

By: Representative Guice

To: Banking and Financial Services

HOUSE BILL NO. 657
(As Passed the House)

1 AN ACT TO REQUIRE EACH CONSUMER REPORTING AGENCY TO PROVIDE A
2 CONSUMER WITH ONE DISCLOSURE COPY OF HIS OR HER FILE TWO TIMES PER
3 YEAR AT NO CHARGE; TO PROVIDE THE PROCEDURE TO FOLLOW IN CASE OF
4 DISPUTED ACCURACY OF INFORMATION IN A CONSUMER'S FILE; AND FOR
5 RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** (1) As used in this act, the following terms
8 shall have the following meanings:

9 (a) "Consumer" means a natural person residing in the
10 State of Mississippi.

11 (b) "Consumer report" means any written, oral, or other
12 communication or any information by a consumer reporting agency
13 bearing on a consumer's creditworthiness, credit standing, credit
14 capacity, debts, character, general reputation, personal
15 characteristics, or mode of living, that is used or expected to be
16 used or collected, in whole or in part, as a factor to establish a
17 consumer's eligibility for (i) credit or insurance to be used
18 primarily for personal, family, or household purposes, (ii)
19 employment purposes, or (iii) any other purpose authorized under
20 applicable provisions of the federal Fair Credit Reporting Act, 15
21 USCS Section 1681 et seq.

22 (c) "Consumer reporting agency" means any person that,
23 for monetary fees, dues, or on a cooperative nonprofit basis,
24 regularly engages in whole or in part in the practice of
25 assembling or evaluating consumer credit information or other
26 information on consumers for the purpose of furnishing consumer
27 reports to third parties. "Consumer reporting agency" does not

28 include any business entity that provides check verification or
29 check guarantee services only.

30 (d) "Creditworthiness" means any entry in a consumer's
31 credit file that impacts the ability of a consumer to obtain and
32 retain credit, employment, business or professional licenses,
33 investment opportunities, or insurance. Entries contained in a
34 consumer file or in a consumer report that affect creditworthiness
35 shall include, but not be limited to, payment information,
36 defaults, judgments, liens, bankruptcies, collections, records of
37 arrest and indictments, and multiple-credit inquiries.

38 (e) "Employment purposes," when used in connection with
39 a consumer report, means a report used for the purpose of
40 evaluating a consumer for employment, promotion, reassignment, or
41 retention as an employee.

42 (f) "File" means all of the information on the consumer
43 that is recorded and retained by a consumer reporting agency
44 regardless of how the information is stored.

45 (g) "Person" means any natural person, firm,
46 corporation or partnership.

47 (2) Each consumer reporting agency, upon the request of a
48 consumer, shall provide the consumer with one (1) disclosure copy
49 of his or her file two (2) times per calendar year at no charge.
50 If the consumer requests a disclosure copy of his or her file more
51 than two (2) times per year under this subsection, the consumer
52 reporting agency may charge the consumer up to Eight Dollars
53 (\$8.00) for each additional disclosure copy.

54 (3) A consumer reporting agency, upon written or verbal
55 request of a consumer under subsection (2) of this section and
56 proper identification of the consumer, shall clearly, accurately,
57 and in a manner that is understandable to the consumer, disclose
58 to the consumer, in writing, all information in its files at the
59 time of the request pertaining to the consumer, including, but not
60 limited to:

61 (a) The names of all persons requesting credit
62 information pertaining to the consumer during the prior
63 twelve-month period and the date of each request; and

64 (b) A set of instructions, presented in a manner that
65 is understandable to the consumer, describing how information is
66 presented on its written disclosure of the file.

67 **SECTION 2.** (1) **Reinvestigations of disputed information.**

68 (a) Reinvestigation required.

69 (i) In general. Subject to subsection (5) of this
70 section, if the completeness or accuracy of any item of
71 information contained in a consumer's file at a consumer reporting
72 agency is disputed by the consumer and the consumer notifies the
73 agency directly, or indirectly through a reseller, of such
74 dispute, the agency shall, free of charge, conduct a reasonable
75 reinvestigation to determine whether the disputed information is
76 inaccurate and record the current status of the disputed
77 information, or delete the item from the file in accordance with
78 paragraph (e), before the end of the thirty-day period beginning
79 on the date on which the agency receives the notice of the dispute
80 from the consumer or reseller.

81 (ii) Extension of period to reinvestigate.
82 Except as provided in subparagraph (iii), the thirty-day period
83 described in subparagraph (i) may be extended for not more than
84 fifteen (15) additional days if the consumer reporting agency
85 receives information from the consumer during that thirty-day
86 period that is relevant to the reinvestigation.

87 (iii) Limitations on extension of period to
88 reinvestigate. Subparagraph (ii) shall not apply to any
89 reinvestigation in which, during the thirty-day period described
90 in subparagraph (i), the information that is the subject of the
91 reinvestigation is found to be inaccurate or incomplete or the
92 consumer reporting agency determines that the information cannot
93 be verified.

94 (b) Prompt notice of dispute to furnisher of
95 information.

96 (i) In general. Before the expiration of the
97 five-business-day period beginning on the date on which a consumer
98 reporting agency receives notice of a dispute from any consumer or
99 a reseller in accordance with paragraph (a), the agency shall
100 provide notification of the dispute to any person who provided any
101 item of information in dispute, at the address and in the manner
102 established with the person. The notice shall include all
103 relevant information regarding the dispute that the agency has
104 received from the consumer or reseller.

105 (ii) Provision of other information. The consumer
106 reporting agency shall promptly provide to the person who provided
107 the information in dispute all relevant information regarding the
108 dispute that is received by the agency from the consumer or the
109 reseller after the period referred to in subparagraph (i) and
110 before the end of the period referred to in paragraph (a)(i).

111 (c) Determination that dispute is frivolous or
112 irrelevant.

113 (i) In general. Notwithstanding paragraph (a), a
114 consumer reporting agency may terminate a reinvestigation of
115 information disputed by a consumer under that paragraph if the
116 agency reasonably determines that the dispute by the consumer is
117 frivolous or irrelevant, including by reason of a failure by a
118 consumer to provide sufficient information to investigate the
119 disputed information.

120 (ii) Notice of determination. Upon making any
121 determination in accordance with subparagraph (i) that a dispute
122 is frivolous or irrelevant, a consumer reporting agency shall
123 notify the consumer of such determination not later than five (5)
124 business days after making such determination, by mail or, if
125 authorized by the consumer for that purpose, by any other means
126 available to the agency.

127 (iii) Contents of notice. A notice under
128 subparagraph (ii) shall include:

129 1. The reasons for the determination under
130 subparagraph (i); and

131 2. Identification of any information required
132 to investigate the disputed information, which may consist of a
133 standardized form describing the general nature of such
134 information.

135 (d) Consideration of consumer information. In
136 conducting any reinvestigation under paragraph (a) with respect to
137 disputed information in the file of any consumer, the consumer
138 reporting agency shall review and consider all relevant
139 information submitted by the consumer in the period described in
140 paragraph (a)(i) with respect to such disputed information.

141 (e) Treatment of inaccurate or unverifiable
142 information.

143 (i) In general. If, after any reinvestigation
144 under paragraph (a) of any information disputed by a consumer, an
145 item of the information is found to be inaccurate or incomplete or
146 cannot be verified, the consumer reporting agency shall:

147 1. Promptly delete that item of information
148 from the file of the consumer, or modify that item of information,
149 as appropriate, based on the results of the reinvestigation; and

150 2. Promptly notify the furnisher of that
151 information that the information has been modified or deleted from
152 the file of the consumer.

153 (ii) Requirements relating to reinsertion of
154 previously deleted material.

155 1. Certification of accuracy of information.
156 If any information is deleted from a consumer's file pursuant to
157 subparagraph (i), the information may not be reinserted in the
158 file by the consumer reporting agency unless the person who

159 furnishes the information certifies that the information is
160 complete and accurate.

161 2. Notice to consumer. If any information
162 that has been deleted from a consumer's file pursuant to
163 subparagraph (i) is reinserted in the file, the consumer reporting
164 agency shall notify the consumer of the reinsertion in writing not
165 later than five (5) business days after the reinsertion or, if
166 authorized by the consumer for that purpose, by any other means
167 available to the agency.

168 3. Additional information. As part of, or in
169 addition to, the notice under clause 2., a consumer reporting
170 agency shall provide to a consumer in writing not later than five
171 (5) business days after the date of the reinsertion:

172 a. A statement that the disputed
173 information has been reinserted;

174 b. The business name and address of any
175 furnisher of information contacted and the telephone number of
176 such furnisher, if reasonably available, or of any furnisher of
177 information that contacted the consumer reporting agency, in
178 connection with the reinsertion of such information; and

179 c. A notice that the consumer has the
180 right to add a statement to the consumer's file disputing the
181 accuracy or completeness of the disputed information.

182 (iii) Procedures to prevent reappearance. A
183 consumer reporting agency shall maintain reasonable procedures
184 designed to prevent the reappearance in a consumer's file, and in
185 consumer reports on the consumer, of information that is deleted
186 pursuant to this paragraph (other than information that is
187 reinserted in accordance with subparagraph (ii)1.).

188 (iv) Automated reinvestigation system. Any
189 consumer reporting agency that compiles and maintains files on
190 consumers on a nationwide basis shall implement an automated
191 system through which furnishers of information to that consumer

192 reporting agency may report the results of a reinvestigation that
193 finds incomplete or inaccurate information in a consumer's file to
194 other such consumer reporting agencies.

195 (f) Notice of results of reinvestigation.

196 (i) In general. A consumer reporting agency shall
197 provide written notice to a consumer of the results of a
198 reinvestigation under this subsection not later than five (5)
199 business days after the completion of the reinvestigation, by mail
200 or, if authorized by the consumer for that purpose, by other means
201 available to the agency.

202 (ii) Contents. As part of, or in addition to, the
203 notice under subparagraph (i), a consumer reporting agency shall
204 provide to a consumer in writing before the expiration of the
205 five-day period referred to in subparagraph (i):

206 1. A statement that the reinvestigation is
207 completed;

208 2. A consumer report that is based upon the
209 consumer's file as that file is revised as a result of the
210 reinvestigation;

211 3. A notice that, if requested by the
212 consumer, a description of the procedure used to determine the
213 accuracy and completeness of the information shall be provided to
214 the consumer by the agency, including the business name and
215 address of any furnisher of information contacted in connection
216 with such information and the telephone number of such furnisher,
217 if reasonably available;

218 4. A notice that the consumer has the right
219 to add a statement to the consumer's file disputing the accuracy
220 or completeness of the information; and

221 5. A notice that the consumer has the right
222 to request under subsection (4) of this section that the consumer
223 reporting agency furnish notifications under that subsection.

224 (g) Description of reinvestigation procedure. A
225 consumer reporting agency shall provide to a consumer a
226 description referred to in paragraph (f)(ii)3. by not later than
227 fifteen (15) days after receiving a request from the consumer for
228 that description.

229 (h) Expedited dispute resolution. If a dispute
230 regarding an item of information in a consumer's file at a
231 consumer reporting agency is resolved in accordance with paragraph
232 (e)(i) by the deletion of the disputed information by not later
233 than three (3) business days after the date on which the agency
234 receives notice of the dispute from the consumer in accordance
235 with paragraph (a)(i), then the agency shall not be required to
236 comply with paragraphs (b), (f), and (g) with respect to that
237 dispute if the agency:

238 (i) Provides prompt notice of the deletion to the
239 consumer by telephone;

240 (ii) Includes in that notice, or in a written
241 notice that accompanies a confirmation and consumer report
242 provided in accordance with subparagraph (iii), a statement of the
243 consumer's right to request under subsection (4) of this section
244 that the agency furnish notifications under that subsection; and

245 (iii) Provides written confirmation of the
246 deletion and a copy of a consumer report on the consumer that is
247 based on the consumer's file after the deletion, not later than
248 five (5) business days after making the deletion.

249 (2) **Statement of dispute.** If the reinvestigation does not
250 resolve the dispute, the consumer may file a brief statement
251 setting forth the nature of the dispute. The consumer reporting
252 agency may limit such statements to not more than one hundred
253 words if it provides the consumer with assistance in writing a
254 clear summary of the dispute.

255 (3) **Notification of consumer dispute in subsequent consumer**
256 **reports.** Whenever a statement of a dispute is filed, unless there

257 is reasonable grounds to believe that it is frivolous or
258 irrelevant, the consumer reporting agency shall, in any subsequent
259 consumer report containing the information in question, clearly
260 note that it is disputed by the consumer and provide either the
261 consumer's statement or a clear and accurate codification or
262 summary thereof.

263 (4) **Notification of deletion of disputed information.**

264 Following any deletion of information which is found to be
265 inaccurate or whose accuracy can no longer be verified or any
266 notation as to disputed information, the consumer reporting agency
267 shall, at the request of the consumer, furnish notification that
268 the item has been deleted or the statement, codification or
269 summary pursuant to subsection (2) or (3) of this section to any
270 person specifically designated by the consumer who has within two
271 (2) years prior thereto received a consumer report for employment
272 purposes, or within six (6) months prior thereto received a
273 consumer report for any other purpose, which contained the deleted
274 or disputed information.

275 (5) **Reinvestigation requirement applicable to resellers.**

276 (a) Exemption from general reinvestigation requirement.
277 Except as provided in paragraph (b), a reseller shall be exempt
278 from the requirements of this section.

279 (b) Action required upon receiving notice of a dispute.
280 If a reseller receives a notice from a consumer of a dispute
281 concerning the completeness or accuracy of any item of information
282 contained in a consumer report on such consumer produced by the
283 reseller, the reseller shall, within five (5) business days of
284 receiving the notice, and free of charge:

285 (i) Determine whether the item of information is
286 incomplete or inaccurate as a result of an act or omission of the
287 reseller; and

288 (ii) If:

289 1. The reseller determines that the item of
290 information is incomplete or inaccurate as a result of an act or
291 omission of the reseller, not later than twenty (20) days after
292 receiving the notice, correct the information in the consumer
293 report or delete it; or

294 2. If the reseller determines that the item
295 of information is not incomplete or inaccurate as a result of an
296 act or omission of the reseller, convey the notice of the dispute,
297 together with all relevant information provided by the consumer,
298 to each consumer reporting agency that provided the reseller with
299 the information that is the subject of the dispute, using an
300 address or a notification mechanism specified by the consumer
301 reporting agency for such notices.

302 (c) Responsibility of consumer reporting agency to
303 notify consumer through reseller. Upon the completion of a
304 reinvestigation under this section of a dispute concerning the
305 completeness or accuracy of any information in the file of a
306 consumer by a consumer reporting agency that received notice of
307 the dispute from a reseller under paragraph (b):

308 (i) The notice by the consumer reporting agency
309 under paragraph (f), (g), or (h) of subsection (1) of this section
310 shall be provided to the reseller in lieu of the consumer; and

311 (ii) The reseller shall immediately reconvey such
312 notice to the consumer, including any notice of a deletion by
313 telephone in the manner required under paragraph (h)(i).

314 (d) Reseller reinvestigations. No provision of this
315 subsection shall be construed as prohibiting a reseller from
316 conducting a reinvestigation of a consumer dispute directly.

317 **SECTION 3.** This act shall take effect and be in force from
318 and after July 1, 2007.