

Introduced by Senators Leslie and Watson
(Coauthors: Assembly Members Bowler, House, Kaloogian,
and Prenter)

February 2, 1998

An act to amend Sections 1786.2, 1786.10, 1786.12, 1786.16, 1786.18, 1786.20, 1786.24, 1786.26, 1786.30, 1786.40, and 1786.50 of, and to add Section 1786.11 to, the Civil Code, relating to investigative consumer reporting.

LEGISLATIVE COUNSEL'S DIGEST

SB 1454, as introduced, Leslie. Investigative consumer reporting.

Existing law, as contained in the Investigative Consumer Reporting Agencies Act, regulates the preparation, disclosure, and use of investigative consumer reports.

Existing law defines an "investigative consumer report" as a report in which specified information on a consumer is obtained through personal interviews and defines an "investigative consumer reporting agency" as any person who, for a fee, assembles employment or insurance information, or information relating to the hiring of dwelling units concerning consumers for specified purposes.

This bill would redefine an "investigative consumer report" as a report in which specified consumer information is obtained for employment or insurance purposes or for renting a dwelling, and an "investigative consumer reporting agency" as any person who, for a fee, assembles any information concerning consumers for those specified purposes.

Existing law generally provides that a person may not obtain an investigative consumer report with respect to a consumer unless the person discloses in writing to the consumer that the report will be made, and provides other specified information.

This bill would require, as a further condition to obtaining an investigative consumer report, that the person certify to the agency that he or she (a) has made the required consumer disclosures and (b) will provide additional specified disclosures if requested by the consumer. The bill would also require an investigative consumer reporting agency that provides an investigative consumer report to a person other than the consumer to make a copy of that report available to the consumer, as specified, for at least 60 days after the date the report is provided to the other person.

Existing law provides that consumers have the right to visually inspect all files maintained by an investigative consumer reporting agency regarding that consumer, except medical information, as defined. Existing law also provides that consumers have the right to be informed by the user of consumer information of the reasons for any adverse action taken with respect to specified insurance due to information obtained from a person other than an investigative consumer reporting agency, except that the user may withhold medical information, as defined, until the consumer obtains written authorization from the consumer's physician.

This bill would delete both of these exceptions relating to medical information.

Existing law provides that investigative consumer reports may not include, among other things, any arrest records, paid tax liens, or other specified items that antedate the report by more than 7 years.

This bill would specify that information relating to an arrest, indictment, conviction, civil action, tax lien, or outstanding judgment may not be included in a report unless verified by the agency no more than 30 days prior to the date of the report, and adverse information obtained through a personal interview, as specified, may not be included in a report unless it is either verified by a 2nd party or the interviewee is the best source of the information.



Existing law gives consumers the right to dispute inaccurate information contained in an investigative consumer report and to bring an action to recover damages for violations of the act in an amount equal to the greater of actual damages or \$300.

This bill would add new procedures and notice requirements relating to the investigation of disputes by consumers and the deletion of information in a consumer's file that is determined to be inaccurate. The bill would also increase the minimum amount of damages recoverable by a consumer for violations of the act from \$300 to \$1,000.

Existing law specifies that reasonable charges may be imposed upon a consumer to receive a copy of an investigative consumer report relating to that consumer, unless the copy is requested after the taking of an adverse action against the consumer based on the report, as specified.

This bill would specify the amount of fee, if any, that may be charged to consumer to receive a copy of an investigative consumer report or other information, notices or disclosures, relating to that consumer. The bill would require investigative consumer reporting agencies to provide a consumer with a copy of his or her investigative consumer report, free of charge, not more often than once a year, if the consumer is unemployed, is seeking employment, receives public welfare assistance, or believes that his or her file contains inaccurate information due to fraud.

The bill would make other related changes.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1786.2 of the Civil Code is
- 2 amended to read:
- 3 1786.2. The following terms as used in this title have
- 4 the meaning expressed in this section:
- 5 (a) The term "person" means any individual,
- 6 partnership, corporation, limited liability company, trust,
- 7 estate, cooperative, association, government or
- 8 governmental subdivision or agency, or other entity. The



1 term “person” as used in this title shall not be construed
2 to require duplicative reporting by any individual,
3 corporation, trust, estate, cooperative, association,
4 government, or governmental subdivision or agency, or
5 other entity involved in the same transaction.

6 (b) The term “consumer” means a natural individual
7 who has made application to a person for employment
8 purposes, for insurance for personal, family, or household
9 purposes, or the hiring of a dwelling unit, as defined in
10 subdivision (c) of Section 1940.

11 (c) The term “investigative consumer report” means
12 a consumer report in which information on a consumer’s
13 character, general reputation, personal characteristics, or
14 mode of living is obtained ~~through personal interviews~~
15 ~~with neighbors, friends, or associates of the consumer~~
16 ~~reported on, or others with whom he or she is acquainted~~
17 ~~or who may have knowledge concerning any of these~~
18 ~~items of information.~~ *The for employment purposes, or*
19 *for insurance primarily for personal, family, or household*
20 *purposes, or for purposes relating to the hiring of a*
21 *dwelling unit, as defined in subdivision (c) of Section*
22 *1940, except that the term does not include a consumer*
23 *report or other compilation of information which that is*
24 *limited to specific factual information relating to a*
25 *consumer’s credit record or manner of obtaining credit*
26 *obtained directly from a creditor of the consumer or from*
27 *a consumer reporting agency when that information was*
28 *obtained directly from a potential or existing creditor of*
29 *the consumer or from the consumer.*

30 (d) The term “investigative consumer reporting
31 agency” means any person who, for monetary fees or
32 dues, regularly engages in whole or in part in the practice
33 of assembling or evaluating ~~employment or insurance~~
34 ~~information, or information relating to the hiring of~~
35 ~~dwelling units, or any combination thereof, concerning~~
36 ~~consumers for personal, family, or household purposes,~~
37 for the purposes of furnishing investigative consumer
38 reports to third parties, to be used with respect to
39 consumers for employment purposes or, insurance
40 primarily for personal, family, or household purposes, or



1 for purposes relating to the hiring of dwelling units, but
2 does not include any governmental agency whose records
3 are maintained primarily for traffic safety, law
4 enforcement, or licensing purposes, or a private
5 investigator licensed in this state or employees of a
6 private investigator and does not include any licensed
7 insurance agent, insurance broker, or solicitor, insurer, or
8 life insurance agent.

9 (e) The term “file” when used in connection with
10 information on any consumer, means all of the
11 information on that consumer recorded and retained by
12 an investigative consumer reporting agency regardless of
13 how the information is stored.

14 (f) The term “employment purposes”, *purposes*,”
15 when used in connection with an investigative consumer
16 report, means a report used for the purpose of evaluating
17 a consumer for employment, promotion, reassignment,
18 or retention as an employee.

19 (g) ~~The term “medical information” means~~
20 ~~information on a person’s medical history or condition~~
21 ~~obtained directly or indirectly from a licensed physician,~~
22 ~~medical practitioner, hospital, clinic, or other medical or~~
23 ~~medically related facility.~~ *“Investigative consumer*
24 *reporting agency that compiles and maintains files on*
25 *consumers on a nationwide basis” means an investigative*
26 *consumer reporting agency that regularly engages in the*
27 *practice of assembling or evaluating, and maintaining*
28 *information relating to consumers residing nationwide,*
29 *bearing on a consumer’s character, general reputation,*
30 *personal characteristics, or mode of living, from persons*
31 *who furnish that information regularly and in the*
32 *ordinary course of business, for the purpose of furnishing*
33 *investigative consumer reports to third parties for*
34 *employment purposes, or insurance primarily for*
35 *personal, family, or household purposes, or for purposes*
36 *relating to the hiring of dwelling units.*

37 SEC. 2. Section 1786.10 of the Civil Code is amended
38 to read:

39 1786.10. (a) Every investigative consumer reporting
40 agency shall, upon request and proper identification of



1 any consumer, allow the consumer to visually inspect all
2 files maintained regarding ~~such~~ *the* consumer at the time
3 of the request, ~~except that medical information, as~~
4 ~~defined in subdivision (g) of Section 1786.2 may be~~
5 ~~withheld. The consumer shall be informed by the~~
6 ~~investigative consumer reporting agency of the existence~~
7 ~~of any such medical information withheld and shall have~~
8 ~~a right to visually inspect such information upon written~~
9 ~~authorization from the consumer's attending physician.~~
10 ~~The investigative credit reporting agency shall inform~~
11 ~~the consumer of the consumer's right to visually inspect~~
12 ~~such withheld information at the time the consumer~~
13 ~~makes a request to inspect all files pursuant to this section.~~

14 ~~(a)~~

15 (b) All items of information shall be available for
16 inspection, except that the sources of information
17 *acquired solely for use in preparing an investigative*
18 *consumer report and actually used for no other purpose*
19 need not be disclosed. However, ~~in the event~~ *if* an action
20 is brought under this title ~~such~~, *those* sources shall be
21 available to the consumer under appropriate discovery
22 procedures in the court in which the action is brought.

23 Nothing in this title shall be interpreted to mean that
24 investigative consumer reporting agencies are required
25 to divulge to consumers the sources of investigative
26 consumer reports except in appropriate discovery
27 procedures as outlined herein.

28 ~~(b)~~

29 (c) The investigative consumer reporting agency shall
30 also ~~disclose~~ *identify* the recipients of any investigative
31 consumer report on the consumer ~~which~~ *that* the
32 investigative consumer reporting agency has furnished:

33 (1) For employment or insurance purposes within the
34 two-year period preceding the request.

35 (2) For any other purpose within the ~~six-month~~
36 *one-year* period preceding the request.

37 (d) *The identification of a recipient under subdivision*
38 *(c) shall include the name of the recipient or, if*
39 *applicable, the trade name (written in full) under which*
40 *the recipient conducts business and, upon request of the*



1 consumer; the address and telephone number of the
2 recipient.

3 (e) The investigative consumer reporting agency shall
4 also disclose the dates, original payees, and amounts of
5 any checks upon which is based any adverse
6 characterization of the consumer; included in the file at
7 the time of the disclosure.

8 SEC. 3. Section 1786.11 is added to the Civil Code, to
9 read:

10 1786.11. Every investigative consumer reporting
11 agency that provides an investigative consumer report to
12 a person other than the consumer shall make a copy of
13 that report available, upon request and proper
14 identification, to the consumer for at least 60 days after
15 the date that the report is provided to the other person.

16 SEC. 4. Section 1786.12 of the Civil Code is amended
17 to read:

18 1786.12. An investigative consumer reporting agency
19 shall only furnish an investigative consumer report under
20 the following circumstances:

21 (a) In response to the order of a court having
22 jurisdiction to issue such an order.

23 (b) In compliance with a lawful subpoena issued by a
24 court of competent jurisdiction.

25 (c) In accordance with the written instructions of the
26 consumer to whom it relates.

27 (d) To a person ~~which~~ that it has reason to believe:

28 (1) Intends to use the information for employment
29 purposes; or

30 (2) Intends to use the information serving as a factor
31 in determining a consumer's eligibility for insurance or
32 the rate for such insurance; or

33 (3) Intends to use the information in connection with
34 a determination of the consumer's eligibility for a license
35 or other benefit granted by a governmental
36 instrumentality required by law to consider the
37 applicant's financial responsibility or status; or

38 (4) Intends to use the information in connection with
39 an order of a court of competent jurisdiction to provide



1 support where the imposition or enforcement of the
2 order involves the consumer; or

3 (5) Intends to use the information in connection with
4 the hiring of a dwelling unit, as defined in subdivision (c)
5 of Section 1940.

6 *(e) An investigative consumer reporting agency shall*
7 *not prepare or furnish an investigative consumer report*
8 *to a person described in subdivision (d) unless the agency*
9 *has received the certification under paragraph (4) of*
10 *subdivision (a) of Section 1786.16 from the person*
11 *requesting the report.*

12 SEC. 5. Section 1786.16 of the Civil Code is amended
13 to read:

14 1786.16. (a) Any person described in subdivision (d)
15 of Section 1786.12 shall not procure or cause to be
16 prepared an investigative consumer report unless the
17 following applicable conditions are met:

18 (1) If an investigative consumer report is sought in
19 connection with the underwriting of insurance, it shall be
20 clearly and accurately disclosed in writing at the time the
21 application form, medical form, binder, or similar
22 document is signed by the consumer that an investigative
23 consumer report regarding the consumer's character,
24 general reputation, personal characteristics, and mode of
25 living may be made. If no signed application form,
26 medical form, binder, or similar document is involved in
27 the underwriting transaction, ~~such~~ *the* disclosure shall be
28 made to the consumer in a writing mailed or otherwise
29 delivered to the consumer not later than three days after
30 the report was first requested.

31 (2) If, at any time, an investigative consumer report is
32 sought for employment purposes other than promotion
33 or reassignment, the person procuring or causing the
34 report to be made shall, not later than three days after the
35 date on which the report was first requested, notify the
36 consumer in writing that an investigative consumer
37 report regarding the consumer's character, general
38 reputation, personal characteristics, and mode of living
39 will be made. This notification shall include the name of
40 the consumer reporting agency conducting the



1 investigation and a summary of the provisions of Section
2 1786.22.

3 (3) If an investigative consumer report is sought in
4 connection with the hiring of a dwelling unit, as defined
5 in subdivision (c) of Section 1940, the person procuring
6 or causing the request to be made shall, not later than
7 three days after the date on which the report was first
8 requested, notify the consumer in writing that an
9 investigative consumer report will be made regarding
10 the consumer's character, general reputation, personal
11 characteristics, and mode of living. The notification shall
12 also include the name and address of the consumer
13 reporting agency ~~which~~ that will prepare the report.

14 ~~(b)~~
15 (4) *The person procuring or causing the request to be*
16 *made shall certify to the investigative consumer*
17 *reporting agency that the person has made the applicable*
18 *disclosures to the consumer required by this subdivision*
19 *and that the person will comply with subdivision (b).*

20 (b) *Any person described in subdivision (d) of Section*
21 *1786.12 shall, upon written request made by the*
22 *consumer within a reasonable period of time after the*
23 *receipt by the consumer of the disclosure required by*
24 *subdivision (a), make a complete and accurate disclosure*
25 *of the nature and scope of the investigation requested.*
26 *This disclosure shall be made in writing, mailed or*
27 *otherwise delivered, to the consumer not later than five*
28 *days after the date the request for the disclosure was*
29 *received from the consumer or the report was first*
30 *requested, whichever is later.*

31 (c) The provisions of subdivision (a) shall not apply to
32 an investigative consumer report procured or caused to
33 be prepared by an employer if the purpose of the
34 employer is to:

35 (1) Determine whether or not an employee is to be
36 retained; and

37 (2) To determine whether or not such employee is
38 engaged in any criminal activity likely to result in a loss
39 to the employer.

40 ~~(e)~~



1 (d) Those persons described in subdivision (d) of
2 Section 1786.12 of this title shall constitute the sole and
3 exclusive class of persons who may cause an investigative
4 consumer report to be prepared.

5 SEC. 6. Section 1786.18 of the Civil Code is amended
6 to read:

7 1786.18. (a) Except as authorized under subdivision
8 (b) no investigative consumer reporting agency shall
9 make *or furnish* any investigative consumer report
10 containing any of the following items of information:

11 (1) Bankruptcies ~~which that~~, from the date of
12 adjudication, antedate the report by more than 14 years.

13 (2) Suits from the date of filing and satisfied judgments
14 ~~which that~~, from the date of entry, antedate the report by
15 more than seven years.

16 (3) Unsatisfied judgments ~~which that~~, from the date of
17 entry, antedate the report by more than 10 years.

18 (4) Unlawful detainer actions, unless the lessor was the
19 prevailing party. For purposes of this paragraph, the
20 lessor shall be deemed to be the prevailing party only if
21 (A) final judgment was awarded to the lessor (i) upon
22 entry of the tenant's default, (ii) upon the granting of the
23 lessor's motion for summary judgment, or (iii) following
24 trial, or (B) the action was resolved by a written
25 settlement agreement between the parties ~~which that~~
26 states that the unlawful detainer action may be reported.
27 In any other instance in which the action is resolved by
28 settlement agreement, the lessor shall not be deemed to
29 be the prevailing party for purposes of this paragraph.

30 (5) Paid tax liens ~~which that~~, from the date of
31 payment, antedate the report by more than seven years.

32 (6) Accounts placed for collection or charged to profit
33 and loss ~~which that~~ antedate the report by more than
34 seven years.

35 (7) Records of arrest, indictment, information,
36 misdemeanor complaint, or conviction of a crime ~~which~~
37 *that*, from the date of disposition, release, or parole,
38 antedate the report by more than seven years. ~~Such~~
39 *These* items of information shall no longer be reported if
40 at any time it is learned that in the case of a conviction a



1 full pardon has been granted, or in the case of an arrest,
2 indictment, information, or misdemeanor complaint a
3 conviction did not result, except that records of arrest,
4 indictment, and information misdemeanor complaints
5 may be reported pending pronouncement of judgment
6 on the particular subject matter of ~~such~~ those records.

7 (8) Any other adverse information ~~which~~ that
8 antedates the report by more than seven years.

9 (b) ~~The provisions of subdivision (a) are not~~
10 ~~applicable in the case of any consumer report to be used~~
11 ~~in the following transactions:~~

12 (1) ~~The underwriting of life insurance, involving or~~
13 ~~which may reasonably be expected to involve, an amount~~
14 ~~of one hundred thousand dollars (\$100,000) or more.~~

15 (2) ~~The employment of any individual at an annual~~
16 ~~salary which equals, or may reasonably be expected to~~
17 ~~equal, thirty thousand dollars (\$30,000) or more.~~

18 (3) ~~The rental of a dwelling unit which exceeds one~~
19 ~~thousand dollars (\$1,000) per month. Except as otherwise~~
20 *provided in subdivision Section 1786.28, an investigative*
21 *consumer reporting agency shall not furnish an*
22 *investigative consumer report that includes information*
23 *that is a matter of public record and that relates to an*
24 *arrest, indictment, conviction, civil judicial action, tax*
25 *lien, or outstanding judgment, unless the agency has*
26 *verified the accuracy of the information during the*
27 *30-day period ending on the date on which the report is*
28 *furnished.*

29 (c) *An investigative consumer reporting agency shall*
30 *not prepare or furnish an investigative consumer report*
31 *on a consumer that contains information that is adverse*
32 *to the interest of the consumer and that is obtained*
33 *through a personal interview with a neighbor, friend, or*
34 *associate of the consumer or with another person with*
35 *whom the consumer is acquainted or who has knowledge*
36 *of the item of information, unless either (1) the consumer*
37 *credit reporting agency has followed reasonable*
38 *procedures to obtain confirmation of the information,*
39 *from an additional source that has independent and*



1 *direct knowledge of the information, or (2) the person*
2 *interviewed is the best possible source of the information.*

3 SEC. 7. Section 1786.20 of the Civil Code is amended
4 to read:

5 1786.20. (a) Every investigative consumer reporting
6 agency shall maintain reasonable procedures designed to
7 avoid violations of Section 1786.18 and to limit furnishing
8 of investigative consumer reports to the purposes listed
9 under Section 1786.12. These procedures shall require
10 that prospective users of the information identify
11 themselves, ~~certify the purposes for which the~~
12 ~~information is sought and certify that the information will~~
13 ~~be used for no other purposes and make the certifications~~
14 *described in paragraph (4) of subdivision (a) of Section*
15 *1786.16.* From the effective date of this title the
16 investigative consumer reporting agency shall keep a
17 record of the purposes *for which information is sought*, as
18 stated by the user. Every investigative consumer
19 reporting agency shall make a reasonable effort to verify
20 the identity of a new prospective user and the uses
21 certified by ~~such~~ *the* prospective user prior to furnishing
22 ~~such~~ *the* user any consumer reports. No investigative
23 consumer reporting agency may furnish any
24 investigative consumer reports to any person unless it has
25 reasonable grounds for believing that the investigative
26 consumer reports will be used by ~~such~~ *that* person for
27 purposes listed in Section 1786.12.

28 (b) Whenever an investigative consumer reporting
29 agency prepares an investigative consumer report, it
30 shall follow reasonable procedures to assure maximum
31 possible accuracy of the information concerning the
32 individual about whom the report relates.

33 (c) *An investigative consumer reporting agency shall*
34 *not make an inquiry for the purpose of preparing an*
35 *investigative consumer report on a consumer for*
36 *employment purpose if the making of the inquiry by an*
37 *employer or prospective employer of the consumer*
38 *would violate any applicable federal or state equal*
39 *employment opportunity law or regulation.*



1 SEC. 8. Section 1786.24 of the Civil Code is amended
2 to read:

3 1786.24. (a) If the completeness or accuracy of any
4 item of information contained in his *or her* file is disputed
5 by a consumer, and ~~such~~ *the* dispute is conveyed directly
6 to the investigative consumer reporting agency by the
7 consumer, the investigative consumer reporting agency
8 shall ~~within a reasonable period of time, without charge,~~
9 reinvestigate and record the current status of ~~that the~~
10 *disputed* information ~~unless it has reasonable grounds to~~
11 ~~believe that the dispute by the consumer is frivolous or~~
12 ~~irrelevant.~~ *If, or delete the item from the file in*
13 *accordance with subdivision (c).*

14 (b) *The agency shall notify any person who provided*
15 *information in dispute at the address and in the manner*
16 *specified by that person. The notice shall include all*
17 *relevant information regarding the dispute that the*
18 *investigative consumer reporting agency has received*
19 *from the consumer. The agency shall also promptly*
20 *provide to the person who provided the information in*
21 *dispute all relevant information regarding the dispute*
22 *that is received by the agency from the consumer during*
23 *the reinvestigation.*

24 (c) *In conducting a reinvestigation the investigative*
25 *consumer reporting agency shall review and consider all*
26 *relevant information submitted by the consumer with*
27 *respect to the disputed item of information.*

28 (d) *Notwithstanding subdivision (a), an investigative*
29 *consumer reporting agency may terminate a*
30 *reinvestigation of information disputed by a consumer, if*
31 *the investigative consumer reporting agency reasonably*
32 *determines that the dispute is frivolous or irrelevant, it*
33 *including by reason of a failure by a consumer to provide*
34 *sufficient information to investigate the disputed*
35 *information. Upon making a determination that a dispute*
36 *is frivolous or irrelevant, the investigative consumer*
37 *reporting agency shall notify the consumer ~~in writing,~~ by*
38 *mail or, if authorized by the consumer for that purpose,*
39 *by any other means available to the agency ~~within five~~*
40 *days ~~after such determination is made that it will not~~*



1 ~~reinvestigate the item of information.~~ In this notification,
2 the investigative consumer reporting agency shall state
3 the specific reasons why it has determined that the
4 consumer's dispute is frivolous or irrelevant *and provide*
5 *a description of any information required to investigate*
6 *the disputed information, that may consist of a*
7 *standardized form describing the general nature of the*
8 *required information.* ~~If~~

9 (e) If a reinvestigation is made and, after
10 reinvestigation, the disputed item of information is found
11 to be inaccurate, *incomplete*, or ~~can no longer~~ cannot be
12 verified *by the evidence submitted*, the investigative
13 consumer reporting agency shall promptly delete ~~such~~
14 *that information from the consumer's file or modify the*
15 *information, as appropriate, based on the results of the*
16 *reinvestigation*, and shall notify the consumer that ~~such~~
17 *the information has been deleted.*

18 (f) *No information may be reinserted in a consumer's*
19 *file after having been deleted pursuant to this section*
20 *unless the person who furnished the information verifies*
21 *that the information is complete and accurate. If any*
22 *information deleted from a consumer's file is reinserted*
23 *in the file, the investigative consumer reporting agency*
24 *shall promptly notify the consumer of the reinsertion in*
25 *writing or, if authorized by the consumer for that*
26 *purpose, by any other means available to the agency. As*
27 *part of, or in addition to, this notice, the investigative*
28 *consumer reporting agency shall provide the consumer*
29 *in writing (1) a statement that the disputed information*
30 *has been reinserted, (2) the name, address, and*
31 *telephone number of any furnisher of information*
32 *contacted or that contacted the investigative consumer*
33 *reporting agency in connection with the reinsertion, and*
34 *the telephone number of the furnisher, if reasonably*
35 *available, and (3) a notice that the consumer has the right*
36 *to a reinvestigation of the information reinserted by the*
37 *investigative consumer reporting agency and to add a*
38 *statement to his or her file disputing the accuracy or*
39 *completeness of the information.*



1 (g) An investigative consumer reporting agency shall
2 provide notice to the consumer of the results of any
3 reinvestigation under this section by mail or, if authorized
4 by the consumer for that purpose, by other means
5 available to the agency. The notice shall include (1) a
6 statement that the reinvestigation is completed, (2) an
7 investigative consumer report that is based on the
8 consumer's file as that file is revised as a result of the
9 reinvestigation, (3) a description or indication of any
10 changes made in the investigative consumer report as a
11 result of those revisions to the consumer's file, (4) a notice
12 that, if requested by the consumer, a description of the
13 procedure used to determine the accuracy and
14 completeness of the information shall be provided to the
15 consumer by the investigative credit reporting agency,
16 including the name, business address, and telephone
17 number of any furnisher of information contacted in
18 connection with that information, (5) a notice that the
19 consumer has the right to add a statement to the
20 consumer's file disputing the accuracy or completeness of
21 the information, and (6) a notice that the consumer has
22 the right to request that the investigative consumer
23 reporting agency furnish notifications under subdivision
24 (k).

25 (h) The presence of information in the consumer's file
26 that contradicts the contention of the consumer shall not,
27 in and of itself, constitute reasonable grounds for
28 believing the dispute is frivolous or irrelevant.

29 ~~(b)~~

30 (i) If the investigative consumer reporting agency
31 determines that the dispute is frivolous or irrelevant, or
32 if the reinvestigation does not resolve the dispute, *or if the*
33 *information is reinserted into the consumer's file*
34 *pursuant to subdivision (f)*, the consumer may file a brief
35 statement setting forth the nature of the dispute. The
36 investigative consumer reporting agency may limit ~~such~~
37 *these* statements to not more than 100 words if it provides
38 the consumer with assistance in writing a clear summary
39 of the dispute.

40 ~~(e)~~

1 (j) Whenever a statement of dispute is filed, the
 2 investigative consumer reporting agency shall, in any
 3 subsequent investigative consumer report containing the
 4 information in question, clearly note that the information
 5 is disputed by the consumer and shall include in the
 6 report either the consumer's statement or a clear and
 7 accurate summary thereof.

8 ~~(d)~~

9 (k) Following the deletion of information from a
 10 consumer's file pursuant to ~~subdivision (a) this section~~, or
 11 following the filing of a dispute pursuant to subdivision
 12 ~~(b)~~ (i), the investigative consumer reporting agency
 13 shall, at the request of the consumer, furnish notification
 14 that the item of information has been deleted or that the
 15 item of information is disputed. In the case of disputed
 16 information, the notification shall include the statement
 17 or summary of the dispute filed pursuant to subdivision
 18 ~~(b)~~ (i). ~~Such~~ This notification shall be furnished to any
 19 person, specifically designated by the consumer, who has,
 20 within two years prior to the deletion or the filing of the
 21 dispute, received an investigative consumer report
 22 concerning the consumer for employment purposes, or
 23 who has, within ~~six months~~ *one year* of the deletion or the
 24 filing of the dispute, received an investigative consumer
 25 report concerning the consumer for any other purpose,
 26 if ~~such~~ *these* investigative consumer reports contained
 27 the deleted or disputed information. The investigative
 28 consumer reporting agency shall clearly and
 29 conspicuously disclose to the consumer his *or her* rights
 30 to make a request for *this* notification. ~~Such disclosure~~
 31 ~~shall be made at or prior to the time the information is~~
 32 ~~deleted or the consumer's statement regarding the~~
 33 ~~disputed information is received.~~

34 (l) *An investigative consumer reporting agency shall*
 35 *maintain reasonable procedures designed to prevent the*
 36 *reappearance in a consumer's file and in investigative*
 37 *consumer reports information that has been deleted*
 38 *pursuant to this section and not reinserted pursuant to*
 39 *subdivision (f).*



1 (m) If the consumer's dispute is resolved by deletion
2 of the disputed information within three business days,
3 beginning with the day the investigative consumer
4 reporting agency receives notice of the dispute in
5 accordance with subdivision (a), the investigative
6 consumer reporting agency shall be exempt from
7 requirements for further action under subdivisions (g),
8 (i), and (j), if the agency: (1) provides prompt notice of
9 the deletion to the consumer by telephone, (2) provides
10 written confirmation of the deletion and a copy of an
11 investigative consumer report of the consumer that is
12 based on the consumer's file after the deletion, and (3)
13 includes, in the telephone notice or in a written notice
14 that accompanies the confirmation and report, a
15 statement of the consumer's right to request under
16 subdivision (k) that the agency furnish notifications
17 under that subdivision.

18 (n) Any investigative consumer reporting agency that
19 compiles and maintains files on consumers on a
20 nationwide basis shall implement an automated system
21 through which furnishes information to that agency
22 may report the results of a reinvestigation that finds
23 incomplete or inaccurate information in a consumer's file
24 to other investigative consumer reporting agencies.

25 (o) All actions to be taken by an investigative
26 consumer reporting agency under this section are
27 governed by the applicable time periods specified in
28 Section 611 of the federal Fair Credit Reporting Act, as
29 amended (15 U.S.C. Sec. 1681i).

30 SEC. 9. Section 1786.26 of the Civil Code is amended
31 to read:

32 1786.26. (a) An investigative consumer reporting
33 agency shall make all disclosures pursuant to Sections
34 1786.10 and 1786.22 ~~and furnish all consumer reports~~
35 ~~pursuant to Section 1786.24~~ as follows:

36 ~~(1) Without~~, without charge, if requested by the
37 consumer within ~~30~~ 60 days after receipt by ~~such~~ the
38 consumer of a notification of adverse action pursuant to
39 Section 1786.40 stating that adverse action may be or has
40 been taken on the consumer. ~~There may be imposed a~~



1 ~~reasonable charge if the disclosure requires the~~
2 ~~preparation of special material.~~

3 (2) The

4 (b) *Except as otherwise provided, an investigative*
5 *consumer reporting agency may otherwise impose a*
6 *reasonable charge on the a consumer for as follows:*

7 (1) *For making disclosures to such the consumer*
8 *pursuant to Sections 1786.10, 1786.11, and 1786.22 and for*
9 *any other services rendered to the consumer the*
10 *investigative consumer reporting agency may charge a*
11 *fee not exceeding eight dollars (\$8).*

12 (2) *For furnishing a notification, statement, or*
13 *summary to any person pursuant to subdivision (k) of*
14 *Section 1786.24, the investigative consumer reporting*
15 *agency may charge a fee not exceeding the charge that*
16 *it would impose on each designated recipient for an*
17 *investigative consumer report.*

18 (3) Any charges shall be indicated to the consumer
19 prior to disclosure ~~and may not cover notification.~~

20 (c) *An investigative consumer reporting agency shall*
21 *not impose any charge for providing notice to a consumer*
22 *required under Section 1786.24 or notifying a person*
23 *pursuant to subdivision (k) of Section 1786.24 of the*
24 *deletion of information which that is found to be*
25 *inaccurate or which can no longer that cannot be verified.*

26 (4) ~~A reasonable charge for disclosure under this~~
27 ~~section cannot exceed five dollars (\$5). A reasonable~~
28 ~~charge for other services rendered to the consumer shall~~
29 ~~not exceed those charges made to a user of the consumer~~
30 ~~credit reporting agency's services.~~

31 (d) *Upon the request of the consumer, an*
32 *investigative consumer reporting agency shall make all*
33 *disclosures pursuant to Section 1786.10 and 1786.22 once*
34 *during any 12-month period without charge to that*
35 *consumer if the consumer certifies in writing that he or*
36 *she (1) is unemployed and intends to apply for*
37 *employment in the 60-day period beginning on the date*
38 *the certification is made, (2) is a recipient of public*
39 *welfare assistance, or (3) has reason to believe that the*
40 *file on the consumer at the investigative consumer*



1 *reporting agency contains inaccurate information due to*
2 *fraud.*

3 *(e) An investigative consumer reporting agency shall*
4 *not impose any charge on a consumer for providing any*
5 *notification or making any disclosure required by this*
6 *title, except as authorized by this section.*

7 SEC. 10. Section 1786.30 of the Civil Code is amended
8 to read:

9 1786.30. Whenever an investigative consumer
10 reporting agency prepares an investigative consumer
11 report, no adverse information in the report (other than
12 information ~~which~~ *that* is a matter of public record, the
13 status of which has been updated pursuant to Section
14 1786.28) may be included in a subsequent investigative
15 consumer report unless ~~such~~ *that* adverse information has
16 been verified in the process of making ~~such~~ *the*
17 subsequent *investigative* consumer report, or the adverse
18 information was received within the three-month period
19 preceding the date the subsequent report is furnished.

20 SEC. 11. Section 1786.40 of the Civil Code is amended
21 to read:

22 1786.40. (a) Whenever insurance for personal,
23 family, or household purposes, employment, or the hiring
24 of a dwelling unit involving a consumer is denied or the
25 charge for ~~such~~ *that* insurance or the hiring of a dwelling
26 unit is increased either wholly or partly because of
27 information contained in an investigative consumer
28 report ~~form~~ *from* an investigative consumer reporting
29 agency, the user of the investigative consumer report
30 shall so advise the consumer against whom ~~such~~ *the*
31 adverse action has been taken and supply the name and
32 address of the investigative consumer reporting agency
33 making the report.

34 (b) Whenever insurance for personal, family, or
35 household purposes involving a consumer is denied or the
36 charge for ~~such~~ *that* insurance is increased either wholly
37 or in part because of information obtained from a person
38 other than an investigative consumer reporting agency,
39 the consumer, or another person related to the consumer
40 and acting on the consumer's behalf and bearing upon the



1 consumer's general reputation, personal characteristics
 2 or mode of living, the user of ~~such~~ *the* information shall,
 3 within a reasonable period of time, and upon the
 4 consumer's written request for the reasons for ~~such~~ *the*
 5 adverse action received within 60 days after learning of
 6 ~~such~~ *the* adverse action, disclose the nature and substance
 7 of the information to the consumer. The user of ~~such~~ *the*
 8 information shall clearly and accurately disclose to the
 9 consumer his *or her* right to make ~~such~~ *this* written
 10 request at the time ~~such~~ *the* adverse action is
 11 communicated to the consumer. ~~The user may withhold~~
 12 ~~the substance of such medical information, as defined in~~
 13 ~~subdivision (g) of Section 1786.2, but shall inform the~~
 14 ~~consumer of the existence of any such medical~~
 15 ~~information withheld. The consumer shall have a right to~~
 16 ~~be informed in writing of the substance of such~~
 17 ~~information upon written authorization from the~~
 18 ~~consumer's attending physician providing the~~
 19 ~~information. The user shall inform the consumer of the~~
 20 ~~consumer's right to be informed in writing of the~~
 21 ~~substance of such withheld information at the time of~~
 22 ~~disclosure pursuant to this subdivision.~~

23 SEC. 12. Section 1786.50 of the Civil Code is amended
 24 to read:

25 1786.50. (a) Any investigative consumer reporting
 26 agency or user of information ~~which~~ *that* fails to comply
 27 with any requirement under this title with respect to an
 28 investigative consumer report is liable to the consumer
 29 who is the subject of the report in an amount equal to the
 30 sum of all the following:

31 (1) Any actual damages sustained by the consumer as
 32 a result of the failure or, except in the case of class actions,
 33 ~~three hundred one thousand dollars (\$300)~~ *(\$1,000)*,
 34 whichever sum is greater, and

35 (2) In the case of any successful action to enforce any
 36 liability under this chapter, the costs of the action
 37 together with reasonable attorney's fees as determined
 38 by the court.



1 (b) If the court determines that the violation was
2 grossly negligent or willful, the court may, in addition,
3 assess, and the consumer may recover, punitive damages.

4 (c) Notwithstanding subdivision (a), an investigative
5 consumer reporting agency or user of information ~~which~~
6 *that* fails to comply with any requirement under this title
7 with respect to an investigative consumer report shall not
8 be liable to a consumer who is the subject of the report
9 where the failure to comply results in a more favorable
10 investigative consumer report than if there had not been
11 a failure to comply.

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