

UTAH CONSUMER CREDIT REPORTING ACT

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Gene Davis

Mike Dmitrich

Peter C. Knudson

Ed P. Mayne

Dan R. Eastman

This act modifies the Commerce and Trade title to enact the Utah Consumer Credit Reporting Act including titling the act and defining terms. The act addresses obtaining a copy of consumer report information. The act provides penalty provisions and states that the act does not prevent other actions.

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

ENACTS:

12-2-101, Utah Code Annotated 1953

12-2-102, Utah Code Annotated 1953

12-2-201, Utah Code Annotated 1953

12-2-202, Utah Code Annotated 1953

12-2-203, Utah Code Annotated 1953

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

Section 1. Section **12-2-101** is enacted to read:

CHAPTER 2. UTAH CONSUMER CREDIT REPORTING ACT

Part 1. General Provisions

12-2-101. Title.

This chapter is known as the "Utah Consumer Credit Reporting Act."

Section 2. Section **12-2-102** is enacted to read:

12-2-102. Definitions.

As used in this chapter:

(1) "Consumer" means a natural person residing in the state.



28 (2) "Consumer disclosure copy" means the information required to be disclosed to a
29 consumer by a consumer reporting agency:

- 30 (a) in accordance with 15 U.S.C. 1681g;
- 31 (b) under the conditions stated in 15 U.S.C. 1681h; and
- 32 (c) in the form provided for in 15 U.S.C. 1681h.

33 (3) "Consumer reporting agency" shall have the meaning defined in 15 U.S.C. 1681a
34 except that "consumer reporting agency" includes a person that only uses means or facilities within
35 the state to prepare or furnish consumer reports.

36 (4) "File" shall have the meaning defined in 15 U.S.C. 1681a.

37 (5) "Nationwide consumer reporting agency" means a consumer reporting agency that
38 compiles and maintains files on consumers on a nationwide basis as defined in 15 U.S.C. 1681a.

39 Section 3. Section **12-2-201** is enacted to read:

40 **Part 2. Disclosure of Consumer Reports to Consumers**

41 **12-2-201. Charges for disclosures.**

42 (1) A consumer reporting agency may not charge a consumer any money for providing a
43 consumer disclosure copy:

- 44 (a) if 15 U.S.C. 1681j requires free disclosure to the consumer; or
- 45 (b) if during a period beginning 12 months before the day the consumer makes a request,
46 the consumer has not requested a consumer disclosure copy.

47 (2) For a request for a consumer disclosure copy that is not described in Subsection (1),
48 a consumer reporting agency may not charge the consumer an amount in excess of the amount
49 permitted to be charged under 15 U.S.C. 1681j.

50 (3) For purposes of determining whether a consumer reporting agency may charge a
51 consumer a fee under this section for a consumer disclosure copy, if a consumer requests
52 disclosure of the consumer's file from a consumer reporting agency that is an affiliate of a
53 nationwide consumer reporting agency, that request is considered a request made during the time
54 period described in Subsection (1)(b) for purposes of:

- 55 (a) the consumer reporting agency that receives the request;
- 56 (b) the nationwide consumer reporting agency; and
- 57 (c) any other consumer reporting agency that is affiliated with the nationwide consumer
58 reporting agency.

59 Section 4. Section **12-2-202** is enacted to read:

60 **12-2-202. Violations.**

61 (1) A consumer reporting agency that violates this chapter is liable to the consumer for
62 \$500.

63 (2) A consumer may bring an action in a court of competent jurisdiction to recover any
64 amounts owed under Subsection (1).

65 Section 5. Section **12-2-203** is enacted to read:

66 **12-2-203. Provisions of chapter cumulative.**

67 The provisions of this chapter are cumulative, and any action taken under this chapter is
68 not an election to take the action to the exclusion of any other action authorized by law.

Legislative Review Note
as of 1-15-02 1:05 PM

An issue addressed by the federal Fair Credit Reporting Act is the federal requirements for disclosure of consumer reports to consumers. In general, the federal act does not annul, alter, affect, or exempt a person from complying with state law, but it may preempt state law to the extent that the state law is inconsistent with the federal act. This legislation imposes disclosure requirements on consumer reporting agencies. If challenged, a court would have to determine whether the legislation is inconsistent with federal law to such an extent that the state law would be preempted. Some courts have upheld state laws after examining factors such as whether there is a direct conflict between the federal and state law, whether any conflict frustrates the effectiveness or purposes of the federal law, and whether the state law provides greater protection to consumers. Arguably, by providing a consumer enhanced access to that consumer's credit information, this legislation provides greater protection to consumers.

Office of Legislative Research and General Counsel