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## CIVIL CODE - CIV

**DIVISION 3. OBLIGATIONS [1427 - 3272.9]** (*Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.*)

**PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS [1738 - 3273]** (*Part 4 enacted 1872.*)

**TITLE 1.6. CONSUMER CREDIT REPORTING AGENCIES ACT [1785.1 - 1785.36]** (*Title 1.6 repealed and added by Stats. 1975, Ch. 1271.*)

**CHAPTER 1. General Provisions [1785.1 - 1785.6]** (*Chapter 1 added by Stats. 1975, Ch. 1271.*)

**1785.1.** The Legislature finds and declares as follows:

- (a) An elaborate mechanism has been developed for investigating and evaluating the credit worthiness, credit standing, credit capacity, and general reputation of consumers.
- (b) Consumer credit reporting agencies have assumed a vital role in assembling and evaluating consumer credit and other information on consumers.
- (c) There is a need to insure that consumer credit reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy.
- (d) It is the purpose of this title to require that consumer credit reporting agencies adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, hiring of a dwelling unit, and other information in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of such information in accordance with the requirements of this title.
- (e) The Legislature hereby intends to regulate consumer credit reporting agencies pursuant to this title in a manner which will best protect the interests of the people of the State of California.
- (f) The extension of credit is a privilege and not a right. Nothing in this title shall preclude a creditor from denying credit to any applicant providing such denial is based on factors not inconsistent with present law.
- (g) Any clauses in contracts which prohibit any action required by this title are not in the public interest and shall be considered unenforceable. This shall not invalidate the other terms of such a contract.

*(Amended by Stats. 1982, Ch. 1127, Sec. 1.)*

**1785.2.** This act may be referred to as the Consumer Credit Reporting Agencies Act.

*(Repealed and added by Stats. 1975, Ch. 1271.)*

**1785.3.** The following terms as used in this title have the meaning expressed in this section:

- (a) "Adverse action" means a denial or revocation of credit, a change in the terms of an existing credit arrangement which is adverse to the interests of the consumer, or a refusal to grant credit in substantially the amount or on substantially the terms requested. "Adverse action" includes all of the following:
    - (1) Any denial of, increase in any charge for, or reduction in the amount of, insurance for personal, family, or household purposes made in connection with the underwriting of insurance.
    - (2) Any denial of employment or any other decision made for employment purposes which adversely affects any current or prospective employee.
    - (3) Any action taken, or determination made, with respect to a consumer (A) for an application for an extension of credit, or an application for the hiring of a dwelling unit, and (B) that is adverse to the interests of the consumer.
- "Adverse action" does not include (A) a refusal to extend additional credit to a consumer under an existing credit arrangement if (i) the applicant is delinquent or otherwise in default under that credit arrangement or (ii) the

additional credit would exceed a credit limit previously established for the consumer or (B) a refusal or failure to authorize an account transaction at a point of sale.

(b) "Consumer" means a natural individual.

(c) "Consumer credit report" means any written, oral, or other communication of any information by a consumer credit reporting agency bearing on a consumer's credit worthiness, credit standing, or credit capacity, which is used or is 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: (1) credit to be used primarily for personal, family, or household purposes, or (2) employment purposes, or (3) hiring of a dwelling unit, as defined in subdivision (c) of Section 1940, or (4) other purposes authorized in Section 1785.11.

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, (2) any communication of that information or information from a credit application by a consumer that is internal within the organization that is the person making the report or that is made to an entity owned by, or affiliated by corporate control with, that person; provided that the consumer is informed by means of a clear and conspicuous written disclosure that information contained in the credit application may be provided to these persons; however, where a credit application is taken by telephone, disclosure shall initially be given orally at the time the application is taken, and a clear and conspicuous written disclosure shall be made to the consumer in the first written communication to that consumer after the application is taken, (3) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device, (4) any report by a person conveying a decision whether to make a specific extension of credit directly or indirectly to a consumer in response to a request by a third party, if the third party advises the consumer of the name and address of the person to whom the request was made and the person makes the disclosures to the consumer required under Section 1785.20, (5) any report containing information solely on a consumer's character, general reputation, personal characteristics, or mode of living which is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on, or others with whom he is acquainted or who may have knowledge concerning those items of information, (6) any communication about a consumer in connection with a credit transaction which is not initiated by the consumer, between persons who are affiliated (as defined in Section 150 of the Corporations Code) by common ownership or common corporate control (as defined by Section 160 of the Corporations Code), if either of those persons has complied with paragraph (2) of subdivision (b) of Section 1785.20.1 with respect to a prequalifying report from which the information communicated is taken and provided the consumer has consented to the provision and use of the prequalifying report in writing, or (7) any consumer credit report furnished for use in connection with a transaction which consists of an extension of credit to be used solely for a commercial purpose.

(d) "Consumer credit reporting agency" means any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the business of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer credit reports to third parties, but does not include any governmental agency whose records are maintained primarily for traffic safety, law enforcement, or licensing purposes.

(e) "Credit transaction that is not initiated by the consumer" does not include the use of a consumer credit report by an assignee for collection or by a person with which the consumer has an account for purposes of (1) reviewing the account or (2) collecting the account. For purposes of this subdivision, "reviewing the account" includes activities related to account maintenance and monitoring, credit line increases, and account upgrades and enhancements.

(f) "Employment purposes," when used in connection with a consumer credit report, means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment, or retention as an employee.

(g) "File," when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by a consumer credit reporting agency, regardless of how the information is stored.

(h) "Firm offer of credit" means any offer of credit to a consumer that will be honored if, based on information in a consumer credit report on the consumer and other information bearing on the creditworthiness of the consumer, the consumer is determined to meet the criteria used to select the consumer for the offer and the consumer is able to provide any real property collateral specified in the offer. For purposes of this subdivision, the phrase "other information bearing on the creditworthiness of the consumer" means information that the person making the offer is permitted to consider pursuant to any rule, regulation, or formal written policy statement relating to the federal Fair Credit Reporting Act, as amended (15 U.S.C. Sec. 1681 et seq.), promulgated by the Federal Trade Commission or any federal bank regulatory agency.

(i) "Item of information" means any of one or more informative entries in a credit report which causes a creditor to deny credit to an applicant or increase the cost of credit to an applicant or deny an applicant a checking account with a bank or other financial institution.

(j) "Person" means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

(k) "Prequalifying report" means a report containing the limited information permitted under paragraph (2) of subdivision (b) of Section 1785.11.

(l) "State or local child support enforcement agency" means the Department of Child Support Services or local child support agency acting pursuant to Division 17 (commencing with Section 17000) of the Family Code to establish, enforce or modify child support obligations, and any state or local agency or official that succeeds to these responsibilities under a successor statute.

*(Amended by Stats. 2000, Ch. 808, Sec. 3. Effective September 28, 2000.)*

**1785.4.** Nothing in this title shall apply to any person licensed pursuant to the provisions of Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, or to any employee of such person, unless such person is employed directly by a consumer credit reporting agency.

*(Repealed and added by Stats. 1975, Ch. 1271.)*

**1785.5.** Any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling, evaluating, or disseminating information on the checking account experiences of consumer customers of banks or other financial institutions is, with the exception of compliance with the requirements of Section 1785.10, subdivisions (c), (d), and (e), only with regard to the provision of the address and telephone number, subject to the same laws which govern consumer credit reporting agencies.

*(Amended by Stats. 2001, Ch. 236, Sec. 1. Effective January 1, 2002. Operative January 1, 2003, by Sec. 3 of Ch. 236.)*

**1785.6.** The notices and disclosures to consumers provided for in this title shall be required to be made only to those consumers who have a mailing address in California.

*(Added by Stats. 1993, Ch. 285, Sec. 2. Effective August 2, 1993.)*