record of all inquiries relating to a credit
40 transaction initiated in the 12 months preceding your request. This record
41 shall include the recipients of any consumer credit report.

42 You may request in writing that the information contained in your file
43 not be provided to a third party for marketing purposes.

1 You have a right to bring civil action against anyone, including a con-
2 sumer credit reporting agency, who improperly obtains access to a file,
3 knowingly or willfully misuses file data or fails to correct inaccurate file
4 data.”

5 Sec. 3. (a) Upon receiving the consumer’s request for a credit score,
6 a consumer credit reporting agency shall supply to a consumer a notice
7 and a statement indicating that the information and credit scoring model
8 may be different than the credit score that may be used by the lender.
9 The notice shall contain:

10 (1) The consumer’s current credit score or the consumer’s most re-
11 cent credit score that was previously calculated by the credit reporting
12 agency for a purpose related to the extension of credit.

13 (2) The range of possible credit scores under the model used.

14 (3) All the key factors that adversely affected the consumer’s credit
15 score in the model used, the total number of which shall not exceed four.

16 (4) The date the credit score was created.

17 (5) The name of the person or entity that provided the credit score
18 or credit file upon which the credit score was created.

19 If the consumer requests the credit file and not the credit score, then
20 the consumer shall receive the credit file and a statement that such con-
21 sumer may request and obtain a credit score.

22 (b) For purposes of this act, “credit score” means a numerical value
23 or a categorization derived from a statistical tool or modeling system used
24 by a person who makes or arranges a loan to predict the likelihood of
25 certain credit behaviors, including default. The numerical value or the
26 categorization derived from this analysis may also be referred to as a “risk
27 predictor” or “risk score.” “Credit score” does not include any mortgage
28 score or rating of an automated underwriting system that considers one
29 or more factors in addition to credit information, including, but not lim-
30 ited to, the loan to value ratio, the amount of down payment or a con-
31 sumer’s financial assets. “Credit score” does not include other elements
32 of the underwriting process or underwriting decision.

33 (c) For the purposes of this section, “key factors” means all relevant
34 elements or reasons adversely affecting the credit score for the particular
35 individual listed in the order of their importance based on their effect on
36 the credit score.

37 (d) The information required by this section shall be provided in the
38 same time frame and manner as the information described in section 2,
39 and amendments thereto.

40 (e) This section shall not be construed to compel a consumer re-
41 porting agency to develop or disclose a score if the agency does not:

42 (1) Distribute scores that are used in connection with residential real
43 property loans; or

1 (2) develop scores that assist credit providers in understanding a con-
2 sumer's general credit behavior and predicting such consumer's future
3 credit behavior.

4 (f) (1) This section shall not be construed to require a consumer
5 credit reporting agency that distributes credit scores developed by an-
6 other person or entity to provide a further explanation of such credit
7 scores, or to process a dispute arising pursuant to subsection (a) of section
8 5, and amendments thereto.

9 (2) The consumer credit reporting agency shall provide the consumer
10 with the name and address and website, if any exists, for contacting the
11 person or entity who developed the credit score or developed the meth-
12 odology of the score.

13 (3) This subsection shall not apply to a consumer credit reporting
14 agency that develops or modifies credit scores that are developed by an-
15 other person or entity.

16 (g) This section shall not be construed to require a consumer re-
17 porting agency to maintain credit scores in its files.

18 Sec. 4. (a) As required by section 3, and amendments thereto, a con-
19 sumer credit reporting agency shall supply the consumer with a:

20 (1) Credit score that is derived from a credit scoring model that is
21 widely distributed to users by that consumer credit reporting agency in
22 connection with residential real property loans or with a credit score that
23 assists the consumer in understanding the credit scoring assessment of
24 such consumer's credit behavior and predictions about such consumer's
25 future credit behavior; and

26 (2) statement indicating that the information and credit scoring
27 model may be different than that used by the lender.

28 (b) A consumer credit reporting agency may charge a reasonable fee
29 not to exceed \$8 for providing the information required under section 3,
30 and amendments thereto.

31 Sec. 5. (a) If a consumer disputes the completeness or accuracy of
32 any item of information credit transaction that is not initiated by the
33 consumer contained in such consumer's file, and the dispute is conveyed
34 directly to the consumer credit reporting agency by the consumer or user
35 on behalf of the consumer, the consumer credit reporting agency within
36 a reasonable period of time and without charge, shall reinvestigate and
37 record the current status of the disputed information. The consumer
38 credit agency shall complete such actions on or before the close of busi-
39 ness on the 30th business day after such agency receives notice of the
40 dispute from the consumer or user, unless the consumer credit reporting
41 agency has reasonable grounds to believe and determines that:

42 (1) The dispute by the consumer's dispute is frivolous or irrelevant;
43 or

1 (2) the consumer has failed to provide to the consumer reporting
2 agency sufficient formation to investigate the dispute.

3 Unless the consumer credit reporting agency determines that the dis-
4 pute is frivolous or irrelevant, on or before close of business on the fifth
5 business day period after such consumer credit reporting agency receives
6 notice of dispute under this section, such consumer reporting agency shall
7 notify any person who provided information in dispute at the address and
8 in the manner specified by such person. A consumer credit reporting
9 agency may require that disputes by consumers be submitted in writing.

10 (b) In conducting a reinvestigation, the consumer credit reporting
11 agency shall review and consider all relevant information regarding the
12 disputed item of information submitted by the consumer. If the consumer
13 credit reporting agency determines that the dispute is frivolous or irrel-
14 evant, the consumer credit reporting agency shall notify the consumer
15 that such consumer credit reporting agency is terminating its reinvesti-
16 gation of such disputed item of information. The notification shall be
17 made within five business days after the credit reporting agency makes
18 such determination. The notification shall clearly state each reason sup-
19 porting the credit reporting agency's determination that such consumer's
20 dispute is frivolous or irrelevant. If the disputed item of information is
21 found to be inaccurate, missing or can no longer be verified by the evi-
22 dence submitted, the consumer credit reporting agency shall promptly
23 add, correct or delete such information from the consumer's file.

24 (c) (1) No information may be reinserted in a consumer's file after
25 having been deleted pursuant to this section unless the person who fur-
26 nished the information certifies that the information is accurate.

27 (2) Whenever any information which has been deleted from a con-
28 sumer's file is reinserted in the consumer's file, the consumer credit re-
29 porting agency shall promptly notify the consumer of the reinsertion:

30 (A) In writing; or

31 (B) by any other means available to the consumer credit reporting
32 agency if the consumer has authorized, in writing, other means of com-
33 munication to be used for that purpose.

34 (3) As part of, or in addition to, this notice, within five business days
35 after reinserting information, the consumer credit reporting agency shall
36 provide the consumer the following information in writing:

37 (A) A statement that the disputed information has been reinserted;

38 (B) a notice that the consumer reporting agency will provide to the
39 consumer, within 15 days following receipt of a request, the name, ad-
40 dress and telephone number of any furnisher of information contacted
41 by the consumer reporting agency or which contacted the consumer
42 credit reporting agency in connection with the reinsertion of information;

43 (C) the toll-free telephone number of the consumer credit reporting

1 agency that the consumer can use to obtain such name, address and tel-
2 ephone number; and

3 (D) a notice that the consumer has the right to:

4 (i) A reinvestigation of the information reinserted by the consumer
5 credit reporting agency; and

6 (ii) add a statement to such consumer's file disputing the accuracy or
7 completeness of the information.

8 (d) Within five days of completion of any reinvestigation made pur-
9 suant to this section, each consumer credit reporting agency shall provide
10 to the consumer written notice containing the results of any reinvestiga-
11 tion. Such notice shall include a:

12 (1) Statement that the reinvestigation is completed;

13 (2) consumer credit report that is based on the consumer's file as
14 such file is revised as a result of the reinvestigation;

15 (3) description or indication of:

16 (A) Any change made in the consumer credit report as a result of any
17 revisions to the consumer's file;

18 (B) any changes made or sought by the consumer that were not made;
19 and

20 (C) an explanation why such changes were not made;

21 (4) notice that the consumer credit reporting agency shall provide the
22 consumer, if requested by such consumer, a description of the procedure
23 used to determine the accuracy and completeness of the information,
24 including the name, business address and telephone number of any fur-
25 nisher of information contacted in connection with such information, shall
26 be provided to the consumer;

27 (5) notice that the consumer has the right to add a statement to such
28 consumer's file disputing the accuracy or completeness of the
29 information;

30 (6) notice that the consumer has the right to request that the con-
31 sumer credit reporting agency furnish notifications under subsection (h);

32 (7) notice that the dispute will remain on file with the agency as long
33 as the credit information is used; and

34 (8) statement about the details of the dispute will be furnished to any
35 recipient as long as the credit information is retained in the agency's data
36 base.

37 Not later than 15 days after receiving a request from the consumer,
38 the consumer credit reporting agency shall provide to the consumer the
39 notice required by this subsection regarding the procedure used to de-
40 termine the accuracy and completeness of information.

41 (e) The mere presence of information in the consumer's file that con-
42 tradicts the contention of the consumer shall not constitute reasonable
43 grounds for believing the consumer's dispute is frivolous or irrelevant.

1 (f) The consumer may file a brief statement setting forth the nature
2 of the dispute if the:

3 (1) Consumer credit reporting agency determines that such con-
4 sumer's dispute is frivolous or irrelevant;

5 (2) reinvestigation does not resolve such consumer's dispute; or

6 (3) information is reinserted into such consumer's file pursuant to
7 subsection (c).

8 The consumer credit reporting agency may limit these statements to
9 not more than 100 words if such consumer reporting agency provides the
10 consumer with assistance in writing a clear summary of the dispute.

11 (g) Whenever a statement of dispute is filed, the consumer credit
12 reporting agency, in any subsequent consumer credit report containing
13 the information in question, shall clearly note that the information is dis-
14 puted by the consumer and shall include in the report either the con-
15 sumer's statement or a clear and accurate summary thereof.

16 (h) (1) Following the deletion of information from a consumer's file
17 pursuant to this section, or following the filing of a statement of dispute
18 pursuant to subsection (f), the consumer credit reporting agency, at the
19 request of the consumer, shall furnish notification to the consumer that
20 the item of information:

21 (A) Has been deleted; or

22 (B) is disputed.

23 (2) Whenever disputed information is involved, the notification shall
24 include a statement or summary of the dispute filed pursuant to subsec-
25 tion (f). If these consumer credit reports contained the deleted or dis-
26 puted information, this notification shall be furnished to any person des-
27 ignated by the consumer who has:

28 (A) Received a consumer credit report concerning the consumer for
29 employment purposes within two years prior to the deletion or the filing
30 of the dispute; or

31 (B) received a consumer credit report concerning the consumer for
32 any other purpose within 12 months of the deletion or the filing of the
33 dispute.

34 (3) The consumer credit reporting agency shall clearly and conspic-
35 uously disclose to the consumer such consumer's right to request this
36 notification. Such disclosure shall be made at or prior to the time:

37 (A) Any information is deleted pursuant to this section; or

38 (B) the consumer credit reporting agency received the consumer's
39 statement regarding the disputed information pursuant to subsection (f).

40 (i) A consumer credit reporting agency shall maintain reasonable pro-
41 cedures to prevent the reappearance in a consumer's file and in consumer
42 credit reports of information that has been deleted pursuant to this sec-
43 tion and not reinserted pursuant to subsection (c).

1 (j) The consumer credit reporting agency shall be exempt from
2 requirements for further action under subsections (d), (f) and (g):

3 (1) If the consumer's dispute is resolved by deletion of the disputed
4 information within three business days, beginning with the day the con-
5 sumer credit reporting agency receives notice of the dispute in accord-
6 ance with subsection (a); and

7 (2) the consumer credit reporting agency provides such consumer
8 within five business days following such deletion, written verification of
9 the deletion of the disputed information.

10 (k) (1) If a consumer submits to a credit reporting agency a copy of
11 a valid police report filed pursuant to K.S.A. 50-718, and amendments
12 thereto, the consumer credit reporting agency shall promptly and per-
13 manently block reporting any information that the consumer alleges ap-
14 pears on such consumer's credit report as a result of a violation of K.S.A.
15 50-718, and amendments thereto, so that such information cannot be
16 reported. The consumer credit reporting agency shall promptly notify the
17 furnisher of the information that such information has been blocked. Fur-
18 nishers of information and consumer credit reporting agencies shall en-
19 sure that such information is unblocked only upon a preponderance of
20 the evidence establishing:

21 (A) The information was blocked due to fraud;

22 (B) the consumer agrees that the blocked information, or any portion
23 thereof, was blocked in error; or

24 (C) (i) the consumer knowingly obtained possession of goods, services
25 or moneys as a result of a blocked transaction; or

26 (ii) the consumer should have known that such consumer obtained
27 possession of goods, services or moneys as a result of a blocked
28 transaction.

29 (2) If blocked information is unblocked pursuant to this subsection,
30 the consumer shall be promptly notified in the same manner as consum-
31 ers are notified of the reinsertion of information pursuant to subsection
32 (c). The prior presence of the blocked information in the consumer credit
33 reporting agency's file on such consumer shall not be evidence of whether
34 such consumer knew or should have known that such consumer obtained
35 possession of any goods, services or moneys.

36 (3) For the purposes of this subsection, fraud may be demonstrated
37 by circumstantial evidence. When unblocking information pursuant to
38 this subsection, each furnisher of information and consumer credit re-
39 porting agency shall comply with all provisions of law the completeness
40 and accuracy of information.

41 (l) Any provision in a contract that prohibits the disclosure of a credit
42 score by a person who makes or arranges loans or a consumer credit
43 reporting agency shall be void. No lender shall be liable under any con-

1 tractual provision for disclosure of a credit score.

2 Sec. 6. Any person who makes or arranges loans and who uses a
3 consumer credit score as defined in section 3, and amendments thereto,
4 in connection with an application initiated or sought by a consumer for a
5 closed-end loan or establishment of an open-end loan for a consumer
6 purpose which is secured by one to four units of residential real property
7 shall provide the following to the consumer as soon as reasonably
8 practicable:

9 (a) A copy of the information identified in subsection (a) of section
10 3, and amendments thereto, which was obtained from a credit reporting
11 agency or was developed and used by the user of such information. In
12 addition to such information provided to the lender by any third party
13 that provided the credit score or scores, such lender shall be required
14 only to provide the notice contained in subsection (d).

15 (b) If a person who is subject to this section uses an automated un-
16 derwriting system to underwrite a loan, such person may satisfy the ob-
17 ligation to provide a credit score by disclosing a credit score and associated
18 key factors supplied by a consumer credit reporting agency. If a numerical
19 credit score is generated by an automated underwriting system used by
20 an enterprise, and such score is disclosed to the person, such score shall
21 be disclosed also to the consumer as required by subsection (c). For
22 purposes of this subsection, the term "enterprise" shall have the meaning
23 provided in paragraph (6) of section 4502 of title 12 of the United States
24 code.

25 (c) A person subject to the provisions of this section who uses any
26 credit score which is not provided by a consumer reporting agency may
27 satisfy the obligation to provide a credit score by disclosing such credit
28 score and the associated key factors supplied by a consumer credit re-
29 porting agency.

30 (d) A written notice which shall include the name, address and tele-
31 phone number of each credit bureau providing a credit score that was
32 used. The written notice required under this subsection shall be in sub-
33 stantially the following form and printed in boldface type of a minimum
34 size of 10 points:

35 **"NOTICE TO THE HOME LOAN APPLICANT**

36 In connection with your application for a home loan, the lender must
37 disclose to you the score that a credit bureau distributed to users and the
38 lender used in connection with your home loan and the key factors af-
39 fecting your credit scores.

40 The credit score is a computer generated summary calculated at the
41 time of the request and based on information a credit bureau or lender
42 has on file. The scores are based on data about your credit history and
43 payment patterns. Credit scores are important because they are used to

1 assist the lender in determining whether you will obtain a loan. They also
2 may be used to determine what interest rate you may be offered on the
3 mortgage. Credit scores can change over time, depending on your con-
4 duct, how your credit history and payment patterns change and how credit
5 scoring technologies change.

6 Because the score is based on information in your credit history, it is
7 very important that you review the credit-related information that is being
8 furnished to make sure it is accurate. Credit records may vary from one
9 company to another.

10 If you have questions about your credit score or the credit information
11 that is furnished to you, contact the credit bureau at the address and
12 telephone number provided with this notice, or contact the lender, if the
13 lender developed or generated the credit score. The credit bureau plays
14 no part in the decision to take any action on the loan application and is
15 unable to provide you with specific reasons for the decision on a loan
16 application.

17 If you have questions concerning the terms of the loan, contact the
18 lender.”

19 (e) This section shall not require any person to:

20 (1) Explain the information provided pursuant to section 3, and
21 amendments thereto.

22 (2) Disclose any information other than a credit score or key factor,
23 as defined in section 3, and amendments thereto.

24 (3) Disclose any credit score or related information obtained by the
25 user of such information after a loan has closed.

26 (4) Provide more than one disclosure per loan transaction.

27 (5) Provide the disclosure required by this section when another per-
28 son has already made the disclosure to the consumer for that loan
29 transaction.

30 (f) Any person’s obligation under this section shall be limited to pro-
31 viding a copy of the information that was received from the consumer
32 credit reporting agency. No person shall be liable under this section for
33 the content of such information or for the omission of any information
34 within the report provided by the consumer credit reporting agency.

35 (g) As used in this section, the term “person” does not include an
36 “enterprise” as defined in paragraph (6) of section 4502 of title 12 of the
37 United States code.

38 Sec. 7. Any consumer reporting agency or user of information which
39 willfully fails to comply with any requirement imposed under sections 1
40 to 11, inclusive, and amendments thereto, with respect to any consumer
41 is liable to that consumer in an amount equal to the sum of:

42 (a) Any actual damages sustained by the consumer as a result of the
43 failure;

- 1 (b) such amount of punitive damages as the court may allow; and
2 (c) in the case of any successful action to enforce any liability under
3 this section, the costs of the action together with reasonable attorney fees
4 as determined by the court.

5 Sec. 8. Any consumer reporting agency or user of information which
6 is negligent in failing to comply with any requirement imposed under
7 K.S.A. 50-701 to 50-722, inclusive, and amendments thereto, with respect
8 to any consumer is liable to that consumer in an amount equal to the sum
9 of:

10 (a) Any actual damages sustained by the consumer as a result of the
11 failure; and

12 (b) in the case of any successful action to enforce any liability under
13 this section, the costs of the action together with reasonable attorney fees
14 as determined by the court.

15 Sec. 9. Upon written request and the furnishing of sufficient iden-
16 tification to identify the consumer and the subject file, every consumer
17 credit reporting agency shall create reasonable procedures to prevent a
18 consumer credit report or information from a consumer's file from being
19 provided to any third party for marketing purposes or for any offer of
20 credit not requested by the consumer. This section does not apply to the
21 use of information by a credit grantor for purposes related to an existing
22 credit relationship.

23 Sec. 10. (a) Whenever credit or insurance for personal, family or
24 household purposes, or employment involving a consumer is denied or
25 the charge for such credit or insurance is increased either wholly or partly
26 because of information contained in a consumer report from a consumer
27 reporting agency, the user of the consumer report shall so advise the
28 consumer against whom such adverse action has been taken and supply
29 the name and address of the consumer reporting agency making the
30 report.

31 (b) Whenever credit for personal, family or household purposes in-
32 volving a consumer is denied or the charge for such credit is increased
33 either wholly or partly because of information obtained from a person
34 other than a consumer reporting agency bearing upon the consumer's
35 credit worthiness, credit standing, credit capacity, character, general rep-
36 utation, personal characteristics or mode of living, the user of such infor-
37 mation, or within a reasonable period of time, upon the consumer's writ-
38 ten request for the reasons for such adverse action received within 60
39 days after learning of such adverse action, shall disclose the nature of the
40 information to the consumer. The user of such information shall clearly
41 and accurately disclose to the consumer the right to make such written
42 request at the time such adverse action is communicated to the consumer.

43 (c) No person shall be held liable for any violation of this section if

1 the person shows by a preponderance of the evidence that at the time of
2 the alleged violation such person maintained reasonable procedures to
3 assure compliance with the provisions of subsections (a) and (b).

4 Sec. 11. As used in this act, the following words and phrases shall
5 have the meanings ascribed to them in this section: (a) "Consumer" shall
6 have the meaning ascribed to it in K.S.A. 50-702 and amendments
7 thereto.

8 (b) "Consumer credit report" shall have the meaning ascribed to it
9 in K.S.A. 50-702 and amendments thereto.

10 (c) "Consumer credit reporting agency" shall have the meaning as-
11 cribed to it in K.S.A. 50-702 and amendments thereto. Consumer credit
12 reporting agency shall not include any governmental agency whose re-
13 cords are maintained primarily for traffic safety, law enforcement or li-
14 censing purposes.

15 (d) "Credit transaction that is not initiated by the consumer" shall
16 not include the use of a consumer credit report by an assignee for col-
17 lection or by a person with which the consumer has an account for pur-
18 poses of reviewing or collecting the account. For purposes of this sub-
19 section, reviewing the account includes activities related to account
20 maintenance and monitoring, credit line increases and account upgrades
21 and enhancements.

22 (e) "Employment purposes," when used in connection with a con-
23 sumer credit report, means a report used for the purpose of evaluating a
24 consumer for employment, promotion, reassignment or retention as an
25 employee.

26 (f) "File" shall have the meaning ascribed to it in K.S.A. 50-702 and
27 amendments thereto.

28 (g) "Firm offer of credit" means any offer of credit to a consumer
29 that will be honored if, based on information in a consumer credit report
30 on the consumer and other information bearing on the credit worthiness
31 of the consumer, the consumer is determined to meet the criteria used
32 to select the consumer for the offer and the consumer is able to provide
33 any real property collateral specified in the offer. For purposes of this
34 subsection, the phrase "other information bearing on the credit worthi-
35 ness of the consumer" means information that the person making the
36 offer is permitted to consider pursuant to any rule, regulation or formal
37 written policy statement relating to the federal fair credit reporting act,
38 as amended (15 U.S.C. § 1681 et seq.), promulgated by the federal trade
39 commission or any federal bank regulatory agency.

40 (h) "Item of information" means any of one or more informative en-
41 tries in a credit report which causes a creditor to deny credit to an ap-
42 plicant or increase the cost of credit to an applicant or deny an applicant
43 a checking account with a bank or other financial institution.

1 (i) "Person" shall have the meaning ascribed to it in K.S.A. 50-702
2 and amendments thereto.

3 Sec. 12. This act may be cited as the fair credit score disclosure act.

4 Sec. 13. This act shall take effect and be in force from and after its
5 publication in the statute book.

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