

Report Title:

Consumer Protection; Identity Theft

Description:

Allows consumers who suspect they are a victim of identity theft to place a security alert and security freeze on their credit accounts. Establishes requirements and procedures for consumer credit reporting agencies.



1 written copy of the file with an explanation of any code, including
2 any credit score used, and the key factors, as defined in section
3 487-N, if the consumer so requests that copy. The disclosure shall
4 be provided in the manner selected by the consumer, chosen from
5 among any reasonable means available to the consumer credit
6 reporting agency. The agency shall determine the applicability of
7 paragraph (1) subsection (a) of section 487-U and, where
8 applicable, the agency shall inform the consumer of the rights
9 under that section.

10 (c) All information on a consumer in the files of a consumer
11 credit reporting agency at the time of a request for inspection
12 under subsection (a) of this section, shall be available for
13 inspection, including the names, addresses and, if provided by the
14 furnisher of information, the telephone numbers identified for
15 customer service of that source of information.

16 (d) (1) The consumer credit reporting agency shall also
17 disclose the recipients of any consumer credit
18 report on the consumer which the consumer credit
19 reporting agency has furnished for:

20 (A) Employment purposes within the two-year period
21 preceding the request; or

22 (B) Any other purpose within the 12-month period
23 preceding the request.



1 (2) Disclosure of recipients of consumer credit reports
2 for purposes of this subsection shall include the
3 name of the recipient or, if applicable, the
4 fictitious business name under which the recipient
5 does business disclosed in full. The identification
6 shall also include the address and, if provided by
7 the recipient, the telephone number identified for
8 customer service for the recipient.

9 (e) The consumer credit reporting agency shall also disclose a
10 record of all inquiries received by the agency in the 12-month
11 period preceding the request that identified the consumer in
12 connection with a credit transaction whether initiated by the
13 consumer or not. This record of inquiries shall include the name,
14 address and, if provided by the recipient, the telephone number
15 identified for customer service for each recipient making an
16 inquiry.

17 (f) When any consumer credit reporting agency is subject to
18 the provisions of section 487-EE it is exempted from the
19 requirements of subsections (c), (d), and (e), only with regard to
20 the provision of the address and telephone number.

21 (g) Any consumer credit reporting agency, that provides a
22 consumer credit report to another consumer credit reporting agency
23 that procures the consumer credit report for the purpose of resale



1 and is subject to Section 487-EE, is exempted from the requirements
2 of subsections (d) and (e), only with regard to the provision of
3 the address and telephone number regarding each prospective user to
4 which the consumer credit report was sold.

5 **§487-B Consumer credit reporting agency reporting limitations.**

6 (a) A consumer credit reporting agency shall furnish a consumer
7 credit report only under the following circumstances:

- 8 (1) In response to the order of a court having
9 jurisdiction to issue an order.
- 10 (2) In accordance with the written instructions of the
11 consumer to whom it relates.
- 12 (3) To a person whom it has reason to believe:
- 13 (A) Intends to use the information in connection
14 with a credit transaction, or entering or
15 enforcing an order of a court of competent
16 jurisdiction for support, involving the
17 consumer as to whom the information is to be
18 furnished and involving the extension of
19 credit to, or review or collection of an
20 account of, the consumer;
- 21 (B) Intends to use the information for employment
22 purposes;



1 (C) Intends to use the information in connection
2 with the underwriting of insurance involving
3 the consumer, or for insurance claims
4 settlements;

5 (D) Intends to use the information in connection
6 with a determination of the consumer's
7 eligibility for a license or other benefit
8 granted by a governmental instrumentality
9 required by law to consider the applicant's
10 financial responsibility or status; or

11 (E) Otherwise has a legitimate business need for
12 the information in connection with a business
13 transaction involving the consumer.

14 (b) A consumer credit reporting agency may furnish information
15 for purposes of a credit transaction specified in subparagraph (A)
16 of paragraph (3) of subsection (a), where it is a credit
17 transaction that is not initiated by the consumer, only under the
18 circumstances specified in paragraph (1) or (2), as follows:

19 (1) The consumer authorizes the consumer credit reporting
20 agency to furnish the consumer credit report to the
21 person.

22 (2) The proposed transaction involves a firm offer of credit
23 to the consumer, the consumer credit reporting agency has



1 complied with subsection (d), and the consumer has not
2 elected pursuant to paragraph (1) of subsection (d) to
3 have the consumer's name excluded from lists of names
4 provided by the consumer credit reporting agency for
5 purposes of reporting in connection with the potential
6 issuance of firm offers of credit. A consumer credit
7 reporting agency may provide only the following
8 information pursuant to this paragraph:

9 (A) The name and address of the consumer.

10 (B) Information pertaining to a consumer that is not
11 identified or identifiable with a particular
12 consumer.

13 (c) Except as provided in paragraph (3) of subsection (a) of
14 section 487-M, a consumer credit reporting agency shall not furnish
15 to any person a record of inquiries solely resulting from credit
16 transactions that are not initiated by the consumer.

17 (d) (1) A consumer may elect to have the consumer's name and
18 address excluded from any list provided by a
19 consumer credit reporting agency pursuant to
20 paragraph (2) of subsection (b) by notifying the
21 consumer credit reporting agency, by telephone or in
22 writing, through the notification system maintained
23 by the consumer credit reporting agency pursuant to



1 subsection (e), that the consumer does not consent
2 to any use of consumer credit reports relating to
3 the consumer in connection with any transaction that
4 is not initiated by the consumer.

5 (2) An election of a consumer under paragraph (1) shall
6 be effective with respect to a consumer credit
7 reporting agency, and any affiliate of the consumer
8 credit reporting agency, on the date on which the
9 consumer notifies the consumer credit reporting
10 agency.

11 (3) An election of a consumer under paragraph (1) shall
12 terminate and be of no force or effect following
13 notice from the consumer to the consumer credit
14 reporting agency, through the system established
15 pursuant to subsection (e), that the election is no
16 longer effective.

17 (e) Each consumer credit reporting agency that furnishes a
18 pre-qualifying report pursuant to subsection (b) in connection with
19 a credit transaction not initiated by the consumer shall establish
20 and maintain a notification system, including a toll-free telephone
21 number, that permits any consumer, with appropriate identification
22 and for which the consumer credit reporting agency has a file, to
23 notify the consumer credit reporting agency of the consumer's



1 election to have the consumer's name removed from any list of names
2 and addresses provided by the consumer credit reporting agency, and
3 by any affiliated consumer credit reporting agency, pursuant to
4 paragraph (2) of subsection (b). Compliance with the requirements
5 of this subsection by a consumer credit reporting agency shall
6 constitute compliance with those requirements by any affiliate of
7 that consumer credit reporting agency.

8 (f) Each consumer credit reporting agency that compiles and
9 maintains files on consumers on a nationwide basis shall establish
10 and maintain a notification system under paragraph (1) of
11 subsection (e) jointly with its affiliated consumer credit
12 reporting agencies.

13 **§487-C Consumer credit report security alert.** (a) A consumer
14 may elect to place a security alert in the consumer's credit report
15 by making a request in writing or by telephone to a consumer credit
16 reporting agency. "Security alert" means a notice placed in a
17 consumer's credit report, at the request of the consumer, that
18 notifies a recipient of the credit report that the consumer's
19 identity may have been used without the consumer's consent to
20 fraudulently obtain goods or services in the consumer's name.

21 (b) A consumer credit reporting agency shall notify each
22 person requesting consumer credit information with respect to a
23 consumer of the existence of a security alert in the credit report



1 of that consumer, regardless of whether a full credit report,
2 credit score, or summary report is requested.

3 (c) Each consumer credit reporting agency shall maintain a
4 toll-free telephone number to accept security alert requests from
5 consumers 24 hours a day, 7 days a week.

6 (d) The toll-free telephone number shall be included in any
7 written disclosure by a consumer credit reporting agency to any
8 consumer pursuant to section 487-M and shall be printed in a clear
9 and conspicuous manner.

10 (e) A consumer credit reporting agency shall place a security
11 alert on a consumer's credit report no later than 3 business days
12 after receiving a request from the consumer.

13 (f) The security alert shall remain in place for at least 180
14 days, and a consumer shall have the right to request a renewal of
15 the security alert.

16 (g) Any person who uses a consumer credit report in connection
17 with the approval of credit based on an application for an
18 extension of credit, or with the purchase, lease, or rental of
19 goods or non-credit-related services and who receives notification
20 of a security alert pursuant to subsection (a) may not lend money,
21 extend credit, or complete the purchase, lease, or rental of goods
22 or non-credit-related services without taking reasonable steps to
23 verify the consumer's identity, in order to ensure that the



1 application for an extension of credit or for the purchase, lease,
2 or rental of goods or non-credit-related services is not the result
3 of identity theft. If the consumer has placed a statement with the
4 security alert in the consumer's file requesting that identity be
5 verified by calling a specified telephone number, any person who
6 receives that statement with the security alert in a consumer's
7 file pursuant to subsection (a) shall take reasonable steps to
8 verify the identity of the consumer by contacting the consumer
9 using the specified telephone number prior to lending money,
10 extending credit, or completing the purchase, lease, or rental of
11 goods or non-credit-related services. If a person uses a consumer
12 credit report to facilitate the extension of credit or for another
13 permissible purpose on behalf of a subsidiary, affiliate, agent,
14 assignee, or prospective assignee, that person may verify a
15 consumer's identity under this section in lieu of the subsidiary,
16 affiliate, agent, assignee, or prospective assignee.

17 (h) For purposes of this section, "extension of credit" does
18 not include an increase in the dollar limit of an existing open-end
19 credit plan or any change to, or review of, an existing credit
20 account.

21 (i) If reasonable steps are taken to verify the identity of
22 the consumer pursuant to subsection (b) of section 487-BB, those
23 steps constitute compliance with the requirements of this section,



1 except that if a consumer has placed a statement including a
2 telephone number with the security alert in the consumer's file,
3 the consumer's identity shall be verified by contacting the
4 consumer using that telephone number as specified pursuant to
5 subsection (g).

6 (j) A consumer credit reporting agency shall notify each
7 consumer who has requested that a security alert be placed on the
8 consumer's consumer credit report of the expiration date of the
9 alert.

10 (k) Notwithstanding section 487-W, any consumer credit
11 reporting agency that recklessly, willfully, or intentionally fails
12 to place a security alert pursuant to this section shall be liable
13 for a penalty in an amount of up to two thousand five hundred
14 dollars (\$2,500) and reasonable attorneys' fees.

15 **§487-D Consumer credit report security freeze.** (a) A consumer
16 may elect to place a security freeze on the consumer's credit
17 report by making a request in writing by certified mail to a
18 consumer credit reporting agency. "Security freeze" means a notice
19 placed in a consumer's credit report, at the request of the
20 consumer and subject to certain exceptions, that prohibits the
21 consumer credit reporting agency from releasing the consumer's
22 credit report or any information from it without the express
23 authorization of the consumer. If a security freeze is in place,



1 information from a consumer's credit report may not be released to
2 a third party without prior express authorization from the
3 consumer. This subsection does not prevent a consumer credit
4 reporting agency from advising a third party that a security freeze
5 is in effect with respect to the consumer's credit report.

6 (b) A consumer credit reporting agency shall place a security
7 freeze on a consumer's credit report no later than 3 business days
8 after receiving a written request from the consumer.

9 (c) The consumer credit reporting agency shall send a written
10 confirmation of the security freeze to the consumer within 10
11 business days and shall provide the consumer with a unique personal
12 identification number or password to be used by the consumer when
13 providing authorization for the release of the consumer's credit
14 for a specific party or period of time.

15 (d) If the consumer wishes to allow the consumer's credit
16 report to be accessed for a specific party or period of time while
17 a freeze is in place, he or she shall contact the consumer credit
18 reporting agency, request that the freeze be temporarily lifted,
19 and provide the following:

20 (1) Proper identification, as defined in subsection (c) of
21 section 487-M.



1 (2) The unique personal identification number or password
2 provided by the credit reporting agency pursuant to
3 subsection (c).

4 (3) The proper information regarding the third party who is
5 to receive the credit report or the time period for which
6 the report shall be available to users of the credit
7 report.

8 (e) A consumer credit reporting agency that receives a request
9 from a consumer to temporarily lift a freeze on a credit report
10 pursuant to subsection (d), shall comply with the request no later
11 than 3 business days after receiving the request.

12 (f) A consumer credit reporting agency may develop procedures
13 involving the use of telephone, fax, the Internet, or other
14 electronic media to receive and process a request from a consumer
15 to temporarily lift a freeze on a credit report pursuant to
16 subsection (d) in an expedited manner.

17 (g) A consumer credit reporting agency shall remove or
18 temporarily lift a freeze placed on a consumer's credit report only
19 in the following cases:

20 (1) Upon consumer request, pursuant to subsection (d) or (j).

21 (2) If the consumer's credit report was frozen due to a
22 material misrepresentation of fact by the consumer or the
23 person who made the request. If a consumer credit



1 reporting agency intends to remove a freeze upon a
2 consumer's credit report pursuant to this paragraph, the
3 consumer credit reporting agency shall notify the
4 consumer in writing prior to removing the freeze on the
5 consumer's credit report.

6 (h) If a third party requests access to a consumer credit
7 report on which a security freeze is in effect, and this request is
8 in connection with an application for credit or any other use, and
9 the consumer does not allow the consumer's credit report to be
10 accessed for that specific party or period of time, the third party
11 may treat the application as incomplete.

12 (i) If a consumer requests a security freeze, the consumer
13 credit reporting agency shall disclose the process of placing and
14 temporarily lifting a freeze, and the process for allowing access
15 to information from the consumer's credit report for a specific
16 party or period of time while the freeze is in place.

17 (j) A security freeze shall remain in place until the consumer
18 requests that the security freeze be removed. A consumer credit
19 reporting agency shall remove a security freeze within 3 business
20 days of receiving a request for removal from the consumer, who
21 provides both of the following:

- 22 (1) Proper identification, as defined in subsection (c) of
23 section 487-M.



1 (2) The unique personal identification number or password
2 provided by the credit reporting agency pursuant to
3 subsection (c).

4 (k) A consumer credit reporting agency shall require proper
5 identification, as defined in subsection (c) of section 487-M, of
6 the person making a request to place or remove a security freeze.

7 (1) The provisions of this section do not apply to the use of
8 a consumer credit report by any of the following:

9 (1) A person or entity, or a subsidiary, affiliate, or agent
10 of that person or entity, or an assignee of a financial
11 obligation owing by the consumer to that person or
12 entity, or a prospective assignee of a financial
13 obligation owing by the consumer to that person or entity
14 in conjunction with the proposed purchase of the
15 financial obligation, with which the consumer has or had
16 prior to assignment an account or contract, including a
17 demand deposit account, or to whom the consumer issued a
18 negotiable instrument, for the purposes of reviewing the
19 account or collecting the financial obligation owing for
20 the account, contract, or negotiable instrument. For
21 purposes of this paragraph, "reviewing the account"
22 includes activities related to account maintenance,



- 1 monitoring, credit line increases, and account upgrades
2 and enhancements.
- 3 (2) A subsidiary, affiliate, agent, assignee, or prospective
4 assignee of a person to whom access has been granted
5 under this section for purposes of facilitating the
6 extension of credit or other permissible use.
- 7 (3) Any state or local agency, law enforcement agency, trial
8 court, or private collection agency acting pursuant to a
9 court order, warrant, or subpoena.
- 10 (4) A child support agency acting pursuant Title 42 of the
11 United States Code.
- 12 (5) The department of human services or its agents or
13 assigns, acting to investigate Medicare fraud.
- 14 (6) The department of taxation or its agents or assigns,
15 acting to investigate or collect delinquent taxes or
16 unpaid court orders or to fulfill any of its other
17 statutory responsibilities.
- 18 (7) The use of credit information for the purposes of
19 prescreening as provided for by the Federal Fair Credit
20 Reporting Act.
- 21 (8) Any person or entity administering a credit file
22 monitoring subscription service to which the consumer has
23 subscribed.



1 (9) Any person or entity for the purpose of providing a
2 consumer with a copy of the consumer's credit report upon
3 the consumer's request.

4 (m) This act does not prevent a consumer credit reporting
5 agency from charging a fee of no more than ten dollars (\$10) to a
6 consumer for each freeze, removal of the freeze, or temporary lift
7 of the freeze for a period of time, or a fee of no more than twelve
8 dollars (\$12) for a temporary lift of a freeze for a specific
9 party, regarding access to a consumer credit report, except that a
10 consumer credit reporting agency may not charge a fee to a victim
11 of identity theft who has submitted a valid police report that
12 alleges a violation of section 708-839.6, 708-839.7, and 708-839.8
13 of the Penal Code.

14 **§487-E Consumer credit report security freeze change notice.**

15 (a) If a security freeze is in place, a consumer credit reporting
16 agency shall not change any of the following official information
17 in a consumer credit report without sending a written confirmation
18 of the change to the consumer within 15 days of the change being
19 posted to the consumer's file: name, date of birth, social security
20 number, and address. Written confirmation is not required for
21 technical modifications of a consumer's official information,
22 including name and street abbreviations, complete spellings, or
23 transposition of numbers or letters. In the case of an address



1 change, the written confirmation shall be sent to both the new
2 address and to the former address.

3 (b) If a consumer has placed a security alert, a consumer
4 credit reporting agency shall provide the consumer, upon request,
5 with a free copy of the consumer's credit report at the time the
6 180-day security alert period expires.

7 **§487-F Consumer credit reporting agency exceptions.** The
8 provisions of sections 487-C, 487-D, and 487-E do not apply to a
9 consumer credit reporting agency that acts only as a reseller of
10 credit information pursuant to section 487-EE by assembling and
11 merging information contained in the data base of another consumer
12 credit reporting agency or multiple consumer credit reporting
13 agencies, and does not maintain a permanent data base of credit
14 information from which new consumer credit reports are produced.
15 However, a consumer credit reporting agency acting pursuant to
16 section 487-EE shall honor any security freeze placed on a consumer
17 credit report by another consumer credit reporting agency.

18 **§487-G.** The following entities are not required to place in a
19 credit report either a security alert, pursuant to section 487-C,
20 or a security freeze, pursuant to section 487-D:

21 (a) A check services or fraud prevention services company,
22 which issues reports on incidents of fraud or authorizations for



1 the purpose of approving or processing negotiable instruments,
2 electronic funds transfers, or similar methods of payments.

3 (b) A deposit account information service company, which
4 issues reports regarding account closures due to fraud, substantial
5 overdrafts, ATM abuse, or similar negative information regarding a
6 consumer, to inquiring banks or other financial institutions for
7 use only in reviewing a consumer request for a deposit account at
8 the inquiring bank or financial institution.

9 SECTION 3. Chapter 487, Hawaii Revised Statutes, is amended
10 by adding a new part to be appropriately designated and to read as
11 follows:

12 "PART

13 **§487-H Consumer credit report; dissemination of consumer**
14 **information.** A consumer may elect that the consumer's name shall be
15 removed from any list that a consumer credit reporting agency
16 furnishes for credit card solicitations, by notifying the consumer
17 credit reporting agency, by telephone or in writing, pursuant to
18 the notification system maintained by the consumer credit reporting
19 agency pursuant to subsection (d) of section 487-B. The election
20 shall be effective for a minimum of two years, unless otherwise
21 specified by the consumer.

22 **§487-I. Consumer credit report; dissemination of consumer**
23 **information applicability to government agency.** Notwithstanding the



1 provisions of section 487-B, a consumer credit reporting agency may
2 furnish to a governmental agency a consumer's name, address, former
3 address, places of employment, or former places of employment.

4 **§487-J Consumer credit report; dissemination of consumer**
5 **information; limitation on information.** (a) No consumer credit
6 reporting agency shall make any consumer credit report containing
7 any of the following items of information:

- 8 (1) Bankruptcies that, from the date of adjudication, predate
9 the report by more than 10 years.
- 10 (2) Suits and judgments that, from the date of entry or
11 renewal, antedate the report by more than 7 years or
12 until the governing statute of limitations has expired,
13 whichever is the longer period.
- 14 (3) Unlawful detainer actions, unless the lessor was the
15 prevailing party. For purposes of this paragraph, the
16 lessor shall be deemed to be the prevailing party only
17 if:
- 18 (A) Final judgment was awarded to the lessor:
- 19 (i) Upon entry of the tenant's default,
20 (ii) Upon the granting of the lessor's motion
21 for summary judgment, or
22 (iii) Following trial, or



1 (B) The action was resolved by a written settlement
2 agreement between the parties that states that the
3 unlawful detainer action may be reported. In any
4 other instance in which the action is resolved by
5 settlement agreement, the lessor shall not be deemed
6 to be the prevailing party for purposes of this
7 paragraph.

8 (4) Paid tax liens that, from the date of payment, antedate
9 the report by more than 7 years.

10 (5) Accounts placed for collection or charged to profit and
11 loss that antedate the report by more than 7 years.

12 (6) Records of arrest, indictment, information, misdemeanor
13 complaint, or conviction of a crime that, from the date
14 of disposition, release, or parole, antedate the report
15 by more than 7 years. These items of information shall
16 no longer be reported if at any time it is learned that
17 in the case of a conviction a full pardon has been
18 granted, or if in the case of an arrest, indictment,
19 information, or misdemeanor complaint a conviction did
20 not result.

21 (7) Any other adverse information that antedates the report
22 by more than 7 years.



1 (b) The 7-year period specified in paragraphs (5) and (7) of
2 subsection (a) shall commence to run, with respect to any account
3 that is placed for collection (internally or by referral to a third
4 party, whichever is earlier), charged to profit and loss, or
5 subjected to any similar action, upon the expiration of the 180-day
6 period beginning on the date of the commencement of the delinquency
7 that immediately preceded the collection activity, charge to profit
8 and loss, or similar action. Where more than one of these actions
9 is taken with respect to a particular account, the 7-year period
10 specified in paragraphs (5) and (7) shall commence concurrently for
11 all these actions on the date of the first of these actions.

12 (c) Any consumer credit reporting agency that furnishes a
13 consumer credit report containing information regarding any case
14 involving a consumer arising under the bankruptcy provisions of
15 Title 11 of the United States Code shall include an identification
16 of the chapter of Title 11 of the United States Code under which
17 the case arose if that can be ascertained from what was provided to
18 the consumer credit reporting agency by the source of the
19 information.

20 (d) A consumer credit report shall not include any adverse
21 information concerning a consumer predating the report by more than
22 10 years or that otherwise is prohibited from being included in a
23 consumer credit report.



1 (e) If a consumer credit reporting agency is notified by a
2 furnisher of credit information that an open-end credit account of
3 the consumer has been closed by the consumer, any consumer credit
4 report thereafter issued by the consumer credit reporting agency
5 with respect to that consumer, and that includes information
6 respecting that account, shall indicate the fact that the consumer
7 has closed the account. For purposes of this subsection, "open-end
8 credit account" does not include any demand deposit account, such
9 as a checking account, money market account, or share draft
10 account.

11 (f) Consumer credit reporting agencies shall not include
12 medical information in their files on consumers or furnish medical
13 information for employment, insurance, or credit purposes in a
14 consumer credit report without the consent of the consumer.

15 (g) A consumer credit reporting agency shall include in any
16 consumer credit report information, if any, on the failure of the
17 consumer to pay overdue child support, where the information was
18 provided to the consumer credit reporting agency and verified by
19 another federal, state, or local governmental agency.

20 **§487-K Consumer credit report; dissemination of consumer**
21 **information; information not applicable.** No consumer credit
22 reporting agency shall make any consumer credit report with respect
23 to a document which acts as a lien or other encumbrance, including,



1 but not limited to, a notice of lis pendens, but which has together
2 with it a court order striking or releasing the lien or other
3 encumbrance.

4 **§487-L Consumer credit reporting agency; dissemination of**
5 **consumer information; safeguard procedures.** (a) Every consumer
6 credit reporting agency shall maintain reasonable procedures
7 designed to avoid violations of section 487-J and to limit
8 furnishing of consumer credit reports to the purposes listed under
9 section 487-B. These procedures shall require that prospective
10 users of the information identify themselves, certify the purposes
11 for which the information is sought and certify that the
12 information will be used for no other purposes. From the effective
13 date of this act the consumer credit reporting agency shall keep a
14 record of the purposes as stated by the user. Every consumer
15 credit reporting agency shall make a reasonable effort to verify
16 the identity of a new prospective user and the uses certified by
17 the prospective user prior to furnishing the user a consumer
18 report. No consumer credit reporting agency may furnish a consumer
19 credit report to any person unless the consumer credit reporting
20 agency has reasonable grounds for believing that the consumer
21 credit report will be used by the person for the purposes listed in
22 section 487-B. A consumer credit reporting agency does not have
23 reasonable grounds for believing that a consumer credit report will



1 be used by the person for the purposes listed in section 487-B
2 unless all of the following requirements are met:

3 (1) If the prospective user is a retail seller and intends to
4 issue credit to a consumer who appears in person on the
5 basis of an application for credit submitted in person,
6 the consumer credit reporting agency shall, with a
7 reasonable degree of certainty, match at least 3
8 categories of identifying information within the file
9 maintained by the consumer credit reporting agency on the
10 consumer with the information provided to the consumer
11 credit reporting agency by the retail seller. The
12 categories of identifying information may include, but
13 are not limited to, first and last name, month and date
14 of birth, driver's license number, place of employment,
15 current residence address, previous residence address, or
16 social security number. The categories of information
17 shall not include mother's maiden name.

18 (2) If the prospective user is a retail seller and intends to
19 issue credit to a consumer who appears in person on the
20 basis of an application for credit submitted in person,
21 the retail seller certifies, in writing, to the consumer
22 credit reporting agency that it instructs its employees
23 and agents to inspect a photo identification of the



1 consumer at the time the application was submitted in
2 person. This paragraph does not apply to an application
3 for credit submitted by mail.

4 (3) If the prospective user intends to extend credit by mail
5 pursuant to a solicitation by mail, the extension of
6 credit shall be mailed to the same address as on the
7 solicitation unless the prospective user verifies any
8 address change by, among other methods, contacting the
9 person to whom the extension of credit will be mailed.
10 Such contact should be followed by notice to the person
11 to whom credit is extended at the same address as on the
12 solicitation as well as any updated address.

13 (b) Whenever a consumer credit reporting agency prepares a
14 consumer credit report, it shall follow reasonable procedures to
15 assure maximum possible accuracy of the information concerning the
16 individual about whom the report relates. These reasonable
17 procedures shall include, but not be limited to, permanent
18 retention by the consumer credit reporting agency in the consumer's
19 file, or a separately individualized file, of that portion of the
20 data in the file that is used by the consumer credit reporting
21 agency to identify the individual consumer pursuant to paragraph
22 (1) of subsection (a). This permanently retained data shall be
23 available for use in either a reinvestigation pursuant to



1 subsection (a) of section 487-Q, an investigation where the
2 consumer has filed a police report pursuant to subsection (k) of
3 section 487-Q, or a restoration of a file involving the consumer.
4 If the permanently retained identifying information is retained in
5 a consumer's file, it shall be clearly identified in the file in
6 order for an individual who reviews the file to easily distinguish
7 between the permanently stored identifying information and any
8 other identifying information that may be a part of the file. This
9 retention requirement shall not apply to data that is reported in
10 error, that is obsolete, or that is found to be inaccurate through
11 the results of a reinvestigation initiated by a consumer pursuant
12 to subsection (a) of section 487-Q.

13 (c) No consumer credit reporting agency may prohibit any user
14 of any consumer credit report furnished by the consumer credit
15 reporting agency from disclosing the contents of the consumer
16 credit report to the consumer who is the subject of the report if
17 adverse action may be taken by the user based in whole or in part
18 on the consumer credit report. The act of disclosure to the
19 consumer by the user of the contents of a consumer credit report
20 shall not be a basis for liability of the consumer credit reporting
21 agency or the user under section 487-GG.

22 (d) A consumer credit reporting agency shall provide a written
23 notice to any person who regularly and in the ordinary course of



1 business, supplies information to the consumer credit reporting
2 agency concerning any consumer or to whom a consumer credit report
3 is provided by the consumer credit reporting agency. The notice
4 shall specify the person's obligations under this chapter. Copies
5 of the appropriate code sections shall satisfy the requirement of
6 this subsection.

7 **§487-M Consumer credit reporting agency; dissemination of**
8 **consumer information; times of operation; consumer notice required.**

9 (a) A consumer credit reporting agency shall supply files and
10 information required under section 487-A during normal business
11 hours and on reasonable notice. In addition to the disclosure
12 provided by this chapter and any disclosures received by the
13 consumer, the consumer has the right to request and receive all of
14 the following:

15 (1) Either a decoded written version of the file or a written
16 copy of the file, including all information in the file
17 at the time of the request, with an explanation of any
18 code used.

19 (2) A credit score for the consumer, the key factors, and the
20 related information, as defined in and required by
21 section 487-N.

22 (3) A record of all inquiries, by recipient, which result in
23 the provision of information concerning the consumer in



1 connection with a credit transaction that is not
2 initiated by the consumer and which were received by the
3 consumer credit reporting agency in the 12-month period
4 immediately preceding the request for disclosure under
5 this section.

6 (4) The recipients, including end users specified in section
7 487-EE, of any consumer credit report on the consumer
8 which the consumer credit reporting agency has furnished:

9 (A) For employment purposes within the two-year period
10 preceding the request.

11 (B) For any other purpose within the 12-month period
12 preceding the request.

13 Identification for purposes of this paragraph shall include the
14 name of the recipient or, if applicable, the fictitious business
15 name under which the recipient does business disclosed in full. If
16 requested by the consumer, the identification shall also include
17 the address of the recipient.

18 (b) Files maintained on a consumer shall be disclosed promptly
19 as follows:

20 (1) In person, at the location where the consumer credit
21 reporting agency maintains the trained personnel required
22 by subsection (d), if he or she appears in person and
23 furnishes proper identification.



- 1 (2) By mail, if the consumer makes a written request with
2 proper identification for a copy of the file or a decoded
3 written version of that file to be sent to the consumer
4 at a specified address. A disclosure pursuant to this
5 paragraph shall be deposited in the United States mail,
6 postage prepaid, within 5 business days after the
7 consumer's written request for the disclosure is received
8 by the consumer credit reporting agency. Consumer credit
9 reporting agencies complying with requests for mailings
10 under this section shall not be liable for disclosures to
11 third parties caused by mishandling of mail after the
12 mailings leave the consumer credit reporting agencies.
- 13 (3) A summary of all information contained in files on a
14 consumer and required to be provided by section 487-A
15 shall be provided by telephone, if the consumer has made
16 a written request, with proper identification for
17 telephone disclosure.
- 18 (4) Information in a consumer's file required to be provided
19 in writing under this section may also be disclosed in
20 another form if authorized by the consumer and if
21 available from the consumer credit reporting agency. For
22 this purpose a consumer may request disclosure in person
23 pursuant to section 487-A, by telephone upon disclosure



1 of proper identification by the consumer, by electronic
2 means if available from the consumer credit reporting
3 agency, or by any other reasonable means that is
4 available from the consumer credit reporting agency.

5 (c) "Proper identification," as used in this chapter means
6 that information generally deemed sufficient to identify a person.
7 Only if the consumer is unable to be reasonably identified with the
8 information described above, may a consumer credit reporting agency
9 require additional information concerning the consumer's employment
10 and personal or family history in order to verify the consumer's
11 identity.

12 (d) The consumer credit reporting agency shall provide trained
13 personnel to explain to the consumer any information furnished to
14 the consumer pursuant to section 487-A.

15 (e) The consumer shall be permitted to be accompanied by one
16 other person of the consumer's choosing, who shall furnish
17 reasonable identification. A consumer credit reporting agency may
18 require the consumer to furnish a written statement granting
19 permission to the consumer credit reporting agency to discuss the
20 consumer's file in that person's presence.

21 (f) Any written disclosure by a consumer credit reporting
22 agency to any consumer pursuant to this section shall include a
23 written summary of all rights the consumer has under this chapter



1 and in the case of a consumer credit reporting agency which
2 compiles and maintains consumer credit reports on a nationwide
3 basis, a toll-free telephone number which the consumer can use to
4 communicate with the consumer credit reporting agency. The written
5 summary of rights required under this subsection is sufficient if
6 in substantially the following form:

7 YOU HAVE A RIGHT TO OBTAIN A COPY OF YOUR CREDIT FILE FROM
8 A CONSUMER CREDIT REPORTING AGENCY. YOU MAY BE CHARGED A
9 REASONABLE FEE NOT EXCEEDING EIGHT DOLLARS (\$8). THERE IS NO
10 FEE, HOWEVER, IF YOU HAVE BEEN TURNED DOWN FOR CREDIT,
11 EMPLOYMENT, INSURANCE, OR A RENTAL DWELLING BECAUSE OF
12 INFORMATION IN YOUR CREDIT REPORT WITHIN THE PRECEDING 60 DAYS.
13 THE CONSUMER CREDIT REPORTING AGENCY MUST PROVIDE SOMEONE TO
14 HELP YOU INTERPRET THE INFORMATION IN YOUR CREDIT FILE.

15 YOU HAVE A RIGHT TO DISPUTE INACCURATE INFORMATION BY
16 CONTACTING THE CONSUMER CREDIT REPORTING AGENCY DIRECTLY.
17 HOWEVER, NEITHER YOU NOR ANY CREDIT REPAIR COMPANY OR CREDIT
18 SERVICE ORGANIZATION HAS THE RIGHT TO HAVE ACCURATE, CURRENT,
19 AND VERIFIABLE INFORMATION REMOVED FROM YOUR CREDIT REPORT.
20 UNDER THE FEDERAL FAIR CREDIT REPORTING ACT, THE CONSUMER
21 CREDIT REPORTING AGENCY MUST REMOVE ACCURATE, NEGATIVE
22 INFORMATION FROM YOUR REPORT ONLY IF IT IS OVER 7 YEARS OLD.
23 BANKRUPTCY INFORMATION CAN BE REPORTED FOR 10 YEARS.



1 IF YOU HAVE NOTIFIED A CONSUMER CREDIT REPORTING AGENCY
2 IN WRITING THAT YOU DISPUTE THE ACCURACY OF INFORMATION IN YOUR
3 FILE, THE CONSUMER CREDIT REPORTING AGENCY MUST THEN, WITHIN
4 30 BUSINESS DAYS, REINVESTIGATE AND MODIFY OR REMOVE
5 INACCURATE INFORMATION. THE CONSUMER CREDIT REPORTING AGENCY
6 MAY NOT CHARGE A FEE FOR THIS SERVICE. ANY PERTINENT
7 INFORMATION AND COPIES OF ALL DOCUMENTS YOU HAVE CONCERNING AN
8 ERROR SHOULD BE GIVEN TO THE CONSUMER CREDIT REPORTING AGENCY.

9 IF REINVESTIGATION DOES NOT RESOLVE THE DISPUTE TO YOUR
10 SATISFACTION, YOU MAY SEND A BRIEF STATEMENT TO THE CONSUMER
11 CREDIT REPORTING AGENCY TO KEEP IN YOUR FILE, EXPLAINING WHY
12 YOU THINK THE RECORD IS INACCURATE. THE CONSUMER CREDIT
13 REPORTING AGENCY MUST INCLUDE YOUR STATEMENT ABOUT DISPUTED
14 INFORMATION IN A REPORT IT ISSUES ABOUT YOU.

15 YOU HAVE A RIGHT TO RECEIVE A RECORD OF ALL INQUIRIES
16 RELATING TO A CREDIT TRANSACTION INITIATED IN 12 MONTHS
17 PRECEDING YOUR REQUEST. THIS RECORD SHALL INCLUDE THE
18 RECIPIENTS OF ANY CONSUMER CREDIT REPORT.

19 YOU MAY REQUEST IN WRITING THAT THE INFORMATION CONTAINED
20 IN YOUR FILE NOT BE PROVIDED TO A THIRD PARTY FOR MARKETING
21 PURPOSES.

22 YOU HAVE A RIGHT TO PLACE A "SECURITY ALERT" IN YOUR
23 CREDIT REPORT, WHICH WILL WARN ANYONE WHO RECEIVES INFORMATION



1 IN YOUR CREDIT REPORT THAT YOUR IDENTITY MAY HAVE BEEN USED
2 WITHOUT YOUR CONSENT. RECIPIENTS OF YOUR CREDIT REPORT ARE
3 REQUIRED TO TAKE REASONABLE STEPS, INCLUDING CONTACTING YOU AT
4 THE TELEPHONE NUMBER YOU MAY PROVIDE WITH YOUR SECURITY ALERT,
5 TO VERIFY YOUR IDENTITY PRIOR TO LENDING MONEY, EXTENDING
6 CREDIT, OR COMPLETING THE PURCHASE, LEASE, OR RENTAL OF GOODS
7 OR SERVICES. THE SECURITY ALERT MAY PREVENT CREDIT, LOANS,
8 AND SERVICES FROM BEING APPROVED IN YOUR NAME WITHOUT YOUR
9 CONSENT. HOWEVER, YOU SHOULD BE AWARE THAT TAKING ADVANTAGE
10 OF THIS RIGHT MAY DELAY OR INTERFERE WITH THE TIMELY APPROVAL OF
11 ANY SUBSEQUENT REQUEST OR APPLICATION YOU MAKE REGARDING A NEW
12 LOAN, CREDIT, MORTGAGE, INSURANCE, RENTAL HOUSING,
13 EMPLOYMENT, INVESTMENT, LICENSE, CELLULAR PHONE, UTILITIES,
14 DIGITAL SIGNATURE, INTERNET CREDIT CARD TRANSACTION, OR OTHER
15 SERVICES, INCLUDING AN EXTENSION OF CREDIT AT POINT OF SALE.
16 IF YOU PLACE A SECURITY ALERT ON YOUR CREDIT REPORT, YOU HAVE A
17 RIGHT TO OBTAIN A FREE COPY OF YOUR CREDIT REPORT AT THE TIME
18 THE 180-DAY SECURITY ALERT PERIOD EXPIRES. A SECURITY ALERT
19 MAY BE REQUESTED BY CALLING THE FOLLOWING TOLL-FREE TELEPHONE
20 NUMBER: (INSERT APPLICABLE TOLL-FREE TELEPHONE NUMBER).

21 YOU HAVE A RIGHT TO PLACE A "SECURITY FREEZE" ON YOUR
22 CREDIT REPORT, WHICH WILL PROHIBIT A CONSUMER CREDIT REPORTING
23 AGENCY FROM RELEASING ANY INFORMATION IN YOUR CREDIT REPORT



1 WITHOUT YOUR EXPRESS AUTHORIZATION. A SECURITY FREEZE MUST BE
2 REQUESTED IN WRITING BY CERTIFIED MAIL. THE SECURITY FREEZE IS
3 DESIGNED TO PREVENT CREDIT, LOANS, AND SERVICES FROM BEING
4 APPROVED IN YOUR NAME WITHOUT YOUR CONSENT. HOWEVER, YOU
5 SHOULD BE AWARE THAT USING A SECURITY FREEZE TO TAKE CONTROL
6 OVER WHO GETS ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION
7 IN YOUR CREDIT REPORT MAY DELAY, INTERFERE WITH, OR PROHIBIT
8 THE TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION YOU
9 MAKE REGARDING A NEW LOAN, CREDIT, MORTGAGE, INSURANCE,
10 GOVERNMENT SERVICES OR PAYMENTS, RENTAL HOUSING, EMPLOYMENT,
11 INVESTMENT, LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL
12 SIGNATURE, INTERNET CREDIT CARD TRANSACTION, OR OTHER
13 SERVICES, INCLUDING AN EXTENSION OF CREDIT AT POINT OF SALE.
14 WHEN YOU PLACE A SECURITY FREEZE ON YOUR CREDIT REPORT, YOU
15 WILL BE PROVIDED A PERSONAL IDENTIFICATION NUMBER OR PASSWORD TO
16 USE IF YOU CHOOSE TO REMOVE THE FREEZE ON YOUR CREDIT REPORT OR
17 AUTHORIZE THE RELEASE OF YOUR CREDIT REPORT FOR A SPECIFIC PARTY
18 OR PERIOD OF TIME AFTER THE FREEZE IS IN PLACE. TO PROVIDE
19 THAT AUTHORIZATION YOU MUST CONTACT THE CONSUMER CREDIT
20 REPORTING AGENCY AND PROVIDE ALL OF THE FOLLOWING:

21 (1) THE PERSONAL IDENTIFICATION NUMBER OR PASSWORD.

22 (2) PROPER IDENTIFICATION TO VERIFY YOUR IDENTITY.



1 (3) THE PROPER INFORMATION REGARDING THE THIRD PARTY WHO
2 IS TO RECEIVE THE CREDIT REPORT OR THE PERIOD OF TIME
3 FOR WHICH THE REPORT SHALL BE AVAILABLE.

4 A CONSUMER CREDIT REPORTING AGENCY MUST AUTHORIZE THE RELEASE
5 OF YOUR CREDIT REPORT NO LATER THAN 3 BUSINESS DAYS AFTER
6 RECEIVING THE ABOVE INFORMATION. A SECURITY FREEZE DOES NOT
7 APPLY TO A PERSON OR ENTITY, OR ITS AFFILIATES, OR COLLECTION
8 AGENCIES ACTING ON BEHALF OF THE PERSON OR ENTITY, WITH WHICH
9 YOU HAVE AN EXISTING ACCOUNT, THAT REQUESTS INFORMATION IN YOUR
10 CREDIT REPORT FOR THE PURPOSES OF REVIEWING OR COLLECTING THE
11 ACCOUNT. REVIEWING THE ACCOUNT INCLUDES ACTIVITIES RELATED TO
12 ACCOUNT MAINTENANCE, MONITORING, CREDIT LINE INCREASES, AND
13 ACCOUNT UPGRADES AND ENHANCEMENTS.

14 YOU HAVE A RIGHT TO BRING CIVIL ACTION AGAINST ANYONE,
15 INCLUDING A CONSUMER CREDIT REPORTING AGENCY, WHO IMPROPERLY
16 OBTAINS ACCESS TO A FILE, KNOWINGLY OR WILLFULLY MISUSES FILE
17 DATA, OR FAILS TO CORRECT INACCURATE FILE DATA.

18 IF YOU ARE A VICTIM OF IDENTITY THEFT AND PROVIDE TO A
19 CONSUMER CREDIT REPORTING AGENCY A COPY OF A VALID POLICE REPORT
20 DESCRIBING YOUR CIRCUMSTANCES, THE FOLLOWING SHALL APPLY:

21 (1) YOU HAVE A RIGHT TO HAVE ANY INFORMATION YOU LIST ON
22 THE REPORT AS ALLEGEDLY FRAUDULENT PROMPTLY BLOCKED



1 SO THAT THE INFORMATION CANNOT BE REPORTED. THE
2 INFORMATION WILL BE UNBLOCKED ONLY IF:

3 (A) THE INFORMATION YOU PROVIDE IS A MATERIAL
4 MISREPRESENTATION OF THE FACTS,

5 (B) YOU AGREE THAT THE INFORMATION IS BLOCKED IN
6 ERROR, OR

7 (C) YOU KNOWINGLY OBTAINED POSSESSION OF GOODS,
8 SERVICES, OR MONEYS AS RESULT OF THE BLOCKED
9 TRANSACTIONS.

10 IF BLOCKED INFORMATION IS UNBLOCKED YOU WILL BE PROMPTLY
11 NOTIFIED.

12 (2) BEGINNING JULY 1, 2006, YOU HAVE A RIGHT TO
13 RECEIVE, FREE OF CHARGE AND UPON REQUEST, ONE COPY
14 OF YOUR CREDIT REPORT EACH MONTH FOR UP TO 12
15 CONSECUTIVE MONTHS.

16 **§487-N Consumer credit reporting agency; dissemination of**
17 **consumer information; consumer credit score.** (a) Upon the
18 consumer's request for a credit score, a consumer credit
19 reporting agency shall supply to a consumer a notice which
20 shall include the information described in paragraphs (1) to
21 (5), and a statement indicating that the information and credit
22 scoring model may be different than the credit score that may
23 be used by the lender. However, if the consumer requests the



1 credit file and not the credit score, then the consumer shall
2 receive the credit file and a statement that he or she may
3 request and obtain a credit score.

4 (1) The consumer's current credit score or the consumer's
5 most recent credit score that was previously
6 calculated by the credit reporting agency for a
7 purpose related to the extension of credit.

8 (2) The range of possible credit scores under the model
9 used.

10 (3) All the key factors that adversely affected the
11 consumer's credit score in the model used, the total
12 number of which shall not exceed four.

13 (4) The date the credit score was created.

14 (5) The name of the person or entity that provided the
15 credit score or credit file upon which the credit
16 score was created.

17 (b) For purposes of this act, "credit score" means a
18 numerical value or a categorization derived from a statistical
19 tool or modeling system used by a person who makes or arranges
20 a loan to predict the likelihood of certain credit behaviors,
21 including default. The numerical value or the categorization
22 derived from this analysis may also be referred to as a "risk
23 predictor" or "risk score." "Credit score" does not include



1 any mortgage score or rating of an automated underwriting
2 system that considers one or more factors in addition to credit
3 information, including, but not limited to, the loan to value
4 ratio, the amount of down payment, or a consumer's financial
5 assets. "Credit score" does not include other elements of the
6 underwriting process or underwriting decision.

7 (c) For the purposes of this section, "key factors" means
8 all relevant elements or reasons adversely affecting the credit
9 score for the particular individual listed in the order of
10 their importance based on their effect on the credit score.

11 (d) The information required by this section shall be
12 provided in the same timeframe and manner as the information
13 described in section 487-M.

14 (e) This section shall not be construed to compel a
15 consumer reporting agency to develop or disclose a score if the
16 agency does not (1) distribute scores that are used in
17 connection with residential real property loans, or (2) develop
18 scores that assist credit providers in understanding a
19 consumer's general credit behavior and predicting the
20 consumer's future credit behavior.

21 (f) This section shall not be construed to require a
22 consumer credit reporting agency that distributes credit scores
23 developed by another person or entity to provide a further



1 explanation of them, or to process a dispute arising pursuant
2 to subsection (a) of section 487-Q, except that the consumer
3 credit reporting agency shall provide the consumer with the
4 name, address, telephone number, and, if applicable, website
5 for contacting the person or entity who developed the score or
6 developed the methodology of the score. This subsection does
7 not apply to a consumer credit reporting agency that develops
8 or modifies scores that are developed by another person or
9 entity.

10 (g) This section shall not be construed to require a
11 consumer reporting agency to maintain credit scores in its
12 files.

13 **§487-O Consumer credit reporting agency; dissemination of**
14 **consumer information; consumer credit score reporting**
15 **procedure.** (a) In complying with section 487-N, a consumer
16 credit reporting agency shall supply the consumer with a credit
17 score that is derived from a credit scoring model that is
18 widely distributed to users by that consumer credit reporting
19 agency in connection with residential real property loans or
20 with a credit score that assists the consumer in understanding
21 the credit scoring assessment of the consumer's credit behavior
22 and predictions about the consumer's future credit behavior,



1 and a statement indicating that the information and credit
2 scoring model may be different than that used by the lender.

3 (b) A consumer credit reporting agency may charge a
4 reasonable fee for providing the information required under
5 section 487-N.

6 **§487-P Consumer credit reporting agency; dissemination of**
7 **consumer information; consumer file review; identity theft.** (a)
8 In addition to any other rights the consumer may have under
9 this chapter, every consumer credit reporting agency, after
10 being contacted by telephone, mail, or in person by any
11 consumer who has reason to believe he or she may be a victim of
12 identity theft, shall promptly provide to that consumer a
13 statement, written in a clear and conspicuous manner,
14 describing the statutory rights of victims of identity theft
15 under this chapter.

16 (b) Every consumer credit reporting agency shall, upon the
17 receipt from a victim of identity theft of a police report
18 prepared pursuant to section 708-839.6, 708-839.7, and 708-
19 839.8 of the Penal Code, provide the victim, free of charge and
20 upon request, with up to 12 copies of the consumer's file
21 during a consecutive 12-month period, not to exceed one copy
22 per month, following the date of the police report.

23 Notwithstanding any other provision of this chapter, the



1 maximum number of free reports a victim of identity theft is
2 entitled to obtain under this chapter is 12 per year, as
3 provided by this subsection.

4 (c) Subsection (a) does not apply to a consumer reporting
5 agency that acts only as a reseller of credit information by
6 assembling and merging information contained in the database of
7 another consumer reporting agency or agencies and that does not
8 maintain a permanent database of credit information from which
9 new credit reports are produced.

10 **§487-Q Consumer credit reporting agency; consumer disputed**
11 **information.** (a) If the completeness or accuracy of any item of
12 information contained in the consumer's file is disputed by a
13 consumer, and the dispute is conveyed directly to the consumer
14 credit reporting agency by the consumer or user on behalf of
15 the consumer, the consumer credit reporting agency shall within
16 a reasonable period of time and without charge, reinvestigate
17 and record the current status of the disputed information
18 before the end of the 30-business-day period beginning on the
19 date the agency receives notice of the dispute from the
20 consumer or user, unless the consumer credit reporting agency
21 has reasonable grounds to believe and determines that the
22 dispute by the consumer is frivolous or irrelevant, including
23 by reason of a failure of the consumer to provide sufficient



1 information, as requested by the consumer credit reporting
2 agency, to investigate the dispute. Unless the consumer credit
3 reporting agency determines that the dispute is frivolous or
4 irrelevant, before the end of the 5-business-day period
5 beginning on the date the consumer credit reporting agency
6 receives notice of dispute under this section, the agency shall
7 notify any person who provided information in dispute at the
8 address and in the manner specified by the person. A consumer
9 credit reporting agency may require that disputes by consumers
10 be in writing.

11 (b) In conducting the reinvestigation the consumer credit
12 reporting agency shall review and consider all relevant
13 information submitted by the consumer with respect to the
14 disputed item of information. If the consumer credit reporting
15 agency determines that the dispute is frivolous or irrelevant,
16 it shall notify the consumer by mail or, if authorized by the
17 consumer for that purpose, by any other means available to the
18 consumer credit reporting agency, within 5 business days after
19 that determination is made that it is terminating its
20 reinvestigation of the item of information. In this
21 notification, the consumer credit reporting agency shall state
22 the specific reasons why it has determined that the consumer's
23 dispute is frivolous or irrelevant. If the disputed item of



1 information is found to be inaccurate, missing, or can no
2 longer be verified by the evidence submitted, the consumer
3 credit reporting agency shall promptly add, correct, or delete
4 that information from the consumer's file.

5 (c) No information may be reinserted in a consumer's file
6 after having been deleted pursuant to this section unless the
7 person who furnished the information certifies that the
8 information is accurate. If any information deleted from a
9 consumer's file is reinserted in the file, the consumer credit
10 reporting agency shall promptly notify the consumer of the
11 reinsertion in writing or, if authorized by the consumer for
12 that purpose, by any other means available to the consumer
13 credit reporting agency. As part of, or in addition to, this
14 notice the consumer credit reporting agency shall, within 5
15 business days of reinserting the information, provide the
16 consumer in writing:

17 (1) A statement that the disputed information has been
18 reinserted;

19 (2) A notice that the agency will provide to the
20 consumer, within 15 days following a request, the
21 name, address, and telephone number of any furnisher
22 of information contacted or which contacted the



1 consumer credit reporting agency in connection with
2 the reinsertion;

3 (3) The toll-free telephone number of the consumer credit
4 reporting agency that the consumer can use to obtain
5 this name, address, and telephone number; and

6 (4) A notice that the consumer has the right to a
7 reinvestigation of the information reinserted by the
8 consumer credit reporting agency and to add a
9 statement to the consumer's file disputing the
10 accuracy or completeness of the information.

11 (d) A consumer credit reporting agency shall provide
12 written notice to the consumer of the results of any
13 reinvestigation under this subsection, within 5 days of
14 completion of the reinvestigation. The notice shall include:

15 (1) A statement that the reinvestigation is completed;

16 (2) A consumer credit report that is based on the
17 consumer's file as that file is revised as a result
18 of the reinvestigation;

19 (3) A description or indication of any changes made in
20 the consumer credit report as a result of those
21 revisions to the consumer's file and a description of
22 any changes made or sought by the consumer that were
23 not made and an explanation why they were not made;



1 (4) A notice that, if requested by the consumer, a
2 description of the procedure used to determine the
3 accuracy and completeness of the information shall be
4 provided to the consumer by the consumer credit
5 reporting agency, including the name, business
6 address, and telephone number of any furnisher of
7 information contacted in connection with that
8 information;

9 (5) A notice that the consumer has the right to add a
10 statement to the consumer's file disputing the
11 accuracy or completeness of the information;

12 (6) A notice that the consumer has the right to request
13 that the consumer credit reporting agency furnish
14 notifications under subsection (h);

15 (7) A notice that the dispute will remain on file with
16 the agency as long as the credit information is used;
17 and

18 (8) A statement about the details of the dispute will be
19 furnished to any recipient as long as the credit
20 information is retained in the agency's data base.

21 A consumer credit reporting agency shall provide the
22 notice pursuant to this subsection respecting the
23 procedure used to determine the accuracy and completeness



1 of information, not later than 15 days after receiving a
2 request from the consumer.

3 (e) The presence of information in the consumer's file
4 that contradicts the contention of the consumer shall not, in
5 and of itself, constitute reasonable grounds for believing the
6 dispute is frivolous or irrelevant.

7 (f) If the consumer credit reporting agency determines
8 that the dispute is frivolous or irrelevant, or if the
9 reinvestigation does not resolve the dispute, or if the
10 information is reinserted into the consumer's file pursuant to
11 subsection (c), the consumer may file a brief statement setting
12 forth the nature of the dispute. The consumer credit reporting
13 agency may limit these statements to not more than 100 words if
14 it provides the consumer with assistance in writing a clear
15 summary of the dispute.

16 (g) Whenever a statement of dispute is filed, the consumer
17 credit reporting agency shall, in any subsequent consumer
18 credit report containing the information in question, clearly
19 note that the information is disputed by the consumer and shall
20 include in the report either the consumer's statement or a
21 clear and accurate summary thereof.

22 (h) Following the deletion of information from a
23 consumer's file pursuant to this section, or following the



1 filing of a statement of dispute pursuant to subsection (f),
2 the consumer credit reporting agency, at the request of the
3 consumer, shall furnish notification that the item of
4 information has been deleted or that the item of information is
5 disputed. In the case of disputed information, the
6 notification shall include the statement or summary of the
7 dispute filed pursuant to subsection (f). This notification
8 shall be furnished to any person designated by the consumer who
9 has, within 2 years prior to the deletion or the filing of the
10 dispute, received a consumer credit report concerning the
11 consumer for employment purposes, or who has, within 12 months
12 of the deletion or the filing of the dispute, received a
13 consumer credit report concerning the consumer for any other
14 purpose, if these consumer credit reports contained the deleted
15 or disputed information. The consumer credit reporting agency
16 shall clearly and conspicuously disclose to the consumer the
17 consumer's rights to make a request for this notification. The
18 disclosure shall be made at or prior to the time the
19 information is deleted pursuant to this section or the
20 consumer's statement regarding the disputed information is
21 received pursuant to subsection (f).

22 (i) A consumer credit reporting agency shall maintain
23 reasonable procedures to prevent the reappearance in a



1 consumer's file and in consumer credit reports of information
2 that has been deleted pursuant to this section and not
3 reinserted pursuant to subsection (c).

4 (j) If the consumer's dispute is resolved by deletion of
5 the disputed information within 3 business days, beginning with
6 the day the consumer credit reporting agency receives notice of
7 the dispute in accordance with subsection (a), and provided
8 that verification thereof is provided to the consumer in
9 writing within 5 business days following the deletion, then the
10 consumer credit reporting agency shall be exempt from
11 requirements for further action under subsections (d), (f), and
12 (g).

13 (k) If a consumer submits to a credit reporting agency a
14 copy of a valid police report filed pursuant to section 708-
15 839.6, 708-839.7, and 708-839.8 of the Penal Code, the consumer
16 credit reporting agency shall promptly and permanently block
17 reporting any information that the consumer alleges appears on
18 the consumer's credit report as a result of a violation of
19 section 708-839.6, 708-839.7, and 708-839.8 of the Penal Code
20 so that the information cannot be reported. The consumer
21 credit reporting agency shall promptly notify the furnisher of
22 the information that the information has been so blocked.
23 Furnishers of information and consumer credit reporting



1 agencies shall ensure that information is unblocked only upon a
2 preponderance of the evidence establishing the facts required
3 under paragraph (1), (2), or (3). The permanently blocked
4 information shall be unblocked only if:

- 5 (1) The information was blocked due to a material
6 misrepresentation of fact by the consumer or fraud;
- 7 (2) The consumer agrees that the blocked information, or
8 portions of the blocked information, were blocked in
9 error; or
- 10 (3) The consumer knowingly obtained possession of goods,
11 services, or moneys as a result of the blocked
12 transaction or transactions or the consumer should
13 have known that he or she obtained possession of
14 goods, services, or moneys as a result of the blocked
15 transaction or transactions.

16 If blocked information is unblocked pursuant to this
17 subsection, the consumer shall be promptly notified in the
18 same manner as consumers are notified of the reinsertion
19 of information pursuant to subsection (c). The prior
20 presence of the blocked information in the consumer credit
21 reporting agency's file on the consumer is not evidence of
22 whether the consumer knew or should have known that he or
23 she obtained possession of any goods, services, or moneys.



1 For the purposes of this subsection, fraud may be
2 demonstrated by circumstantial evidence. In unblocking
3 information pursuant to this subsection, furnishers and
4 consumer credit reporting agencies shall be subject to
5 their respective requirements pursuant to this chapter
6 regarding the completeness and accuracy of information.

7 (l) In unblocking information as described in subsection
8 (k), a consumer reporting agency shall comply with all
9 requirements of this section and 15 U.S.C. Sec. 1681i relating
10 to reinvestigating disputed information. In addition, a
11 consumer reporting agency shall accept the consumer's version
12 of the disputed information and correct or delete the disputed
13 item when the consumer submits to the consumer reporting agency
14 documentation obtained from the source of the item in dispute
15 or from public records confirming that the report was
16 inaccurate or incomplete, unless the consumer reporting agency,
17 in the exercise of good faith and reasonable judgment, has
18 substantial reason based on specific, verifiable facts to doubt
19 the authenticity of the documentation submitted and notifies
20 the consumer in writing of that decision, explaining its
21 reasons for unblocking the information and setting forth the
22 specific, verifiable facts on which the decision was based.



1 (m) Any provision in a contract that prohibits the
2 disclosure of a credit score by a person who makes or arranges
3 loans or a consumer credit reporting agency is void. A lender
4 shall not have liability under any contractual provision for
5 disclosure of a credit score.

6 **§487-R Consumer credit reporting agency; consumer disputed**
7 **information; identity theft items removed.** A consumer credit
8 reporting agency shall delete from a consumer credit report
9 inquiries for credit reports based upon credit requests that
10 the consumer credit reporting agency verifies were initiated as
11 the result of identity theft, as defined in section 487-BB(d).

12 **§487-S Consumer credit reporting agency; consumer debt**
13 **information not to be sold.** (a) No creditor may sell a consumer
14 debt to a debt collector, as defined in 15 U.S.C. Sec. 1692a,
15 if the consumer is a victim of identity theft, as defined in
16 section 487-BB(d), and with respect to that debt, the creditor
17 has received notice pursuant to subsection (k) of section 487-
18 Q.

19 (b) Subsection (a) does not apply to a creditor's sale of
20 a debt to a subsidiary or affiliate of the creditor, if, with
21 respect to that debt, the subsidiary or affiliate does not take
22 any action to collect the debt.



1 (c) For the purposes of this section, the requirement in
2 15 U.S.C. Sec. 1692a, that a person must use an instrumentality
3 of interstate commerce or the mails in the collection of any
4 debt to be considered a debt collector, does not apply.

5 **§487-T Consumer credit reporting agency; dissemination**
6 **consumer information; exceptions.** The provisions of subsections
7 (k) and (l) of section 487-Q do not apply to a consumer
8 reporting agency that acts only as a reseller of credit
9 information by assembling and merging information contained in
10 the database of another consumer reporting agency or agencies,
11 and that does not maintain a permanent database of credit
12 information from which new credit reports are produced.

13 **§487-U Consumer credit reporting agency; consumer**
14 **information; fees and charges.** (a) Except as otherwise
15 provided, a consumer credit reporting agency may impose a
16 reasonable charge upon a consumer, as follows:

17 (1) For making a disclosure pursuant to section 487-A or
18 487-M, the consumer credit reporting agency may
19 charge a fee not exceeding eight dollars (\$8).

20 (2) For furnishing a notification, statement, or summary,
21 to any person pursuant to subsection (h) of section
22 487-Q, the consumer credit reporting agency may
23 charge a fee not exceeding the charge that it would



1 impose on each designated recipient for a consumer
2 credit report, and the amount of the charge shall be
3 indicated to the consumer before furnishing the
4 notification, statement, or summary.

5 (b) A consumer credit reporting agency shall make all
6 disclosures pursuant to sections 487-A and 487-M and furnish
7 all consumer reports pursuant to section 487-Q without charge,
8 if requested by the consumer within 60 days after receipt by
9 the consumer of a notification of adverse action pursuant to
10 section 487-Y or of a notification from a debt collection
11 agency affiliated with the consumer credit reporting agency
12 stating that the consumer's credit rating may be or has been
13 adversely affected.

14 (c) A consumer credit reporting agency shall not impose
15 any charge for:

16 (1) Providing notice to a consumer required under section
17 487-Q; or

18 (2) Notifying a person pursuant to subsection (h) of
19 section 487-Q of the deletion of any information
20 which is found to be inaccurate or which can no
21 longer be verified, if the consumer designates that
22 person to the consumer credit reporting agency before



1 the end of the 30-day period beginning on that date
2 of notice under subsection (d) of section 487-Q.

3 **§487-V Consumer credit reporting agency; dissemination**
4 **consumer information; source revealed.** (a) Each consumer credit
5 reporting agency which compiles and reports items of
6 information concerning consumers which are matters of public
7 record, shall specify in any report containing public record
8 information the source from which that information was
9 obtained, including the particular court, if there be such, and
10 the date that the information was initially reported or
11 publicized.

12 (b) A consumer credit reporting agency which furnishes a
13 consumer credit report for employment purposes, and which for
14 that purpose compiles and reports items of information on
15 consumers which are matters of public record and are likely to
16 have an adverse effect upon a consumer's ability to obtain
17 employment shall, in addition, maintain strict procedures
18 designed to ensure that whenever public record information
19 which is likely to have an adverse effect on a consumer's
20 ability to obtain employment is reported it is complete and up
21 to date. For purposes of this paragraph, items of public
22 record relating to arrests, indictments, convictions, suits,
23 tax liens, and outstanding judgments shall be considered up to



1 date if the current public record status of the item at the
2 time of the report is reported.

3 (c) No consumer credit reporting agency which furnishes a
4 consumer credit report for employment purposes shall report
5 information on the age, marital status, race, color, or creed
6 of any consumer.

7 **§487-W Consumer credit reporting agency; consumer**
8 **information; remedy.** (a) In addition to any other remedy
9 provided by law, a consumer may bring an action for a civil
10 penalty against any of the following:

11 (1) A person who knowingly and willfully obtains access
12 to a file other than as provided in section 487-B.

13 (2) Any person who knowingly and willfully obtains data
14 from a file other than as provided in section 487-B.

15 (3) A person who uses the data received from a file in a
16 manner contrary to an agreement with the consumer
17 credit reporting agency.

18 Such an action may also be brought by the person or entity
19 responsible for the file accessed. This remedy is in
20 addition to any other remedy that may exist.

21 (b) If a plaintiff prevails in an action under subsection
22 (a) he or she shall be awarded the civil penalty, costs, and
23 reasonable attorney fees.



1 **§487-X Consumer credit reporting agency; dissemination**
2 **consumer information; consumer written request.** Every consumer
3 credit reporting agency, upon written request and the
4 furnishing of sufficient identification to identify the
5 consumer and the subject file, shall create reasonable
6 procedures to prevent a consumer credit report or information
7 from a consumer's file from being provided to any third party
8 for marketing purposes or for any offer of credit not requested
9 by the consumer. This section does not apply to the use of
10 information by a credit grantor for purposes related to an
11 existing credit relationship.

12 **§487-Y Consumer credit reporting agency; adverse action**
13 **against consumer; notice requirement.** (a) If any person takes
14 any adverse action with respect to any consumer, and the
15 adverse action is based, in whole or in part, on any
16 information contained in a consumer credit report, that person
17 shall do all of the following:

- 18 (1) Provide written notice of the adverse action to the
19 consumer;
- 20 (2) Provide the consumer with the name, address, and
21 telephone number of the consumer credit reporting
22 agency which furnished the report to the person;



1 (3) Provide a statement that the credit grantor's
2 decision to take adverse action was based in whole or
3 in part upon information contained in a consumer
4 credit report; and

5 (4) Provide the consumer with a written notice of the
6 following rights of the consumer:

7 (A) The right of the consumer to obtain within 60
8 days a free copy of the consumer's consumer
9 credit report from the consumer credit reporting
10 agency identified pursuant to paragraph (2) and
11 from any other consumer credit reporting agency
12 which compiles and maintains files on consumers
13 on a nationwide basis.

14 (B) The right of the consumer under section 487-Q
15 to dispute the accuracy or completeness of any
16 information in a consumer credit report
17 furnished by the consumer credit reporting
18 agency.

19 (b) Whenever credit or insurance for personal, family, or
20 household purposes involving a consumer is denied or the charge
21 for such credit is increased either wholly or in part because
22 of information obtained from a person other than a consumer
23 credit reporting agency bearing upon consumer's credit



1 worthiness or credit standing, the user of that information
2 shall, within a reasonable period of time, and upon the
3 consumer's written request for the reasons for that adverse
4 action received within 60 days after learning of the adverse
5 action, disclose the nature and substance of the information to
6 the consumer. The user of the information shall clearly and
7 accurately disclose to the consumer the consumer's right to
8 make such a written request at the time the adverse action is
9 communicated to the consumer.

10 (c) No person shall be held liable for any violation of
11 this section if he or she shows by a preponderance of the
12 evidence that at the time of the alleged violation he or she
13 maintained reasonable procedures to assure compliance with this
14 section.

15 **§487-Z Consumer credit reporting agency; adverse action**
16 **against consumer; notice requirement; firm credit offer.** (a)
17 Except as provided in subsection (b), any person who uses a
18 consumer credit report in connection with any credit
19 transaction not initiated by the consumer and which consists of
20 a firm offer of credit shall provide with any solicitation made
21 to the consumer a clear and conspicuous statement as to all of
22 the following:



- 1 (1) Information contained in the consumer's pre-
2 qualifying report was used in connection with the
3 transaction.
- 4 (2) The consumer received the offer of credit, because
5 the consumer satisfied the criteria for
6 creditworthiness under which the consumer was
7 selected for the offer.
- 8 (3) Where applicable, the credit may not be extended if,
9 after the consumer responds to the offer, the
10 consumer does not meet the criteria used to select
11 the consumer for the offer.
- 12 (4) The consumer has a right to prohibit use of
13 information contained in the consumer's file with any
14 consumer credit reporting agency in connection with
15 any credit transaction that is not initiated by the
16 consumer. The consumer may exercise this right by
17 notifying the notification system or joint
18 notification system established under subsection (d)
19 or (e) of section 487-B.
- 20 (b) Subsection (a) does not apply to any person using a
21 pre-qualifying report if all of the following conditions are
22 met:



- 1 (1) The person using the pre-qualifying report is
2 affiliated by common ownership or common corporate
3 control with the person who procured the report,
- 4 (2) The person who procures the pre-qualifying report
5 from the consumer credit reporting agency clearly and
6 conspicuously discloses to the consumer to whom the
7 report relates, before the pre-qualifying report is
8 provided to the person who uses the report, that the
9 pre-qualifying report might be provided to, and used
10 by, persons affiliated in the manner specified in
11 paragraph (1) with the person that procured the
12 report,
- 13 (3) The consumer consents in writing to this provision
14 and use of the pre-qualifying report.

15 (c) No person shall be denied credit on the basis of the
16 consumer's refusal to provide consent pursuant to paragraph (3)
17 of subsection (b), unless consent is necessary for the
18 extension of credit, related to that transaction, by an
19 affiliate.

20 **§487-AA Consumer credit reporting agency; adverse action**
21 **against consumer; notice requirement; credit score use.** Any person
22 who makes or arranges loans and who uses a consumer credit score as
23 defined in section 487-N in connection with an application



1 initiated or sought by a consumer for a closed end loan or
2 establishment of an open end loan for a consumer purpose that is
3 secured by one to 4 units of residential real property shall
4 provide the following to the consumer as soon as reasonably
5 practicable:

6 (1) A copy of the information identified in subsection (a) of
7 section 487-N that was obtained from a credit reporting
8 agency or was developed and used by the user of the
9 information. In addition to the information provided to
10 it by a third party that provided the credit score or
11 scores, a lender is only required to provide the notice
12 contained in subsection (d).

13 (2) If a person who is subject to this section uses an
14 automated underwriting system to underwrite a loan,
15 that person may satisfy the obligation to provide a
16 credit score by disclosing a credit score and
17 associated key factors supplied by a consumer credit
18 reporting agency. However, if a numerical credit
19 score is generated by an automated underwriting
20 system used by an enterprise, and that score is
21 disclosed to the person, it shall be disclosed to the
22 consumer consistent with subsection (c).



1 (3) A person subject to the provisions of this section who
2 uses a credit score other than a credit score provided by
3 a consumer reporting agency may satisfy the obligation to
4 provide a credit score by disclosing a credit score and
5 associated key factors supplied by a consumer credit
6 reporting agency.

7 (4) A copy of the following notice, which shall include
8 the name, address, and telephone number of each
9 credit bureau providing a credit score that, was
10 used:

11 NOTICE TO THE HOME LOAN APPLICANT

12 IN CONNECTION WITH YOUR APPLICATION FOR A HOME LOAN, THE LENDER
13 MUST DISCLOSE TO YOU THE SCORE THAT A CREDIT BUREAU DISTRIBUTED
14 TO USERS AND THE LENDER USED IN CONNECTION WITH YOUR HOME LOAN,
15 AND THE KEY FACTORS AFFECTING YOUR CREDIT SCORES.

16 THE CREDIT SCORE IS A COMPUTER GENERATED SUMMARY CALCULATED
17 AT THE TIME OF THE REQUEST AND BASED ON INFORMATION A CREDIT
18 BUREAU OR LENDER HAS ON FILE. THE SCORES ARE BASED ON DATA
19 ABOUT YOUR CREDIT HISTORY AND PAYMENT PATTERNS. CREDIT SCORES
20 ARE IMPORTANT BECAUSE THEY ARE USED TO ASSIST THE LENDER IN
21 DETERMINING WHETHER YOU WILL OBTAIN A LOAN. THEY MAY ALSO BE
22 USED TO DETERMINE WHAT INTEREST RATE YOU MAY BE OFFERED ON THE
23 MORTGAGE. CREDIT SCORES CAN CHANGE OVER TIME, DEPENDING ON



1 YOUR CONDUCT, HOW YOUR CREDIT HISTORY AND PAYMENT PATTERNS
2 CHANGE, AND HOW CREDIT SCORING TECHNOLOGIES CHANGE.
3 BECAUSE THE SCORE IS BASED ON INFORMATION IN YOUR CREDIT
4 HISTORY, IT IS VERY IMPORTANT THAT YOU REVIEW THE CREDIT-
5 RELATED INFORMATION THAT IS BEING FURNISHED TO MAKE SURE IT IS
6 ACCURATE. CREDIT RECORDS MAY VARY FROM ONE COMPANY TO
7 ANOTHER.

8 IF YOU HAVE QUESTIONS ABOUT YOUR CREDIT SCORE OR THE CREDIT
9 INFORMATION THAT IS FURNISHED TO YOU, CONTACT THE CREDIT BUREAU
10 AT THE ADDRESS AND TELEPHONE NUMBER PROVIDED WITH THIS NOTICE,
11 OR CONTACT THE LENDER, IF THE LENDER DEVELOPED OR GENERATED THE
12 CREDIT SCORE. THE CREDIT BUREAU PLAYS NO PART IN THE DECISION
13 TO TAKE ANY ACTION ON THE LOAN APPLICATION AND IS UNABLE TO
14 PROVIDE YOU WITH SPECIFIC REASONS FOR THE DECISION ON A LOAN
15 APPLICATION.

16 IF YOU HAVE QUESTIONS CONCERNING THE TERMS OF THE LOAN,
17 CONTACT THE LENDER.

18 (e) This section shall not require any person to do the
19 following:

- 20 (1) Explain the information provided pursuant to section 487-
21 N.
22 (2) Disclose any information other than a credit score or key
23 factor, as defined in section 487-N.



1 (3) Disclose any credit score or related information obtained
2 by the user after a loan has closed.

3 (4) Provide more than one disclosure per loan transaction.

4 (5) Provide the disclosure required by this section when
5 another person has made the disclosure to the consumer
6 for that loan transaction.

7 (f) Any person's obligation pursuant to this section shall be
8 limited solely to providing a copy of the information that was
9 received from the consumer credit reporting agency. No person has
10 liability under this section for the content of that information or
11 for the omission of any information within the report provided by
12 the consumer credit reporting agency.

13 **§487-BB Consumer credit reporting agency; adverse action**

14 **against consumer; verification of consumer identity.** (a) Any person
15 who uses a consumer credit report in connection with the approval
16 of credit based on an application for an extension of credit, and
17 who discovers that the consumer's first and last name, address, or
18 social security number, on the credit application does not match,
19 within a reasonable degree of certainty, the consumer's first and
20 last name, address or addresses, or social security number listed,
21 if any, on the consumer credit report, shall take reasonable steps
22 to verify the accuracy of the consumer's first and last name,
23 address, or social security number provided on the application to



1 confirm that the extension of credit is not the result of identity
2 theft.

3 (b) Any person who uses a consumer credit report in connection
4 with the approval of credit based on an application for an
5 extension of credit, and who has received notification pursuant to
6 subsection (k) of section 487-Q that the applicant has been a
7 victim of identity theft, as defined in section 487-BB(d), may not
8 lend money or extend credit without taking reasonable steps to
9 verify the consumer's identity and confirm that the application for
10 an extension of credit is not the result of identity theft.

11 (c) Any consumer who suffers damages as a result of a
12 violation of this section by any person may bring an action in a
13 court of appropriate jurisdiction against that person to recover
14 actual damages, court costs, attorney's fees, and punitive damages
15 of not more than thirty thousand dollars (\$30,000) for each
16 violation, as the court deems proper.

17 (d) As used in this section, "identity theft" means the
18 unauthorized use of another person's personal identifying
19 information to obtain credit, goods, services, money, or property.

20 (e) For the purposes of this section, "extension of credit"
21 does not include an increase in an existing open-end credit plan or
22 any change to or review of an existing credit account.



1 (f) If a consumer provides initial written notice to a
2 creditor that he or she is a victim of identity theft, the creditor
3 shall provide written notice to the consumer of the consumer's
4 rights under subsection (k) of section 487-Q.

5 (g) The provisions of subsections (k) and (l) of section 487-Q
6 do not apply to a consumer credit reporting agency that acts only
7 as a reseller of credit information by assembling and merging
8 information contained in the database of another consumer credit
9 reporting agency or the databases of multiple consumer credit
10 reporting agencies, and does not maintain a permanent database of
11 credit information from which new credit reports are produced.

12 (h) This section does not apply if one of the addresses at
13 issue is a United States Army or Air Force post office address or a
14 United States Fleet post office address.

15 **§487-CC Consumer credit reporting agency; written consent by**
16 **consumer requirement.** (a) Prior to requesting a consumer credit
17 report for employment purposes, the user of the report shall
18 provide written notice to the person involved. The notice shall
19 inform the person that a report will be used and the source of the
20 report, and shall contain a box that the person may check off to
21 receive a copy of the credit report. If the consumer indicates
22 that he or she wishes to receive a copy of the report, the user
23 shall request that a copy be provided to the person when the user



1 requests its copy from the credit reporting agency. The report to
2 the user and to the subject person shall be provided
3 contemporaneously and at no charge to the subject person.

4 (b) Whenever employment involving a consumer is denied either
5 wholly or partly because of information contained in a consumer
6 credit report from a consumer credit reporting agency, the user of
7 the consumer credit report shall so advise the consumer against
8 whom the adverse action has been taken and supply the name and
9 address or addresses of the consumer credit reporting agency making
10 the report. No person shall be held liable for any violation of
11 this section if he or she shows by a preponderance of the evidence
12 that, at the time of the alleged violation, he or she maintained
13 reasonable procedures to assure compliance with this section.

14 **§487-DD Consumer credit reporting agency; adverse action**
15 **against consumer; user notice to consumer.** (a) A user in its
16 discretion may notify the consumer that upon request the user may
17 contact the consumer reporting agency and request that the consumer
18 reporting agency investigate the current status of an item or items
19 of information contained in the consumer report if the consumer
20 disputes the completeness or accuracy of an item or items of
21 information as provided to the user.

22 (b) The consumer credit reporting agency may require
23 identification from the user to insure the validity of the request



1 and, in that regard, may require that the request be put in writing
2 with proper identification.

3 (c) In the event that any such request is made and
4 identification given in the form or manner demanded by the consumer
5 credit reporting agency, such agency shall review the file of the
6 consumer and report the current status of the disputed information
7 to the user and the consumer by the most expeditious means
8 possible.

9 (d) No user who furnishes information pursuant to this section
10 shall be liable to any person for furnishing such information.

11 **§487-EE Consumer credit reporting agency; dissemination**
12 **consumer information; end user disclosure requirement.** (a) A person
13 may not procure a consumer credit report for the purpose of
14 reselling the report or any information therein unless the person
15 discloses to the consumer credit reporting agency that issues the
16 report, the identity of the ultimate end user and each permissible
17 purpose for which the report is furnished to the end user of the
18 consumer credit report or information therein.

19 (b) A person that procures a consumer credit report for the
20 purpose of reselling the report or any information therein shall do
21 all of the following:

22 (1) Establish and comply with reasonable procedures designed
23 to ensure that the consumer credit report or information



1 is resold by the person only for a purpose for which the
2 report may be furnished under this chapter. These
3 procedures shall include all of the following:

4 (A) Identification of each prospective user of the
5 resold consumer credit report or information.

6 (B) Certification of each purpose for which the consumer
7 credit report or information will be used.

8 (C) Certification that the consumer credit report or
9 information will be used for no other purpose.

10 (2) Before reselling the consumer credit report or
11 information, the person shall make reasonable efforts to
12 verify the identities and certifications made under
13 paragraph (1).

14 **§487-FF Disputed consumer information; furnisher of**
15 **information requirements.** Upon notification of the results of a
16 consumer credit reporting agency's reinvestigation pursuant to
17 section 487-Q, a consumer may make a written demand on any person
18 furnishing information to the consumer credit reporting agency to
19 correct any information that the consumer believes to be
20 inaccurate. The person upon whom the written demand is made shall
21 acknowledge the demand within 30 days. The consumer may require
22 the consumer credit reporting agency to indicate on any subsequent
23 reports issued during the dispute that the item or items of



1 information are in dispute. If upon investigation the information
2 is found to be inaccurate or incorrect, the consumer may require
3 the consumer credit reporting agency to delete or correct the item
4 or items of information within a reasonable time. If within 180
5 days the consumer credit reporting agency does not receive any
6 information from the person requested to furnish the same or any
7 communication relative to this information from this person, the
8 consumer credit reporting agency shall delete the information from
9 the report.

10 **§487-GG Consumer credit report; civil remedy.** (a) Any consumer
11 who suffers damages as a result of a violation of this chapter by
12 any person may bring an action in a court of appropriate
13 jurisdiction against that person to recover the following:

14 (1) In the case of a negligent violation, actual damages,
15 including court costs, loss of wages, attorney's fees
16 and, when applicable, pain and suffering.

17 (2) In the case of a willful violation:

18 (A) Actual damages as set forth in paragraph (1) above;

19 (B) Punitive damages of not less than one hundred
20 dollars (\$100) nor more than five thousand dollars
21 (\$5,000) for each violation as the court deems
22 proper;

23 (C) Any other relief that the court deems proper.



1 (3) In the case of liability of a natural person for
2 obtaining a consumer credit report under false pretenses
3 or knowingly without a permissible purpose, an award of
4 actual damages pursuant to paragraph (1) or subparagraph
5 (A) of paragraph (2) shall be in an amount of not less
6 than two thousand five hundred dollars (\$2,500).

7 (b) Injunctive relief shall be available to any consumer
8 aggrieved by a violation or a threatened violation of this chapter
9 whether or not the consumer seeks any other remedy under this
10 section.

11 (c) Notwithstanding any other provision of this section, any
12 person who willfully violates any requirement imposed under this
13 chapter may be liable for punitive damages in the case of a class
14 action, in an amount that the court may allow. In determining the
15 amount of award in any class action, the court shall consider among
16 relevant factors the amount of any actual damages awarded, the
17 frequency of the violations, the resources of the violator and the
18 number of persons adversely affected.

19 (d) Except as provided in subsection (e), the prevailing
20 plaintiffs in any action commenced under this section shall be
21 entitled to recover court costs and reasonable attorney's fees.

22 (e) If a plaintiff brings an action pursuant to this section
23 against a collection agency or principal collector, as defined in



1 section 443B-1, and the basis for the action is related to the
2 collection of a debt, whether issues relating to the debt
3 collection are raised in the same or another proceeding, the
4 collection agency or principal collector shall be entitled to
5 recover reasonable attorney's fees upon a finding by the court that
6 the action was not brought in good faith.

7 (f) If a plaintiff only seeks and obtains injunctive relief to
8 compel compliance with this chapter, the plaintiff may receive
9 court costs and reasonable attorney's fees.

10 (g) Nothing in this section is intended to affect remedies
11 available under any other available remedies.

12 **§487-HH Consumer credit report; civil remedy exceptions.**

13 Except as provided in section 487-GG, no consumer may bring any
14 action or proceeding in the nature of defamation, invasion of
15 privacy or negligence with respect to the reporting of information
16 against any consumer reporting agency, any user of information, or
17 any person who furnishes information to a consumer reporting
18 agency, based on information disclosed pursuant to section 487-A,
19 487-M or 487-Y of this chapter, except as to false information
20 furnished with malice or willful intent to injure such consumer.

21 **§487-II Consumer credit report; civil remedy jurisdiction.** An
22 action to enforce any liability created under this chapter may be
23 brought in any appropriate court of competent jurisdiction within 2



1 years from the date the plaintiff knew of, or should have known of,
2 the violation of this chapter, but not more than 7 years from the
3 earliest date on which liability could have arisen, except that
4 where a defendant has materially and willfully misrepresented any
5 information required under this chapter to be disclosed to a
6 consumer and the information so misrepresented is material to the
7 establishment of the defendant's liability to the consumer under
8 this chapter, the action may be brought at any time within 2 years
9 after the discovery by the consumer of the misrepresentation.

10 **§487-JJ Consumer credit report; civil remedy; consumer credit**
11 **reporting agency or end user.** (a) Any consumer credit reporting
12 agency or user of information against whom an action brought
13 pursuant to section 1681n or 1681o of Title 15 of the United States
14 Code is pending shall not be subject to suit for the same act or
15 omission under section 487-GG.

16 (b) The entry of a final judgment against a consumer credit
17 reporting agency or user of information in an action brought
18 pursuant to the provisions of section 1681n or 1681o of Title 15 of
19 the United States Code shall be a bar to the maintenance of any
20 action based on the same act or omission which might be brought
21 under this chapter.

22 **§487-KK Consumer credit report; civil remedy; public records**
23 **exception.** This chapter does not apply to any consumer credit



1 report that by its terms is limited to disclosures from public
2 records relating to land and land chapters and does not apply to
3 any person whose records and files are maintained for the primary
4 purpose of reporting those portions of the public records that
5 impart constructive notice under the law of matters relating to
6 land and land titles.

7 **§487-LL Consumer credit report; civil remedy; waiver**
8 **unenforceable.** Any waiver of the provisions of this chapter is
9 contrary to public policy, and is void and unenforceable."

10 SECTION 4. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun, before its effective date.

13 SECTION 5. If any provision of this Act, or the application
14 thereof to any person or circumstance is held invalid, the
15 invalidity does not affect other provisions or applications of the
16 Act, which can be given effect without the invalid provision or
17 application, and to this end the provisions of this Act are
18 severable.

19 SECTION 6. In codifying the new sections added by sections 2
20 and 3 of this Act, the revisor of statutes shall substitute
21 appropriate section numbers for the letters used in designating the
22 new sections in this Act.

23 SECTION 7. This Act shall take effect on July 1, 2006.



INTRODUCED BY: _____