**South Carolina General Assembly**

118th Session, 2009-2010

**H. 4039**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Bowers

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Introduced in the House on May 14, 2009

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Fair Credit Reporting Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

5/14/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\05-14-09.docx)‑12

5/14/2009 House Referred to Committee on **Labor, Commerce and Industry** [HJ](file:///h:\HJ%20Archive\2009\05-14-09.docx)‑12

**VERSIONS OF THIS BILL**

[5/14/2009](file:///p:\pprever\2009-10\4039_20090514.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 46 TO TITLE 15 SO AS TO ENACT THE SOUTH CAROLINA FAIR CREDIT REPORTING ACT, TO PROVIDE THAT UNFAIR METHODS OF REPORTING CREDIT HISTORY AND UNFAIR OR DECEPTIVE ACTS IN THE CONDUCT OF CREDIT REPORTING ARE UNLAWFUL, TO PROVIDE THAT THE FEDERAL FAIR CREDIT REPORTING ACT AS INTERPRETED BY THE FEDERAL TRADE COMMISSION AND FEDERAL COURTS SHALL FURNISH GUIDANCE IN CONSTRUING THIS CHAPTER, TO PROVIDE PENALTIES FOR WILFUL AND NEGLIGENT NONCOMPLIANCE WITH THE TERMS OF THE CHAPTER, TO PROVIDE FOR THE JURISDICTION OF THE STATE COURTS TO HEAR ACTIONS BROUGHT PURSUANT TO THIS CHAPTER, AND TO PROVIDE, WITH EXCEPTIONS, A TWO‑YEAR STATUTE OF LIMITATIONS TO SEEK RELIEF PURSUANT TO THIS CHAPTER.

Whereas, the General Assembly finds that:

(1) The banking system depends upon fair and accurate credit reporting. Inaccurate credit reports directly impair the efficiency of the banking system and unfair credit‑reporting methods undermine the public confidence essential to the continued functioning of the banking system.

(2) An elaborate mechanism has been developed for investigating and evaluating the creditworthiness, credit standing, credit capacity, character, and general reputation of consumers.

(3) Consumer credit‑reporting agencies have assumed a vital role in assembling and evaluating consumer credit and other information on consumers.

(4) The need exists to ensure that consumer credit‑reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer’s privacy.

The purpose of this chapter is to require consumer credit‑reporting agencies to adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, and other information in a manner which is fair and equitable to the consumer and with due regard to the confidentiality, accuracy, relevancy, and proper utilization of this information in accordance with the requirements of this chapter and the federal Fair Credit Reporting Act, 15 U.S.C. 1681.

Further, the purpose of this chapter is to afford the citizens of South Carolina the opportunity to enforce liability established pursuant to this chapter in the courts of this State.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 15 of the 1976 Code is amended by adding:

“CHAPTER 46

Fair Credit Reporting

Section 15‑46‑10. This chapter may be cited as the ‘South Carolina Fair Credit Reporting Act’.

Section 15‑46‑20. (A) Unfair methods of reporting credit history and unfair or deceptive acts or practices in the conduct of credit reporting are unlawful.

(B) It is the intent of the General Assembly in construing subsection (A) of this section, that the courts be guided by the interpretations given by the Federal Trade Commission and the federal courts to the federal Fair Credit Reporting Act, 15 U.S.C. 1681, as amended.

Section 15‑46‑30. For purposes of this chapter, a person acting as a consumer credit‑reporting agency only shall furnish a consumer credit report pursuant to the circumstances permitted in the federal Fair Credit Reporting Act, 15 U.S.C. 1681. Also, for purposes of this chapter, a ‘person’ means a natural person, firm, corporation, partnership, or other business entity.

Section 15‑46‑40. A person who wilfully fails to comply with a requirement of this chapter is liable to the consumer for:

(1) actual damages sustained by the consumer as a result of the wilful failure to comply or damages of not less than one hundred dollars and not more than one thousand dollars;

(2) punitive damages as allowed by law; and

(3) reasonable attorney’s fees and costs as determined by the court in a successful action to enforce liability pursuant to this section.

Section 15‑46‑50. A person who is negligent in failing to comply with a requirement imposed by this chapter is liable to the consumer for:

(1) actual damages sustained by the consumer as a result of the failure; and

(2) reasonable attorney’s fees and costs as determined by the court in a successful action to enforce liability pursuant to this section.

Section 15‑46‑60. A person who obtains a consumer credit report from a consumer credit‑reporting agency under false pretenses or knowingly without a permissible purpose is liable to the consumer credit‑reporting agency for:

(1) actual damages sustained by the consumer credit‑reporting agency or one thousand dollars, whichever is greater;

(2) punitive damages as allowed by law; and

(3) reasonable attorney’s fees and costs as determined by the court in a successful action to enforce liability pursuant to this section.

Section 15‑46‑70. Upon a finding by the court that an unsuccessful pleading, motion, or other paper was filed in connection with an action pursuant to this chapter in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney’s fees reasonable in relation to the work expended in responding to the pleading, motion, or other paper.

Section 15‑46‑80. An action to enforce liability established pursuant to this chapter may be brought in a South Carolina state court of record in the county where the plaintiff resides. The action may be brought within two years from the date on which the liability arises, except that if a defendant materially and wilfully has misrepresented information which is required to be disclosed to an individual pursuant to this chapter and the misrepresented information is material to the establishment of the defendant’s liability to that individual pursuant to this chapter, the action may be brought within two years after the discovery of the misrepresentation by the individual.

Section 15‑46‑90. The remedies established pursuant to this chapter are cumulative and in addition to all other remedies provided by law.”

SECTION 2. This act takes effect upon approval by the Governor.

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