

(H. B. 1695)
(Reconsidered)

(No. 74)

(Approved February 8, 2003)

AN ACT

To amend sub-paragraphs (c) and (d), to create a new subparagraph (d) and to renumber the following sub-paragraphs of Section 3; to amend subparagraph (b) of Section 4; to amend Section 6; to amend subparagraph (c) of Section 8; to repeal, in its totality, Section 10 and to re-designate Sections 11 and 12 as Sections 10 and 11, respectively, of Act No. 364 of September 2, 2000, known as the “Credit Reporting Agencies Act,” for the purposes of promoting its performance through the amendment of certain provisions related to jurisdiction and implementation before administrative agencies to which its administration was delegated; the correction of drafting errors; to repeal Act No. 333 of September 2, 2000; and for other ends.

STATEMENT OF MOTIVES

The Legislature of the Commonwealth of Puerto Rico approved Act No. 364 of September 2, 2000, for the purpose of granting greater protection to consumers, offering them a local law and forum where they can resolve disputes related to credit reporting and the information contained therein.

However, after a detailed analysis of Act No. 364, *supra*, and having heard the industry’s recommendations and those of the regulator itself, we agree that it is necessary to make several changes to the Act in order to simplify and clarify the jurisdiction and powers delegated to the administrative agencies that administer the Act. Additionally, it is necessary to define the forum before which consumers must appear and the

administrative and judicial procedure to be followed to resolve a dispute. It is also necessary to correct certain drafting errors, which affect the construction and implementation of the Act.

On occasion, our citizens begin an investigation procedure in a certain reporting agency because of some mistake in their credit data. Even when it is advisable not to request credit during such period, which could cover between thirty (30) and thirty-five (35) days taking into consideration the investigative process and the remittal of the entailing results to the complainant, many people are forced to obtain a credit extension (loans, credit cards, etc.), being required to request it during the course of the investigation. When obtaining the credit report, therein appears the disputed information without indicating that the same is under investigation, which occasionally causes a later denial of the requested credit.

On the other hand, this Legislature approved Act No. 333 of September 2, 2000, which amends sub-paragraph (6) of paragraph (a) of Section 10 of Act No. 4 of October 11, 1985, as amended, known as “Financial Institutions Commissioner’s Office Act.” As expressed in the Statement of Motives of the referenced Act, the legislative houses, “consider it necessary that a consumer’s credit report reflect the greatest precision, with the financial institutions assuming a greater responsibility concerning the information given to a credit reporting agency, which could affect a client’s financial reputation.” This Legislature firmly maintains the philosophy that a consumer’s credit report should reflect the greatest precision, with the financial institutions assuming a greater responsibility concerning the information given to a credit reporting agency, which could affect a client’s financial reputation, we consider also that such position could be easily contained in a single statute in the same Act 364 of September 2, 2000,

known as “Credit Reporting Agencies Act.” In this manner, we simplify all that is related to credit reporting agencies in one law and we attain a more efficient discharge of the responsibilities by the administrative agencies concerned.

Since all the above is an undeniable reality, and considering it is the duty of the highest level of the Legislative Power of the Commonwealth to ensure the best interests of its citizens in general, this Legislature deems it appropriate to amend the present Act to grant greater protection and justice to our people, and in the same manner we also repeal Act No. 333 of September 2, 2000.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Subsections (c) and (d) are hereby amended, new subsections (d) and (l) are created, and the following subsections of Section 3 of Act No. 364 of September 2, 2000 are re-numbered to read as follows:

“Section 3.- Definitions

For the purposes of this Act, the terms “Fair Credit Reporting Act”, are adopted as defined in Section 1681a,

The following terms shall mean:

- (a) ...
- (c) Fair Credit Reporting Act - Refers to the Fair Credit Reporting Act of 1970, 15 U.S.C. §§ 6181-1681u (1996), as amended from time to time.
- (d) Credit Report- any communication, oral, written, or otherwise, provided by a credit reporting agency, which contains information about the capacity, reputation and/or credit worthiness and personal information of a consumer that is used completely, or in

part, to establish the consumer's eligibility for, among other things, obtaining credit.

- (e) Adverse Information - Refers to the information about consumers' transactions submitted to credit reporting agencies, that reflects any type of delinquency in consumers' payments, or which negatively affects their credit report.

(...)

(k) ...

- (l) Secretary - Means the Secretary of the Department of Consumer Affairs.”

Section 2.- Subsection (b) of Section 4 of Act No. 364 of September 2, 2000, is hereby amended to read as follows:

“Section 4.- Authority and Duties of the Secretary and of the Commissioner

- (a) The Secretary shall have jurisdiction for the general administration of this Act, including the provisions adopted from the “Fair Credit Reporting Act.” For the performance of his duties he shall have all the powers conferred by Act No. 5 and Act No. 170 Except:

- (1) When some information provider supervised control and regulated by the Financial Institutions Commissioner's office be a party or be involved in any controversy. In said case the Commissioner will have jurisdiction, with all the powers granted by Act No. 4 and Act No. 170 to discharge his duties.”

Section 3.- Section 6 of Act No. 364 of September 2, 2000, is hereby amended to read as follows:

“Section 6.- Obligation to Report

Every information provider shall be obligated to notify his clients, in writing, of any occasion where adverse information pertaining to the client, has been submitted, no later than thirty (30) days after said information has been submitted to the credit reporting agency.

The client shall be notified each time that adverse information is sent to the credit reporting agency; establishing that said written notification(s) may be made through letters or included in the same notices for collection. In any of said forms, the notification(s) must include information about the number of delinquent days, in addition to a warning to the consumer that in the financial institution’s collection file, the delinquency(ies) shall be noted; additionally, notice of such delinquency shall be provided to the credit reporting agencies.

Section 4.- Subsection (c) of Section 8 of Act No. 364 of September 2000 is hereby amended to read as follows:

“Section 8.- Information Providers’ Responsibility to Correct or to Eliminate Incomplete, Inexact or Erroneous Information.

A. (...)

B. (...)

C. If the truth or correctness of information submitted by an information provider to an a credit reporting agency is controverted with the information provider, by a consumer, the information provider shall not submit the information to any credit reporting agency without including a notation stating that the information has been challenged;

D. (...)”

Section 5.- Section 10 of Act No. 364 of September 2, 2000 is hereby repealed in its entirety.

Section 6.- Section 10 as well as Section 11 of Act No. 34 of September 2, 2001, is hereby amended and re-numbered to read as follows:

“Section 10.- Penalties

The Secretary or the Commissioner may impose penalties from five hundred dollars (\$500) up to a maximum of five thousand dollars (\$5,000) for each violation of the provisions of this Act or its Regulations.

Independent from the fines provided by this Act, the concurrent jurisdiction of the courts and of the Commissioner of the Secretary is established concerning any claim or dispute, any consumer being able to begin a legal action before a court with jurisdiction.”

Section 7.- Sections 11 and 12 are re-numbered as Sections 10 and 11, respectively.

Section 8.- Act No. 333 of September 2, 2000 is hereby repealed with the exception of its provisions concerning the re-numbering of the subparagraphs of Section 10 of Act No. 4 of October 11, 1985, as amended, known as the “Financial Institutions Commissioner’s Office Act.”

Section 9.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 74 (H.B. 1695) (Reconsidered) of the 5th Session of the 14th Legislature of Puerto Rico:

AN ACT to amend sub-paragraphs (c) and (d), to create a new subparagraph (d) and to renumber the following sub-paragraphs of Section 3; to amend sub-paragraph (b) of Section 4; to amend Section 6; to amend sup-paragraph (c) of Section 8; to repeal, in its totality, Section 10 and to re-designate Sections 11 and 12 as Sections 10 and 11, respectively, of Act No. 364 of September 2, 2000, known as the “Credit Reporting Agencies Act,”

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 3rd of March of 2004.

Elba Rosa Rodríguez-Fuentes
Director

