

1 **CREDIT REPORT - COPY FOR CONSUMER**

2 1999 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Jackie Biskupski**

5 AN ACT RELATING TO CONTRACTS AND OBLIGATIONS IN GENERAL; CREATING
6 THE CONSUMER REPORT ACCESS ACT; PROVIDING DEFINITIONS; AND
7 PROHIBITING CERTAIN ACTS.

8 This act affects sections of Utah Code Annotated 1953 as follows:

9 ENACTS:

10 **15-9-101**, Utah Code Annotated 1953

11 **15-9-102**, Utah Code Annotated 1953

12 **15-9-103**, Utah Code Annotated 1953

13 *Be it enacted by the Legislature of the state of Utah:*

14 Section 1. Section **15-9-101** is enacted to read:

15 **CHAPTER 9. CONSUMER REPORT ACCESS ACT**

16 **15-9-101. Title.**

17 This chapter is known as the "Consumer Report Access Act."

18 Section 2. Section **15-9-102** is enacted to read:

19 **15-9-102. Definitions.**

20 As used in this chapter:

21 (1) "Adverse action" is as defined in 15 U.S.C. Sec. 1681a.

22 (2) "Consumer report" is as defined in 15 U.S.C. Sec. 1681a.

23 (3) "Consumer reporting agency" is as defined in 15 U.S.C. Sec. 1681a.

24 (4) "Subject of the report" means a person who is the subject of a consumer report.

25 (5) "User" means the person that requests a consumer report for:

26 (a) the purpose of establishing the eligibility of the subject of a report for:

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

28 or

29 (ii) employment; or

30 (b) purposes permitted under 15 U.S.C. Sec. 1681b.

31 Section 3. Section **15-9-103** is enacted to read:

32 **15-9-103. Access to consumer reports.**

33 (1) A user shall provide a copy of a consumer report to the subject of the report if:

34 (a) the subject of the report requests the report; and

35 (b) (i) adverse action against the subject of the report is taken by the user based in whole

36 or in part on the report; or

37 (ii) the subject of the report is charged by the user for the user obtaining the consumer

38 report.

39 (2) If the subject of a consumer report is charged by the user for the user obtaining the

40 consumer report, the user may not charge the subject of a report an additional fee for providing the

41 subject of the report a copy of the report under Subsection (1).

42 (3) A consumer reporting agency may not prohibit a user of a consumer report that is

43 furnished by the consumer reporting agency from disclosing the contents of the consumer report

44 to the subject of the report if:

45 (a) adverse action against the subject of the report is taken by the user based in whole or

46 in part on the report; or

47 (b) the subject of the report was charged by the user for the user obtaining the consumer

48 report.

Legislative Review Note

as of 2-4-99 7:19 AM

This legislation raises the following constitutional or statutory concerns:

The federal Fair Credit Reporting Act addresses disclosure of a consumer report to a consumer if the user takes an adverse action against the consumer based on the report. The federal act generally preempts state law to the extent that state law is inconsistent with the federal act. Because this bill requires a consumer reporting agency to allow disclosure in circumstances not addressed by the federal act, a court would have to determine whether this bill is inconsistent with the federal act and therefore preempted. In some circumstances courts have upheld state laws that provide greater protection to consumers than the federal act which this bill arguably does.

Office of Legislative Research and General Counsel