

13th CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session

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SENATE
OFFICE OF THE SECRETARY

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SENATE
S. No. 2062

RECEIVED BY: [Signature]

INTRODUCED BY HON. MANNY VILLAR

EXPLANATORY NOTE

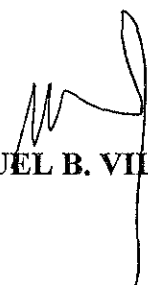
The credit information system is dependent upon fair and accurate credit reporting. Inaccurate credit report directly undermines the public confidence, which is essential to the continued functioning of the system.

The system works within an elaborate mechanism so developed for the investigation and evaluation of credit worthiness, credit standing, credit capacity, character, and general reputation of the consumer.

Consumer reporting agencies have assumed a vital role in assembling and evaluating consumer credit and other information on consumers. Therefore, there is a need to insure that consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy.

In conjunct with a proposed Act establishing a Credit Information Bureau (Senate Bill No. 1936, authored by Sen. Edgardo J. Angara), which if passed into law would authorize access of credit information from government files and other Submitting Entities, this bill aims to prevent abuse of such access privilege by requiring consumer reporting agencies to adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, and other information in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of such information. A Fair Credit Reporting Act will regulate how credit-reporting agencies shall use people's information.

Passage of this Bill is earnestly sought.


MANUEL B. VILLAR, JR.

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**AN ACT REQUIRING CONSUMER REPORTING AGENCIES TO EXERCISE THEIR
FUNCTIONS AND RESPONSIBILITIES WITH FAIRNESS, IMPARTIALITY, AND A
RESPECT FOR THE CONSUMER'S RIGHT TO PRIVACY**

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Short Title.* This Act shall be known as the "Fair Credit Reporting Act".

SECTION 2. *Declaration of Policy.* It is the policy of the State to value the dignity of every human person and guarantees full respect for human rights.

SECTION 3. *Purpose and Coverage.* This Act covers the operation of a credit information system in the country. Its purpose is to insure that consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy and fair reporting. It is the purpose of this Act to require that consumer reporting agencies adopt reasonable procedures in meeting the needs of commerce for consumer credit, personnel, insurance, and other information in a manner which is fair and equitable to the consumer, with due regard to the confidentiality, accuracy, relevancy, and proper utilization of such information in accordance with the requirements of this Act.

This Act covers all participants in a credit information system, including but not limited to consumer reporting agencies, banks and financial institutions, credit and loan institutions, non-bank institutions performing quasi-banking functions, information accessing entities, and public regulatory agencies responsible for consumer information data banking.

SECTION 4. *Definition of terms and rules of construction.* The definitions and rules of construction as set forth in this section are applicable for the purposes of this Act.

- (a) The term '*person*' means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.
- (b) The term '*consumer*' means an individual.
- (c) The term '*consumer report*' means any written, oral, or other communication of any information by a credit information bureau on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode

of living which is used or expected to be used, or collected in whole or in part, for the purpose of serving as a factor in establishing the consumer's eligibility for:

- (1) credit or insurance to be used primarily for personal, family, or household purposes, or
 - (2) employment purposes, or
 - (3) other purposes authorized under Section 5. The term does not include:
 - (A) any report containing information solely as to transactions or experiences between the consumer and the person making the report;
 - (B) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device; or
 - (C) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made and such person makes the disclosure to the consumer required under Section 16.
- (d) The term '*investigative consumer report*' means a consumer report or portion thereof in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom he is acquainted or who may have knowledge concerning any such items of information. However, such information shall not include specific factual information on a consumer's credit record obtained directly from a creditor of the consumer or from a credit information bureau when such information was obtained directly from a creditor of the consumer or from the consumer.
- (e) The term '*credit information system*' means the collective network of authorized entities, led by credit information bureau/s that accesses credit information from government offices, agencies and pension funds being administered by the government, from the judiciary and its offices (subject to conformity by the Supreme Court), and releases credit information, credit reports and credit ratings to accessing entities within the network.
- (f) The term '*credit information bureau*' means any person or entity which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer reports to third parties, and which uses any means or facility of interstate commerce for preparing or furnishing consumer reports.
- (g) The term '*file*', when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by a credit information bureau regardless of how the information is stored.
- (h) The term '*employment purposes*' when used in connection with a consumer report means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment or retention as an employee.
- (i) The term '*medical information*' means information or records obtained, with the consent of the individual to whom it relates, from licensed physicians or medical practitioners, hospitals, clinics, or other medical or medically related facilities.

SECTION 5. *Permissible purposes of reports.* A credit information bureau may furnish a consumer report under the following circumstances and no other:

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

- (b) In accordance with the written instructions of the consumer to whom it relates.
- (c) To a person which it has reason to believe:
 - (1) intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of the consumer; or
 - (2) intends to use the information for employment purposes; or
 - (3) intends to use the information in connection with the underwriting of insurance involving the consumer; or
 - (4) intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or
 - (5) otherwise has a legitimate business need for the information in connection with a business transaction involving the consumer.

SECTION 6. *Obsolete information.* (a) Except as authorized under Subsection (b), no credit information bureau may make any consumer report containing any of the following items of information:

- (1) Suits and judgments which, from date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.
 - (2) Paid tax liens which, from date of payment, antedate the report by more than seven years.
 - (3) Accounts placed for collection or charged to profit and loss, which antedate the report by more than seven years.
 - (4) Records of arrest, indictment, or conviction of crime, which, from date of disposition, release, or parole, antedate the report by more than seven years.
 - (5) Any other adverse item of information which antedates the report by more than seven years.
- (b) The provisions of Subsection (a) are not applicable in the case of any consumer credit report to be used in connection with:
- (1) a credit transaction involving, or which may reasonably be expected to involve, a principal amount of P3 million or more;
 - (2) the underwriting of life insurance involving, or which may reasonably be expected to involve a face amount of P3 million or more; or
 - (3) the employment of any individual at an annual salary which equals, or which may reasonably be expected to equal P2 million, or more.

SECTION 7. *Disclosure of investigative consumer reports.* (a) A person may not procure or cause to be prepared an investigative consumer report on any consumer unless:

- (1) it is clearly and accurately disclosed to the consumer that an investigative consumer report including information as to his character, general reputation, personal characteristics, and mode of living, whichever is applicable, may be made, and such disclosure
 - (A) is made in writing and mailed, or otherwise delivered to the consumer, not later than three days after the date on which the report was first requested, and

- (B) includes a statement informing the consumer of his right to request the additional disclosures provided for under Subsection (b) of this section; or
- (2) the report is to be used for employment purposes for which the consumer has not specifically applied.
- (b) Any person who procures or causes to be prepared an investigative consumer report on any consumer shall, within a reasonable time after the receipt of the written request made by the consumer concerned of the disclosure required by Subsection (a)(1), shall make a complete and accurate disclosure of the nature and scope of the investigation requested. This disclosure shall be made in writing, mailed or otherwise delivered to the consumer not later than five days after the date on which the request for such disclosure was received from the said consumer or such report was first requested, whichever is later.
- (c) No person may be held liable for any violation of Subsection (a) or (b) of this section if he shows by mere preponderance of evidence that at the time of the violation, he observed and followed reasonable procedures to assure compliance with Subsection (a) or (b).

SECTION 8. *Compliance procedures.* (a) Every credit information bureau shall maintain reasonable procedures designed to avoid violations of Section 6 of this Act and to limit the furnishing of consumer reports only for the purposes listed under Section 5. These procedures shall require that prospective users of the information identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose. Every credit information bureau shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by such prospective user prior to furnishing the latter of a consumer report. No credit information bureau may furnish a consumer report to any person if it has reasonable grounds to believe that the consumer report will not be used for any of the purposes listed in Section 5.

(b) Whenever a credit information bureau prepares a consumer report, it shall follow reasonable procedures to ensure maximum possible accuracy of the information concerning the individual about whom the report relates.

SECTION 9. *Disclosures to governmental agencies.* Notwithstanding the provisions of Section 5, a credit information bureau may furnish information concerning any consumer, but only limited to the name, address, former addresses, places of employment, or former places of employment, to governmental agencies.

SECTION 10. *Disclosures to consumers.*

- (a) Every credit information bureau shall, upon request and proper identification of any consumer, clearly and accurately disclose to the said consumer the following:
- (1) The nature and substance of all information (except medical information) in its files at the time of the request.
 - (2) The sources of the information; except that the sources of information acquired solely for use in preparing an investigative consumer report and actually used for no other purpose need not be disclosed: Provided, that in the event an action is brought under this Act, such sources shall be available to the plaintiff under appropriate discovery procedures in the court in which the action is brought.
 - (3) The recipients of any consumer report on the consumer

- (A) for employment purposes within the two-year period preceding the request, and
 - (B) for any other purpose within the six-month period preceding the request.
- (4) The dates, original payees, and amounts of any checks upon which is based any adverse characterization of the consumer included in the file at the time of the disclosure.
- (b) The requirements of Subsection (a) respecting the disclosure of sources of information and the recipients of consumer reports do not apply to information received or consumer reports furnished prior to the effective date of this Act except to the extent that the matter involved is contained in the files of the credit information bureau on that date.

SECTION 11. *Conditions of disclosure to consumers.*

- (a) A credit information bureau shall make the disclosures required under Section 10 during normal business hours and only after a reasonable notice.
- (b) The disclosures required under Section 10 shall be made to the consumer:
 - (1) In person, if he appears in person and furnishes proper identification; or
 - (2) By telephone, if he has made a written request, with proper identification, for telephone disclosure and the toll charge, if any, for the telephone call is prepaid by or charged directly to the consumer.
- (c) Any credit information bureau shall provide trained personnel to explain to the consumer any information furnished to him pursuant to Section 10.
- (d) The consumer shall be permitted to be accompanied by one other person of his choosing, who shall furnish reasonable identification. A credit information bureau may require the consumer to furnish a written statement granting permission to the credit information bureau to discuss the consumer's file in such person's presence.
- (e) Except as provided in Sections 7 and 8, no consumer may bring any action or proceeding in the nature of defamation, invasion of privacy, or negligence with respect to the reporting of information against any credit information bureau, any user of information, or any person who furnishes information to a credit information bureau, based on information disclosed pursuant to Sections 10, 11 or 16, except as to false information furnished with malicious intent to injure such consumer.

SECTION 12. *Procedure in case of disputed accuracy.*

- (a) If the completeness or accuracy of any item of information contained in his file is disputed by a consumer and such dispute is directly conveyed to the credit information bureau by the consumer, the credit information bureau shall, within a reasonable period of time, reinvestigate and record the current status of that information unless it has reasonable grounds to believe that the dispute by the consumer is frivolous or irrelevant. If after such reinvestigation such information is found to be inaccurate or can no longer be verified, the credit information bureau shall promptly delete such information. The presence of contradictory information in the consumer's file does not in and of itself constitute reasonable grounds for believing the dispute is frivolous or irrelevant.
- (b) If the reinvestigation does not resolve the dispute, the consumer may file a brief statement setting forth the nature of the dispute. The credit information bureau may limit such statement to not more than one hundred words, if it provides the consumer with assistance in writing a clear summary of the dispute.
- (c) Whenever a statement of a dispute is filed, unless there is reasonable grounds to believe that it is frivolous or irrelevant, the credit information bureau shall, in any subsequent

consumer report containing the information in question, clearly note that it is disputed by the consumer and provide either the consumer's statement or a clear and accurate codification or summary thereof.

- (d) Following any deletion of information which is found to be inaccurate or whose accuracy can no longer be verified, or any notation as to disputed information, the credit information bureau shall, at the request of the consumer, furnish notification that the item has been deleted or that the statement, codification or summary pursuant to Subsection (b) or (c), to any person specifically designated by the consumer who has within two years prior thereto received a consumer report for employment purposes, or within six months prior thereto received a consumer report for any other purpose, which contained the deleted or disputed information. The credit information bureau shall clearly and conspicuously disclose to the consumer his rights to make such a request. Such disclosure shall be made at or prior to the time the information is deleted or the consumer's statement regarding the disputed information is received.

SECTION 13. *Charges for certain disclosures.* A credit information bureau shall make all disclosures pursuant to Section 10 and furnish all consumer reports pursuant to Section 12 (d) without charge to the consumer if, within thirty days after receipt by such consumer of a notification pursuant to Section 16 or notification from a debt collection agency affiliated with such credit information bureau stating that the consumer's credit rating may be or has been adversely affected, the consumer makes a request under Section 10 or 12(d). Otherwise, the credit information bureau may impose a reasonable charge on the consumer for making disclosure to such consumer pursuant to Section 10, the charge for which shall be indicated to the consumer prior to making disclosure; and for furnishing notifications, statements, summaries, or codifications to person's designated by the consumer pursuant to Section 12(d), the charge for which shall be indicated to the consumer prior to furnishing such information and shall not exceed the charge that the credit information bureau would impose on each designated recipient for a consumer report, except that no charge may be made for notifying such persons of the deletion of information which is found to be inaccurate or which can no longer be verified.

SECTION 14. *Public record information for employment purpose.* A credit information bureau which furnishes a consumer report for employment purposes and which for that purpose compiles and reports items of information on consumers which are matters of public record and are likely to have an adverse effect upon a consumer's ability to obtain employment shall:

- (a) at the time such public record information is reported to the user of such consumer report, notify the consumer of the fact that public record information is being reported by the credit information bureau, together with the name and address of the person to whom such information is being reported; or
- (b) maintain strict procedures designed to insure that whenever public record information which is likely to have an adverse effect on a consumer's ability to obtain employment is reported, it is complete and up to date. For purposes of this paragraph, items of public record relating to arrests, indictment, conviction, suits, tax liens, and outstanding judgments shall be considered up to date if the current public record status of the item at the time of the report is reported.

SECTION 15. *Restrictions on investigative consumer report.* Whenever a credit information bureau prepares an investigative consumer report, no adverse information in the consumer report (other than information which is a matter of public record) may be included in a subsequent consumer report, unless such adverse information has been verified in the process of

making such subsequent consumer report, or the adverse information was received within the three-month period preceding the date the subsequent report is furnished.

SECTION 16. *Requirement on users of consumer report.*

- (a) Whenever credit or insurance for personal, family, or household purposes, or employment involving a consumer is denied or the charge for such credit or insurance is increased either wholly or partly because of information contained in a consumer report from a credit information bureau, the user of the consumer report shall so advise the consumer against whom such adverse action has been taken and supply the name and address of the credit information bureau making the report.
- (b) Whenever credit for personal, family, or household purposes involving a consumer is denied or the charge for such credit is increased either wholly or partly because of information obtained from a person other than a credit information bureau bearing upon the consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, the user of such information shall, within a reasonable period of time, upon the consumer's written request for the reasons for such adverse action received within sixty days after learning of such adverse action, disclose the nature of the information to the consumer. The user of such information shall clearly and accurately disclose to the consumer his right to make such written request at the time such adverse action is communicated to the consumer.
- (c) No person shall be held liable for any violation of this section if he shows by mere preponderance of evidence that at the time of the alleged violation, he observed and followed reasonable procedures to ensure compliance with the provisions of Subsections (a) and (b).

SECTION 17. *Civil liability for willful noncompliance.* Any credit information bureau or user of information which willfully fails to comply with any of the requirements imposed under this Act with respect to any consumer is liable to that consumer in an amount equal to the sum of:

- (a) any actual damages sustained by the consumer as a result of the failure;
- (b) such amount of punitive damages as the court may allow; and
- (c) in the case of any successful action to enforce any liability under this Section, the costs of the action together with reasonable attorney's fees as determined by the court.

SECTION 18. *Civil liability for negligent noncompliance.* Any credit information bureau or user of information which is negligent in failing to comply with any requirement imposed under this Act with respect to any consumer is liable to that consumer in an amount equal to the sum of:

- (a) any actual damages sustained by the consumer as a result of the negligence;
- (b) in the case of any successful action to enforce any liability under this Section, the costs of the action together with reasonable attorney's fees as determined by the court.

SECTION 19. *Jurisdiction of courts; limitation of actions.* An action to enforce any liability created under this Act may be brought in any court of competent jurisdiction, within two years from the date on which the liability arises, except that where a defendant has materially and willfully misrepresented any information required under this Act to be disclosed to an individual and the information so misrepresented is material to the establishment of the defendant's liability to that individual under this Act, the action may be brought at any time within two years after discovery by the individual of the misrepresentation.

SECTION 20. *Obtaining information under false pretenses.* Any person who knowingly and willfully obtains information on a consumer from a credit information bureau under false pretenses shall be fined not less than Php 10,000.00 but not more than Php 1,000,000.00 or imprisoned by not more than one year, or both, per violation per person.

SECTION 21. *Unauthorized disclosures by officers or employees.* Any officer or employee of a credit information bureau who knowingly and willfully provides information concerning an individual from the agency's files to a person not authorized to receive that information shall be fined not less than Php 10,000.00 but not more than Php 1,000,000.00 or imprisoned not more than one year, or both, per violation per person.

SECTION 22. *Implementing Rules and Regulations.* The Bangko Sentral ng Pilipinas shall issue the regulations prescribing details for implementation of this law.

SECTION 23. *Repealing Clause.* All acts and parts of acts inconsistent herewith are hereby repealed or amended accordingly.

SECTION 24. *Effectivity.* This Act shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

Approved,