

Summary of the Portions of the Federal and State Fair Credit Reporting Acts Pertaining to Information Included and Excluded from Consumer Reports

Joint Legislative Task Force on the Sealing of
Juvenile Records
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FEDERAL AND STATE FCRA - INTRODUCTION

- The FCRA governs the collection, assembly, and use of consumer report information and provides the framework for the credit reporting system in the US.
- Originally enacted in 1970 it has been amended a number of times in the ensuing years.
- The FCRA regulates the practices of consumer reporting agencies (CRA's) that collect and compile consumer information into consumer reports for use by creditor grantors, insurance companies, employers, landlords and other entities when making eligibility decisions affecting consumers.

FEDERAL FRCA – OVERVIEW CONT'D

- Information included in consumer reports generally may include consumers' credit history and payment patterns, as well as demographic and identifying information and public record information (arrests, judgments, bankruptcies).
- Washington passed its state version of the FRCA (WSFRCA) in 1993; the Act took effect on January 1, 1994.
- The differences between the state and federal FRCA's in the particular areas of concern to the Task Force are noted throughout this presentation.

PERMISSIBLE PURPOSES OF CONSUMER REPORTS

15 USC § 1681b

A CRA may furnish a consumer report only under the following circumstances:

- In response to a court order or subpoena;
- In accordance with the written instructions of the consumer to whom the report relates;
- To a person which the CRA has reason to believe:
 - Intends to use the information in connection with a credit transaction involving the consumer on which information is to be furnished and involving extending credit or reviewing or collection an account of that consumer;
 - Intends to use the information for employment purposes;

PERMISSIBLE PURPOSES OF CONSUMER REPORTS

CONT'D

- Intends to use the information to underwrite insurance for the consumer;
- Intends to use the information to determine consumer's eligibility for a license or other government instrumentality required by law to consider the consumer's financial responsibility or status;
- Intends to use the information, as a potential investor or servicer, or current insurer, in connection with a valuation of, or assessment of the credit or prepayment risks associated with an existing credit obligation **(this provision is not included in the WSFRCA)**;
- Otherwise has a legitimate business need for the information in connection with a business transaction initiated by the consumer or needs to review an account to determine whether the consumer continues to meet the terms of the account **(the provision re: reviewing accounts is not included in the WSFRCA)** .

PERMISSIBLE PURPOSES OF CONSUMER REPORTS

CONT'D

- Are executive departments and agencies in connection with issuance of government-sponsored individually-billed travel charge cards (not included in the WSFCRA).
- In response to a request by the head of state or a local child support enforcement agency regarding the consumer's ability to make child support payments (not included in the WSFCRA);
- To an agency administering the Title IVD state plan to set an initial or modified child support award (Not included in the WSFCRA);
- To the FDIC or National Credit Union Administration (Not included in the WSFCRA).

INFORMATION EXCLUDED FROM CONSUMER REPORTS

- Information about bankruptcy cases that antedate the report by more than 10 years;
- Civil suits, civil judgments, and records of arrest, that from the date of arrest, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is longer (Records of arrest not included in this section of the WSFCRA);
- Paid tax liens which, from the date of payment, antedate the report by more than 7 years;
- Accounts placed for collection or charged to profit and loss which antedate the report by more than 7 years;

INFORMATION EXCLUDED FROM CONSUMER REPORTS

- Any other adverse information, other than conviction records which antedates the report by more than 7 years.
- **WSFCRA includes the following provisions not included in the federal law:**
 - Records of arrest, indictment, or conviction of an adult for a crime that, from the date of disposition, release or parole, antedate the report by more than 7 years.
 - Juvenile records when the subject of the records is 21 or older at the time of the report. (Added in SHB 1793)
- The name, address and phone number of any medical information furnisher that has notified the agency of its status (some exceptions apply) **(Not included in WSFCRA)**.

INFORMATION EXCLUDED FROM CONSUMER REPORTS

CONT'D

- The term “adverse action” (federal) and “adverse information” (state) have somewhat different definitions.
- The excluded information (**except for juvenile records under the WSFCRA**) can be provided in connection with a consumer report used in connection with:
 - A credit transaction expected to involve \$150,000 (**\$50,000**) or more;
 - Underwriting life insurance expected to involve a face amount of \$150,000 (**\$50,000**) or more; or
 - Employment of a person at an annual salary expected to equal \$75,000 (**\$20,000**) or more.