

Testimony

Of

Assistant Attorney General Julie Brill  
Vermont Attorney General's Office  
109 State Street  
Montpelier, VT 05609-1001  
Tel: 802-828-3658

Email: [jbrill@atg.state.vt.us](mailto:jbrill@atg.state.vt.us)

before the

Subcommittee on Financial Institutions and Consumer Credit  
Committee on Financial Services  
United States House of Representatives

108<sup>th</sup> Congress, 1<sup>st</sup> Session

Hearing on "Fair Credit Reporting Act: How It Functions  
for Consumers and the Economy"

June 4, 2003

Good morning, Chairman Bachus and distinguished members of the Subcommittee on Financial Institutions and Consumer Credit. Thank you for inviting me to speak with you today on the important issue of credit reporting and how it functions for consumers and the economy. My name is Julie Brill, and I'm an Assistant Attorney General for the State of Vermont. I have been working in the consumer protection area for 12 years, and have specialized in credit reporting issues in Vermont. In addition, I am co-chair of the National Association of Attorneys General Working Group on Credit Reporting, and co-chair of the National Association of Attorneys General Working Group on Privacy. In these capacities, I have worked through the National Association of Attorneys General on numerous national issues relating to credit reporting and privacy, including comments to Congress and various federal agencies.

I would like at the outset to recognize the important role played by this Committee in the protection of consumers' interests with respect to credit reporting, which has a profound effect on consumers. Credit reports are relied upon almost universally in determining a consumer's eligibility for credit, and are used often in determining a consumer's eligibility for employment, insurance, and housing. Moreover, credit grantors use credit reports to determine the terms on which such benefits will be granted to consumers. In light of the critical role played by credit reporting agencies in the economy, Congress has created a dual regulatory structure: in addition to creating national baseline standards for the industry under the federal Fair Credit Reporting Act,<sup>1</sup> Congress authorizes states to fashion state laws governing a wide variety of credit reporting issues.

---

<sup>1</sup> 15 U.S.C. § 1681 *et seq.*

In these comments, I recommend that this Committee permit this dynamic, dual system for regulating credit reporting agencies to flourish by allowing the preemption provisions to sunset as originally contemplated, and by not enacting any further temporary or permanent provisions that would preempt the states from creating innovative solutions to credit reporting problems.

I discuss the following topics in these comments:

1. State Attorneys General have addressed enormous credit reporting problems over the past decade in their states, including accuracy of information in credit files, inadequate investigations into credit file errors, and the role of the credit reporting industry in creating additional problems for victims of identity theft.
2. As authorized by Congress, State legislatures have enacted innovative state laws to address in a timely manner many of the credit reporting problems that have arisen in the states.
3. The economies of the states that have enacted innovative state credit reporting laws have not been harmed by the additional state law requirements.
4. The states have thus played an important and useful role as "laboratories of democracy," and the innovative state requirements governing credit reporting enlighten the national debate over appropriate credit reporting standards.
5. Congress should employ the same strategy with respect to credit reporting that it has employed with respect to privacy, telecommunications,

telemarketing, fair credit billing and equal credit opportunity – by creating a national baseline standard and permit states to enact laws that are more protective of consumers.

**I. State Attorneys General Have Addressed Consumer Problems Relating to Credit Reporting.**

Consumers have long experienced problems with credit reports, and State Attorneys General have long served on the front lines to handle these problems. State Attorneys General have enforced state and federal laws for over a decade, and have promoted the adoption of innovative state laws, in an effort to protect their citizens from problems that have arisen in the credit reporting industry.

**A. The 1991 Vermont Tax Lien Debacle.**

In 1991, our office began to receive calls from consumers who were unable to refinance mortgages or obtain loans as a result of errors in their credit reports. At first the calls appeared to be isolated to the residents of one town – Norwich, Vermont. A Norwich doctor couldn't use his credit cards on vacation, a local jewelry store owner's mortgage was turned down, and a professor at the nearby law school had his home improvement loan delayed.<sup>2</sup> Then the calls began to come in from other Vermont towns: Woodstock, Hartland, Hartford and Sheffield. After investigating the problems, our office learned that two of the three credit reporting agencies – TRW Inc. (now Experian) and Equifax Credit Information Services – had hired a subcontractor that

---

<sup>2</sup> Miller, Michael, "Bad History: Credit-Report Firms Face Greater Pressure; Ask Norwich, Vt. Why; It's Citizens All Became Risks, In the Kind of Error That Could Lead to New Law", Wall Street Journal, Sept. 23, 1991, A1.

misunderstood public record information on file in Vermont town clerks' offices. As a result, these two credit reporting agencies falsely listed hundreds of Vermont residents as "tax dead beats." their credit files stated that they had tax liens on their real property for failure to pay property taxes, when in fact the consumers so identified did not have tax liens and had paid their property taxes. This egregious error by two of the major credit reporting agencies caused enormous disruption in the lives of hundreds of Vermont residents.<sup>3</sup>

The Vermont Attorney General's Office sued one of the credit reporting agencies, alleging that it had violated Vermont's Consumer Fraud Act and the federal Fair Credit Reporting Act by failing to maintain reasonable procedures to assure maximum possible accuracy of information contained in consumer credit reports.<sup>4</sup> Ultimately, the Vermont Attorney General resolved his concerns by entering into settlements with both TRW and Equifax.<sup>5</sup> The settlements required the credit reporting companies to pay each eligible consumer either \$250 or the amount of damages (up to \$1,000) suffered by the consumer, as determined by an arbitrator.<sup>6</sup> According to the Wall Street Journal, these settlements were believed to mark the first time that a company agreed to reimburse a large group of consumers for problems caused by credit-reporting errors.<sup>7</sup>

---

<sup>3</sup> Miller, Michael, "Privacy: Rash of Errors Blemishes TRW Credit Reports," Wall Street Journal, Oct. 14, 1991, B1.

<sup>4</sup> State of Vermont v. TRW, Inc., Docket No. S630-91WrC (Winds. Cty., Oct. 21, 1991).

<sup>5</sup> In the Matter of TRW, Inc., Docket No. S-790-92 WnC (Wash. Cty., Dec. 17, 1992); In the Matter of Equifax Credit Information Services, Inc. and National Data Retrieval, Inc. (Wash. Cty., May 21, 1993).

<sup>6</sup> Consumers could also choose to opt out of the settlement in the event that their damages were greater than \$1,000.00. *Id.* In addition, the settlements required the credit bureaus to pay \$250,000 to the State of Vermont. *See id.*

<sup>7</sup> "Business Brief: TRW Will Pay Vermont Residents Hurt By Firm's Credit-Report Errors in 1991," Wall Street Journal, Dec. 23, 1991, B4.

## B. Concerns in Other States about Credit Reporting Problems.

At the same time, other State Attorneys General also were very concerned about credit reporting errors and other problems caused by the credit reporting agencies. In 1991, the Attorneys General of six states filed suit against TRW Inc., accusing the credit bureau of various violations of law, including: sloppy procedures that created errors in credit files; inadequately investigating alleged inaccuracies in credit reports; and allowing errors to recur in credit files.<sup>8</sup> After just a few months of litigation, TRW entered into a consent decree with 19 states, agreeing to sweeping new procedures to improve and make fairer its credit reporting practices.<sup>9</sup> The Federal Trade Commission entered into a similar settlement.<sup>10</sup> Ultimately, the other two major credit bureaus – Equifax and Trans Union – also entered into settlements regarding the accuracy of the information in their credit files and other concerns.<sup>11</sup>

## II. State Laws Are An Important Part of The Dual Regulatory System Created by Congress to Govern The Credit Reporting Industry.

Some of the concerns regarding the practices of the credit bureaus that were raised by the Attorneys General in these actions in the early 1990s were addressed by Congress five years later, in the 1996 Fair Credit Reporting Act Amendments,<sup>12</sup> which extensively overhauled the federal Fair Credit Reporting Act, originally enacted in

<sup>8</sup> Miller, Michael, "Six States Sue TRW Over Credit-Reporting Practices", Wall Street Journal, July 10, 1991, B1.

<sup>9</sup> TRW Inc. v. Morales, Civil Action No. 3-91-1340-H (N.D. Tex. Dec. 10, 1991) (consent order). See also Miller, Michael "TRW Agrees to Overhaul Its Credit-Reporting Business", Wall Street Journal, Dec. 11, 1991, B1.

<sup>10</sup> FTC v. TRW Inc., 784 F. Supp. 361 (N.D. Tex. 1991).

<sup>11</sup> Equifax Agreement of Assurances with Attorneys General of Alabama, Arkansas, California, Connecticut, Florida, Idaho, Illinois, Michigan, Minnesota, Missouri, Nevada, New Mexico, New York, Ohio, Pennsylvania, Texas, Utah and Washington, June 22, 1992, cited in *Fair Credit Reporting*, National Consumer Law Center, App. H.2.3 (2002); In the Matter of Equifax Credit Information Services, Inc., File No. 902-3149 (FTC 1994); Alabama, et al. v. Trans Union Corporation, Civ. Action No. 92c-7101 (N.D. Ill., Oct. 26, 1992).

<sup>12</sup> Pub. L. No. 105-107, 111 Stat. 2255 (Nov. 20, 1997) (hereinafter "1996 Amendments").

1970.<sup>13</sup> However, well before Congress acted to clean up the practices of the credit reporting industry, states enacted legislation to address problems in the industry and to provide greater consumer protections than were available under the 1970 federal law. The states' response to problems in the industry also was broader than the 1996 Amendments ultimately enacted by Congress, so that state fair credit reporting enactments also provide greater consumer protections than currently available under federal law. Moreover, some states have amended their credit reporting laws to assist victims of the growing crime of identity theft in a manner not yet addressed by Congress. Thus the dual regulatory system governing credit reporting has provided significant benefits to consumers in this important economic arena.

A. Congress Recognizes The Importance of State Laws In Addressing Credit Reporting Problems.

Recognizing the essential role played by the numerous and varied state laws in the Nation's dual regulatory scheme for credit reporting, Congress did not subject the majority of these laws to preemption.<sup>14</sup> Rather, Congress determined that only seven limited areas required preemptive standards: prescreening and "firm offers of credit" offered pursuant to the prescreening process; time periods for taking action required when a consumer disputes accuracy of a report; duties of a person who takes an adverse action based on a credit report; information contained in a credit report; responsibilities of furnishers of information to credit reporting agencies; sharing of information among affiliates; and the form and content of information required to be disclosed to consumers under federal law.<sup>15</sup> Even then, Congress decided that certain

---

<sup>13</sup> 15 U.S.C. §1681; 84 Stat. 1136; Public Law 91-508 (Oct. 26, 1970).

<sup>14</sup> 15 U.S.C. §1681t(a).

<sup>15</sup> 15 U.S.C. §1681t(b) and (c).

state laws regarding some of these seven issues that were in existence at the time of the 1996 amendments should be exempt from preemption.<sup>16</sup> In addition, Congress specifically did not preempt any settlements between the credit reporting agencies and any State Attorney General that was in existence prior to the effective date of the 1996 Amendments.<sup>17</sup> Finally, Congress determined that preemption in these seven areas would expire on January 1, 2004.<sup>18</sup>

The numerous and varied states laws that are allowed under Congress's dual regulatory scheme in the credit reporting arena are worthy of detailed examination.

B. Vermont State Laws.

The Vermont Legislature acted very quickly to address the credit reporting problems that came to light as a result of the 1991 debacle. In 1992, the Vermont Legislature enacted the Vermont Fair Credit Reporting Act.<sup>19</sup> This state law contains several important consumer protection provisions designed to address the credit reporting problems that arose the year before:

- Free Credit Reports. Vermont's Fair Credit Reporting Act requires credit reporting agencies to provide Vermont consumers with a free copy of their credit report once every 12 months upon request.<sup>20</sup>
- Liquidated Damages. Vermont's FCRA allows a consumer, or the Attorney General acting on the consumer's behalf, to recover the consumer's actual damages, or \$100.00, whichever is more, in the event

---

<sup>16</sup> 15 U.S.C. §§1681t(b)(1)(B) (time periods for taking action required when a consumer disputes accuracy of a report); 1681t(b)(1)(E) (information contained in a credit report); 1681t(b)(1)(F) (Massachusetts and California laws relating to responsibilities of furnishers of information to credit reporting agencies); 1681t(b)(2) (Vermont law relating to affiliate sharing of information)

<sup>17</sup> 15 U.S.C. §1681t(d)(1). This includes the multistate settlements with TRW, Equifax and Trans Union described above in nn. 9 and 11, *supra*, and accompanying text, and the settlements with the Vermont Attorney General's Office described in n.5, *supra*, and n.29, *infra*, and accompanying text.

<sup>18</sup> 15 U.S.C. §1681t(d)(2).

<sup>19</sup> 9 V.S.A. § 2480a *et seq.*; Act No. 246, 1991 (Adj. Sess.).

<sup>20</sup> 9 V.S.A. § 2480c(a)(1).



that a credit reporting agency violates the state law, or in the event that a financial institution or other person "willfully" violates the state law.<sup>21</sup>

- Consumer Consent Required. For credit transactions entered into after January 1, 1993, users of credit reports must obtain the consent of the consumer prior to reviewing his or her credit report.<sup>22</sup> Credit information obtained for purposes of providing prescreened credit offers are exempt from this consent requirement.<sup>23</sup>
- Affiliate Sharing of Credit Reports Included in Consent Requirement. Vermont's consumer consent requirement applies with equal force to credit reports shared among affiliates. Congress specifically exempted Vermont's consent provision from the federal FCRA's provision preempting states from enacting laws with respect to the exchange of information among affiliates.<sup>24</sup> As a result, a financial institution that obtains a credit report from a Vermont consumer, after obtaining his or her consent, may not share the credit report with the institution's affiliates unless the consumer consents to such sharing with the affiliate.
- Reasonable Procedures to Assure Maximum Possible Compliance with Consent Provision. Vermont's law requires credit reporting agencies to adopt reasonable procedures to assure maximum possible compliance with Vermont's consent provision among credit report users.<sup>25</sup>
- Credit Reports Accessible by Telephone. Vermont's law requires credit reporting agencies to publish their phone numbers in each telephone directory.<sup>26</sup> The agencies must make disclosures to consumers, including the once-a-year free report, available through these published telephone numbers.<sup>27</sup>
- Notification to Consumers of Additional Rights Under State Law. Vermont's law requires credit reporting agencies to disclose to Vermont consumers their additional rights under Vermont law each time a disclosure is required under federal law.<sup>28</sup>

The Vermont Legislature determined that these additional provisions are necessary to ensure that credit reports are accurate and are used in an appropriate

<sup>21</sup> 9 V.S.A. § 2480f(b).

<sup>22</sup> 9 V.S.A. § 2480e(a)(2).

<sup>23</sup> 9 V.S.A. § 2480e(c)(2).

<sup>24</sup> 15 U.S.C. § 1681t(b)(2).

<sup>25</sup> 9 V.S.A. § 2480e(b).

<sup>26</sup> 9 V.S.A. § 2480b(b).

<sup>27</sup> *Id.*; see also Vermont CF Rule 112.01 (available at <http://www.state.vt.us/atg/Rule%20CF112.htm>).

<sup>28</sup> 9 V.S.A. § 2480b(c).

fashion. The Vermont Attorney General's Office has actively enforced these state law consumer protection provisions with respect to both credit reporting agencies<sup>29</sup> and credit grantors<sup>30</sup> over the past ten years.

C. Enactments in Other States.

Other states similarly have enacted reforms to address problems in the industry, and Congress has recognized that these reforms provide important protections to consumers not available under federal law. California and Massachusetts both placed requirements on furnishers of information to the credit reporting system to ensure that the information being furnished to credit reporting agencies is accurate.<sup>31</sup> Six states – Colorado, Georgia, Maryland, Massachusetts, New Jersey and Vermont – require credit reporting agencies to provide consumers with at least one free report each year upon request.<sup>32</sup>

---

<sup>29</sup> See, e.g., In the Matter of Credit Bureau Services of Vermont, Inc., Docket No. 493-9-95 WnCV (Wash. Cty. Sept. 18, 1995) (violation of telephone number disclosure requirements); In the Matter of Equifax Credit Information Services, Inc., Docket No. 492-9-95 WnCV (Wash. Cty. Sept. 18, 1995) (same); In the Matter of TRW Inc., Docket No. 491-9-95 WnCV (Wash. Cty. Sept. 18, 1995) (same); In the Matter of Equifax Credit Information Services, Inc., Docket No. 51-1-00 WnCV (Wash. Cty. Jan. 27, 2000) (failure to institute reasonable procedures to ensure maximum possible compliance with Vermont's law requiring users to obtain consumer consent prior to using credit reports).

<sup>30</sup> Coburn and Feeley Property Management, (Wash. Cty. July 17, 1995) (property management firm obtained credit reports on tenants without tenants' consent); In the Matter of MCI Communications Corporation, Docket No. 171-4-98 WnCV (Wash. Cty. April 2, 1998) (telecommunications company failed to obtain consumer consent from over 12,000 Vermont consumers prior to using their credit report); In the Matter of Alliant Foodservice Inc., Docket No. 116-3-00 WnCV (March 1, 2000) (food service company failed to obtain consumer consent prior to using consumer credit report, and failed to have a permissible purpose under federal law); In the Matter of May Department Stores Company, Docket No. 605-11-01 WnCV (Wash. Cty. Nov. 15, 2001) (department store chains failed to adequately obtain consumer consent prior to using consumer credit report).

<sup>31</sup> Cal. Civil Code § 1785.25(a); Mass. Ann. Laws ch. 93, § 54A(a).

<sup>32</sup> Ga. Code Ann. § 10-1-393 (Individuals are entitled to two free credit reports from each national credit reporting agency); Col. Rev. Stat. 12-14.3-105 (Individuals are entitled to a free credit report once a year); Md. Com. Law Code Ann. § 14-1209 (same); Mass. Gen. Laws Ann. Ch. 93 § 59 (same); N.J. Stat. Ann. § 56:11-37 (same); 9 Vt. Stat. Ann § 2480c (same).

Other areas where states have passed more protective laws that have not been preempted by Congress include:<sup>33</sup>

- Arrest, Conviction, and Bankruptcy Records.
  - California: Credit reporting agencies may not report bankruptcies after ten years. Cal. Civil Code § 1785.13.
  - Massachusetts: Credit reporting agencies may not maintain arrest records more than seven years old. Mass. Gen. Laws Ann. Ch. 93 § 52.
  - New Mexico, Kansas and Montana: Criminal data must be purged from the report after seven years, and bankruptcies must be purged after 14 years. N.M. Stat. Ann. § 56-3-6; Kan. Stat. Ann. §§ 50-704; Mont. Code Ann. §§ 31-3-112.
- Lower Cost of Reports.
  - Connecticut: Credit reports are \$5. Conn. Gen. Stat. Ann. § 36a-699a.
  - Minnesota: Caps the cost of credit reports at \$3. Minn. Stat. § 13C.01.
  - Maine: Caps the cost of credit reports at \$2. 10 M.R.S. § 1316.
- Credit Scores.
  - California: Credit reporting agencies must furnish credit scores to individuals for a reasonable fee. Cal. Civil Code § 1785.15.1.
  - Colorado: Credit reporting agencies must provide a credit score to the consumer if a score is used when extending credit secured by a dwelling. Colo. Rev. Stat. § 12-14.3-104.3.
  - Connecticut: Consumers must receive report within five days of receipt of the request; report must include all information in the file, including any credit score. Conn. Gen. Stat. § 36a-696.
  - Idaho: Prohibits insurers from raising rates, denying coverage, or canceling a policy primarily based on a credit rating or credit history. Idaho Code § 41-1843.
- Duties of Users of Reports.
  - California: Individuals may receive a free copy of their credit report when it is requested by an employer. Cal. Civil Code § 1785.20.5.
  - Utah: Credit grantors must notify consumers when negative information is furnished to a credit reporting agency. Utah Code Ann. § 70C-7-107.

---

<sup>33</sup> The citations and summaries of state laws were provided by Chris Hoofnagle of the Electronic Privacy Information Center, and were drawn from Robert Ellis Smith, *Compilation of State and Federal Privacy Laws*, Privacy Journal 2002.

- Investigative Consumer Reports.
  - Arizona: Sources of investigative consumer reports must be furnished to the individual upon request. Ariz. Rev. Stat. § 44-1693(A)(4).
  - California: Investigative consumer reporting agencies must allow individuals to visually inspect files. Employers must furnish copies of the report to employees. Cal. Civil Code § 1786.
- Notice to Consumers.
  - Colorado: Credit reporting agencies must notify individuals where there have been eight inquiries on the report within one year or where adverse information is added to the report. Colo. Rev. Stat. § 12-14.3-104.
- Sale of Personal Information.
  - California: Credit card issuers must give notice and an opportunity to opt out when they sell customer information. Cal. Civil Code § 1748.12(c)(3)(b).
  - Connecticut: Selling the names from credit card purchases is prohibited. Conn. Gen. Stat. Ann § 42-133gg.
  - Maryland: It is illegal to disclose ATM or credit card numbers. Md. Crim. Code § 8-214.
- Use of Medical Information
  - Florida: An individual must be informed when genetic information was used to deny credit. Fla. Stat. Ann. § 760.40(b).

A compendium of nonpreempted state laws relating to credit reporting and identity theft is attached to this testimony as Exhibit 1.

D. California State Law Enactments Governing Identity Theft.

California's efforts to address the growing problem of identity theft<sup>34</sup> are worthy of special mention. This state has added numerous unique provisions to its state credit

<sup>34</sup> For information about the growing problem of identity theft, see U.S. General Accounting Office, *Identity Theft: Prevalence and Cost Appear to be Growing* (GAO-02-363 March 2002); U.S. Federal Trade Commission, *National and State Trends in Fraud and Identity Theft January – December 2002* (Jan. 22, 2003); U.S. General Accounting Office, *Identity Theft: Greater Awareness and Use of Existing Data Are Needed* (GAO-02-766 June 2002) (surveying state laws enacted to combat identity theft).

reporting law – none of which appear in federal law – to enable identity theft victims to minimize their victimization. California laws relating to identity theft include the following requirements for both credit reporting agencies and credit grantors that use credit reports:

- Credit reporting agencies must include a “security alert” in a credit report at the request of the consumer.<sup>35</sup>
- Credit reporting agencies must place a “security freeze” upon a credit report at the request of the consumer, and must provide for “thaws” at the request of the consumer. The credit reporting agency is allowed to charge a “reasonable fee” for both the freeze and the thaws; however, the freeze and thaw must be provided free to an identity theft victim who has submitted a valid police report or valid Department of Motor Vehicles investigative report.<sup>36</sup>
- Notice of consumers’ rights with respect to a “security alert” and “security freeze” must be included in the summary of rights provided to consumers with their credit report.<sup>37</sup>
- Effective July 1, 2003, any credit reporting agency contacted by a person who has reason to believe he or she may be an identity theft victim must provide that person with a written statement describing all identity theft rights under state law.<sup>38</sup>
- If an identity theft victim submits a police report or Department of Motor Vehicle investigative report to the credit reporting agency, the credit reporting agency is required to permanently block the reporting of any information the victim alleges is a result of the identity theft, and report the block to the furnisher of the information. The information can be unblocked only if there was a material misrepresentation by the consumer or the consumer consents; and the consumer must be notified in writing that the information has been unblocked.<sup>39</sup>
- Where a credit grantor receives an application with an address that does not match that in the consumer report, the credit grantor must

---

<sup>35</sup> Cal. Civil Code § 1785.11.1.

<sup>36</sup> Cal. Civil Code § 1785.11.2.

<sup>37</sup> Cal. Civil Code § 1785.15(f).

<sup>38</sup> Cal. Civil Code § 1785.13.

<sup>39</sup> Cal. Civil Code § 1785.16(k).

take "reasonable steps" to verify the address and confirm the transaction is not the result of identity theft.<sup>40</sup>

These innovative provisions of California law, governing the actions of credit reporting agencies and credit grantors with respect to identity theft, have not been preempted by Congress and, therefore, represent another aspect of the dynamic, dual regulatory system governing the nation's credit reporting system.

### III. **More Protective State Laws Do Not Have An Adverse Effect On The Economy.**

The states that have enacted more protective credit reporting laws have not been economically harmed because of the greater protections afforded consumers under state law. Indeed, Vermont consumers face some of the most favorable conditions for loan rates in the country. Moreover, credit is readily and speedily available in states that have enacted more protective laws.

In his testimony filed with this Committee, Fordham University Law Professor Joel Reidenberg demonstrated that lenders make better credit decisions in Vermont, California and Massachusetts, three of the states with more protective laws that were specifically "grandfathered" under the 1996 Amendments.<sup>41</sup> Vermont has the lowest level of consumer bankruptcies in the nation, Massachusetts is the next lowest with a rank of 49<sup>th</sup>, and California is below the national median with a rank of 27<sup>th</sup>.<sup>42</sup> Professor

---

<sup>40</sup> Cal. Civil Code § 1785.20.3.

<sup>41</sup> Hearing on the Importance of the National Credit Reporting System to Consumers and the U.S. Economy Before the Subcommittee on Financial Institutions and Consumer Credit, House Committee on Financial Services, 108<sup>th</sup> Cong., May 8, 2003, (Statement of Prof. Joel Reidenberg at 3).

<sup>42</sup> *Id.*, citing American Bankruptcy Institute, U.S. Bankruptcy Filing Statistics: Households per filing, Rank (2003), available at <http://www.abiworld.org/stats/housholdrank.pdf>.

Reidenberg also notes that consumer interest rates are below the national median in all three of these states.<sup>43</sup>

In addition to the data cited by Professor Reidenberg, there are other data that demonstrate that the economies of Vermont, Massachusetts and California have not been harmed by enactment of more protective laws. Auto loan rates are similarly low in these three states: Vermont ranks 50<sup>th</sup> in the country, meaning that its auto loan rates are next to the lowest; California ranks 31<sup>st</sup> in the country; and Massachusetts ranks 24<sup>th</sup>, just about at the national median.<sup>44</sup>

A chart of the bankruptcy, mortgage loan and auto loan rates for California, Massachusetts and Vermont is attached to this testimony as Exhibit 2.

Moreover, credit is widely available in these states, and available without delay. Exhibit 3 contains loan advertisements placed in Vermont's three major daily newspapers over the ten-day period of May 19 through May 29, 2003. As the ads demonstrate, "zero percent" financing and instant credit for mortgages, car loans and personal loans are widely available in Vermont.

It is important not to overstate the relevance of this data. It cannot be said, for example, that the more protective laws in Vermont, California and Massachusetts *cause* these more favorable economic conditions. As Professor Reidenberg notes, there may be other factors at play, such as state unemployment data for bankruptcy filings and non-interest transaction costs for mortgages.<sup>45</sup> However, these data appear to

---

<sup>43</sup> Statement of Prof. Joel Reidenberg, *supra* note 41, at 3.

<sup>44</sup> 48-month new car loan rates as of May 2003, available at [http://bankrate.com/brm/graphs/graph\\_trend.asp?product=1&prodtype=M&ad=mtg&nav=mtg30year\\_grap](http://bankrate.com/brm/graphs/graph_trend.asp?product=1&prodtype=M&ad=mtg&nav=mtg30year_grap)

<sup>45</sup> Statement of Prof. Joel Reidenberg, *supra* note 41, at 4.

demonstrate that the economies of these states have not been adversely affected by their more protective credit reporting laws.

The absence of an apparent adverse impact upon Vermont's economy is particularly interesting because, in addition to its more protective fair credit reporting laws, Vermont has also enacted more protective laws governing the sharing of nonpublic personal financial information, as allowed under Section 507 of the Gramm-Leach-Bliley Financial Services Modernization Act of 1999.<sup>46</sup> In 1994, Vermont enacted a bank privacy opt-in law, prohibiting banks and other similar financial institutions from sharing nonpublic information unless the consumer consents.<sup>47</sup> In 2001, Vermont enacted regulations extending the opt-in requirements to the insurance and securities industry, and clarifying the regulations for the banking industry.<sup>48</sup> Thus, none of Vermont's more protective laws – governing privacy as well as fair credit reporting – appear to have adversely affected Vermont's economy.

#### **IV. 1996 Amendment Preemption Provisions Should Sunset As Originally Contemplated, and No New Preemption Provisions Should Be Created.**

Earlier this year, the National Association of Attorneys General adopted a resolution urging Congress to allow the limited preemption provisions contained in the 1996 Amendments to sunset as originally contemplated.<sup>49</sup> In addition, in their bipartisan

---

<sup>46</sup> 15 U.S.C. § 6807(b), which provides that the federal Gramm-Leach-Bliley law does not supersede any state provisions on privacy except to the extent that they are "inconsistent" with privacy provisions of GLB, and further provides that state laws are not "inconsistent" to the extent that they afford greater consumer protection than provided under GLB.

<sup>47</sup> 8 V.S.A. § 10201 *et seq.*

<sup>48</sup> The banking opt-in regulation can be found at:

<http://www.state.vt.us/atg/Banking%20Adopted%20Rule.pdf>. The insurance opt-in regulation can be found at: <http://www.state.vt.us/atg/Insurance%20ADOPTED%20rule.pdf>. Vermont's opt-in regulations became completely effective on February 17, 2002.

<sup>49</sup> Resolution in Support of Fair Credit Reporting Reform (National Association of Attorneys General), available at <http://www.state.vt.us/atg/fair%20credit%20reporting%20reform%20resolution.pdf>.



resolution,<sup>50</sup> the State Attorneys General called upon Congress to refrain from enacting any new provision that would preempt the states from enforcing or enacting laws relating to the reporting of consumer credit information that provide greater consumer protection than in the federal law.<sup>51</sup>

Congress should follow these recommendations. States have demonstrated the importance of their role as “laboratories of democracy” with respect to state credit reporting laws. State legislatures have the ability to rapidly fashion local remedies to solve local problems relating to credit reporting, as in the case of Vermont’s 1991 credit reporting debacle. California’s innovative solutions to the growing problem of identity theft are the most recent example of state action that ensures that credit reporting agencies, furnishers of credit information, and users of credit reports exercise their key responsibilities with fairness, impartiality, and respect for the consumer’s right to privacy, and without imposing further inappropriate harm upon consumers.

This dynamic regulatory system allows states to innovate solutions to local problems as they arise, and informs the national debate over credit reporting. As the states’ innovative solutions filter up to Congress, they can be considered for incorporation into the national baseline standards governing the industry.

Previous Congressional enactments relating to consumer protection issues have addressed the goal of national uniformity as well as the importance of allowing states to fashion remedies suited to local problems, by setting a national floor while permitting states to create additional or greater consumer protection provisions that are not

---

<sup>50</sup> The State Attorneys General consist of 20 Republicans and 31 Democrats, including the District of Columbia. A listing of their party affiliations can be found at [http://www.naag.org/ag/full\\_ag\\_table.php](http://www.naag.org/ag/full_ag_table.php).

<sup>51</sup> Resolution in Support of Fair Credit Reporting Reform, *supra*, n.49.

inconsistent with federal law. Privacy of financial information,<sup>52</sup> telecommunications,<sup>53</sup> telemarketing,<sup>54</sup> fair credit billing,<sup>55</sup> equal credit opportunity<sup>56</sup> and subprime lending<sup>57</sup> are among the areas in which Congress has specifically allowed the states to enact more protective state laws. Congress should employ the same strategy with respect to credit reporting, an area equally critical to consumers' participation in the nation's economy.

In sum, Congress has recognized the important role of states in the dual regulatory system governing credit reporting by allowing for limited preemption in the 1996 amendments, and calling for the termination of those preemption provisions on December 31, 2003. Nothing has changed since 1996. The states continue to enforce both federal and state laws with respect to credit reporting agencies, furnishers of credit information and users of credit reports. The states continue to play a vital role in the dual regulatory system governing credit reporting. The states should be allowed to continue to serve as laboratories of democracy, fashioning local remedies to local problems that can be considered by Congress for implementation on a national level. The limited preemption provisions contained in the 1996 Amendments should sunset as originally contemplated, and Congress should not enact new preemption provisions.

---

<sup>52</sup> Gramm-Leach-Bliley Financial Services Modernization Act of 1999, 15 U.S.C. § 6807(b).

<sup>53</sup> Telecommunications Consumer Protection Act, 47 U.S.C. § 227(e)(1).

<sup>54</sup> Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. § 6101 *et seq.*

<sup>55</sup> Fair Credit Billing Act, 15 U.S.C. § 1666j.

<sup>56</sup> Equal Credit Opportunity Act, 15 U.S.C. § 1691d(f).

<sup>57</sup> Home Ownership and Equity Protection Act, 15 U.S.C. § 1640(e).

## **Exhibit 1**

**State-by-State Summaries of Laws on Credit Reports and  
Identity Theft, from National Consumer Law Center,  
Fair Credit Reporting, 5th Ed., App. B-3**

## B.3 State-by-State Summaries of Laws on Credit Reports and Identity Theft

### Alabama

**State Identity Theft Statute:** Ala. Code §§ 13A-8-190 to -201.

**Definition of Offense:** Identity theft: Obtains, records or accesses identifying information that would aid in accessing financial resources, or obtaining benefits or identifying documents of victim; obtains goods or services by use of victim's identifying information; obtains identifying documents in victim's name. Trafficking in Stolen Identities: Manufactures, sells, purchases, transfers, or possesses with intent to manufacture, sell, etc., for the purpose of committing identity theft, identifying documents or identifying information of another; unauthorized possession of five identifying documents of one person, or identifying documents of five people creates an inference of intent to commit identity theft.

**Victim Remedies in Criminal Case:** Mandatory restitution. May include any costs incurred by the victim in correcting credit history or credit rating or costs incurred in connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligations resulting from the theft, including lost wages and attorney fees. The court may order restitution for financial loss to any other person or entity that suffers a loss from the violation. Court records must be corrected if there was a conviction under a stolen name, to indicate that victim did not commit the crime. Court should make detailed order for correction of public and private records, which may then be used by victim in a civil proceeding to set aside a judgment, or submitted it to governmental entity or private business to show that accounts, etc. were not those of victim.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** If consumer presents court order (see above) agency must within thirty days block all information resulting from the ID theft.

**Private Right of Action:** Civil action against thief for greater of \$5000 or treble damages, reasonable attorney fees and costs. Intentional or reckless violation by agency gives consumer cause of action for actual damages, and attorney fees, and for an injunction (reasonable procedures are a defense).

### Alaska

**Child Support Debts:** Alaska Stat. § 25.27.273 (Michie). Child support enforcement agency may report delinquencies but must immediately report payments if delinquency was reported. May only report the payment history of the obligor, for not more than ten years preceding the report.

### Arizona

**State FCRA Statute:** Ariz. Rev. Stat. Ann. §§ 44-1691 to 44-1697 (West).

**Scope:** Definitions similar to the federal law.

**Purposes for Which Reports May Be Issued:** Similar to federal law, except no authorization for provision to potential investors or servicers, or current insurers, in connection with the evaluation of credit or prepayment risks associated with existing credit obliga-

tions. Limited information to government agencies.

**Consumer Access and Disclosure:** Upon consumer request; all information and sources in addition to all persons receiving information within the last six months.

**Disclosures to Consumers By User:** Name of the consumer reporting agency, without consumer request.

**Restriction on Content of Reports:** The number of days an account has been delinquent may not be rounded up by more than four days.<sup>1</sup>

**Consumer Disputes:** Written notice to the consumer reporting agency. Thirty days to respond.<sup>2</sup> If disputed information inaccurate, must notify consumer and users within past six months, if requested by consumer; if agency denies information is inaccurate, must notify consumer in writing of the basis for its denial, the name and address and telephone number (if reasonably available) of any furnisher contacted; and notice that the consumer may request description of the procedures used in the reinvestigation.

**Duties of Furnishers:** A furnisher may not round up by more than four days the number of days an account has been delinquent.<sup>3</sup>

**Consumer Remedies:** No liability if information is correct. Refusal to correct: court costs, damages, and attorney fees. Willful or gross negligence: actual damages, attorney fees, court costs, and punitive damages.

**Statute of Limitations:** No relevant provisions.

**Miscellaneous:** A consumer may file a written statement regarding the contents of the consumer's file, and provided the statement is not frivolous or irrelevant, the agency must include the statement in future reports without charge to the consumer. The agency may limit such statements to 100 words if the agency assists the consumer in writing the statement.

**Child Support Debts:** Ariz. Rev. Stat. Ann. § 25-512 (West). Child support delinquencies shall be reported to consumer reporting agencies after fifteen days advance notice and opportunity for administrative review.

**State Credit Repair Statute:** Ariz. Rev. Stat. Ann. §§ 44-1701 to 44-1712 (West). There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state.<sup>4</sup>

**State Identity Theft Statute:** Ariz. Rev. Stat. Ann. § 13-2008 (West).

**Definition of Offense:** Takes, uses, sells or transfers any personal identifying information of another, without authority, with the intent to obtain, use, sell or transfer the other person's identity for any unlawful purpose or to cause loss to a person.

**Victim Remedies in Criminal Case:** No specific provisions.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** No specific provisions.

1 Note that for preemption purposes, this provision was not in effect on Sept. 30, 1996, and as it regulates the contents of consumer reports, it may be preempted. See § 10.4.4, *supra*.

2 This provision was in effect on September 30, 1996, so although it regulates the time allowed for an agency to reinvestigate a dispute, it is not preempted. See § 10.4.4, *supra*.

3 Most state laws concerning the duties of furnishers are now preempted. See § 10.4.4, *supra*.

4 Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

## Arkansas

**State FCRA Statute:** Ark. Code Ann. §§ 4-93-101 to 4-93-104.

**Scope:** Consumer credit (employment, insurance, etc. not mentioned).

**Purposes for Which Reports May Be Issued:** Granting, denying or limiting of consumer credit.

**Consumer Access and Disclosures:** No relevant provisions.

**Disclosures to Consumer by User:** If user denies credit, the further extension of existing credit, or an increase in credit limit for personal, family or household purposes, wholly or partly because of information in a credit report, it shall so advise the consumer. Must disclose action taken, name and address of creditor and of consumer reporting agency, and consumer's social security number.

**Restrictions on Content of Reports:** No relevant provisions.

**Consumer Disputes:** No relevant provisions.

**Duties of Furnishers:** No relevant provisions.

**Consumer Remedies:** No relevant provisions.

**Statute of Limitations:** No relevant provisions.

**Child Support Debts:** Ark. Code Ann. § 9-14-209. Child support delinquencies shall be reported to consumer reporting agencies after seven days advance notice to obligor and an opportunity to contest accuracy of the information.

**State Credit Repair Statute:** Ark. Code Ann. §§ 4-91-101 to 4-91-109. There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Must disclose rights under FCRA. Remedies are available under the state deceptive practices statute.<sup>5</sup>

**State Identity Theft Statute:** Ark. Code Ann. § 5-37-227.

**Definition of Offense:** With intent to unlawfully appropriate financial resources of another to his or her own use or to the use of third party, obtains or records without authority identifying information [defined] that would assist in accessing the financial resources of the other, or accesses or attempts to access the financial resources of the other through the use of the identifying information.

**Victim Remedies in Criminal Case:** No specific provisions.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** Violation is a deceptive trade practice, within the meaning of Ark. Code Ann. § 4-88-101.

## California

**State FCRA Statute:** Cal. Civ. Code §§ 1785.1 to 1787.3.

**Scope:** Detective agencies may be excluded. (See § 1785.4)

**Purposes for Which Reports May Be Issued:** Similar to the federal law, and may be issued for rental of a dwelling and insurance claims settlements. No express authorization, however, for provision to potential investors or servicers, or current insurers, in connection with the evaluation of the credit or repayment risks associated with existing credit obligations. Agencies must match at least three pieces of identifying information in a consumer's file with information provided by proposed retail seller users before providing a report, and retail sellers must certify that they require photo identification from all who apply for credit in person.

Agencies must keep a record of the purposes of the report as stated by the user. Consumers must be given the opportunity to opt out of prescreened lists.<sup>6</sup>

**Consumer Access and Disclosure:** Similar to the federal law, except all information in file must be disclosed. The agency may charge up to an \$8 preparation fee. Notice or disclosure is required only to those consumers who have mailing addresses in California. If a credit score is used the agency must, upon request, disclose the score, the key factors used to determine it, and related information as defined by § 1785.15.1. The agency may charge a reasonable fee to provide this information.

**Disclosures to Consumers By User:** Similar to the federal law. The user, if requested, may ask the agency to investigate inaccuracies. Insurers, landlords, and employers must inform a consumer of a request for an investigative report no later than three days after the report request. A user for employment purposes must disclose to the consumer before requesting a report, and offer the consumer a free copy of the report. A lender who uses credit scores must disclose the score and the key factors used to determine it to the consumer. The statute prescribes a form of notice to home loan applicants if credit scores are used. A contractual provision that forbids a lender to disclose the credit scores furnished by an agency is void.

**Restrictions on Content of Reports:**<sup>7</sup> Similar to federal law, and criminal records more than seven years old or where offense pardoned or no conviction obtained. Inquiries resulting from credit transactions not initiated by a consumer. Unlawful detainer (eviction) actions where the defendant is the prevailing party or the action is settled. Medical information reported to creditors or employers without a consumer's consent. Liens or encumbrances, including lis pendens, which have a court order with them striking the lien or encumbrance because against the property of a public officer or employee.<sup>8</sup> Must delete from the file any inquiries for credit reports based on applications for credit initiated as a result of identity theft. Cal. Civ. Code § 1785.16.1. Requires certain precautions by users of consumer reports to prevent identity theft (i.e., further checking if applicant's address doesn't agree with address in credit report, or if some information in credit report is blocked because of reported identity theft). Cal. Civ. Code § 1785.20.3.

**Consumer Disputes:** Similar to the federal law except 30 business days to reinvestigate. In addition, an agency must notify a consumer if information reinserted or the agency refuses to (re)investigate. If a consumer files a police report alleging that consumer's personal identification information is being used without consumer's consent, agency must block any information in consumer's file which consumer alleges appears on report due to illegal usage and must notify furnishers. A creditor may not sell a consumer's debt if the information regarding that debt is blocked pursuant to this section, or if consumer has provided sufficient information to

<sup>5</sup> Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

<sup>6</sup> State laws regarding the use of prescreened reports are preempted. See § 10.4.4, *supra*.

<sup>7</sup> Most of these various stricter definitions of information which may not under California law be contained in a consumer report, were in effect on Sept. 30, 1996, and therefore, although they regulate the contents of consumer reports and might otherwise be, they are not preempted. See § 10.4.4, *supra*.

<sup>8</sup> Note that for preemption purposes, this provision was not in effect on Sept. 30, 1996, and therefore may be preempted by 15 U.S.C. § 1681c. See § 10.4.4, *supra*.

creditor concerning the identity theft. A consumer may place a "security alert" on his or her account, by notifying the reporting agency that the consumer's identity may have been used without consent to fraudulently obtain goods or services. The agency must have a toll-free number, available 24 hours per day, to receive requests for security alerts, and must place an alert in a consumer's account within five business days of the request. The agency must notify all who request credit information on a consumer that a security alert is in place. The alert remains in place for 90 days, and may be renewed at the consumer's request. (Cal. Civ. Code § 1785.11.1) A consumer may also place a "security freeze" on his or her account, which forbids the agency from releasing credit information without the consumer's specific consent, including the use of a "unique identification number" that the agency must assign when it implements the freeze. (certain exceptions, mainly for tax and law enforcement). Cal. Civ. Code § 1785.11.2.

**Duties of Furnishers:** A furnisher of information must investigate disputed information upon notice of dispute by a consumer reporting agency. If a dispute remains after reinvestigation by the consumer reporting agency, the consumer may demand that the furnisher of the information correct the disputed information. A creditor must notify the consumer when first furnishing negative credit information to a consumer reporting agency.<sup>9</sup>

**Consumer Remedies:** Similar to the federal law; in addition, prevailing plaintiffs get court costs and reasonable attorney fees, and debt collector defendants get reasonable attorney fees for actions brought in bad faith by consumers. Negligence can result in damages for loss of wages and for pain and suffering. A willful violation results in punitive damages of \$100 to \$5000 per violation. Injunctions and class actions can result in punitive damages. Civil fines of \$2500 for willfully obtaining or using a report without a legitimate purpose. A credit card issuer knowingly communicating false information about a cardholder may be liable for three times actual damages, court costs, and attorney fees. Cal. Civ. Code § 1747.70. For statutory violations by reporting agency, with regard to investigative reports: greater of actual damages or (except in case of class action) \$10,000, costs and attorney fees. Punitive damages for grossly negligent or willful violations. Cal. Civ. Code § 1786.50. Non-government creditor who fails to comply with provisions regarding disclosure of reasons for credit denial, liable for actual damages, costs and attorney fees, with possible punitive damages up to \$10,000 (or in a class action, lesser of \$500,000 or 1% of creditor's net worth). Cal. Civ. Code § 1787.3. No liability if creditor acts in accordance with Federal Reserve Board rules, interpretations or approvals.

**Statute of Limitations:** Two years from violation or time of discovery but, effective July 1, 1998, not more than seven years.

**Miscellaneous:** The seven year limit for reporting delinquent accounts begins 180 days after delinquency. Reports of bankruptcies under Title 11 must refer to Title 11 of the Bankruptcy Code if that can be ascertained from the agency's source. Adverse information must be reported to a cosigner at the same time as to the consumer reporting agency. Prospective users who intend to extend credit through solicitation by mail must mail the extension of credit to same address as on the solicitation unless user verifies address change by such method as contacting the person solicited. This

statute does not affect a consumer's ability to sue agencies, furnishers or users for defamation or invasion of privacy. A Federal FCRA action will bar action under this statute for the same act or omission. Cal. Civ. Code § 1786.52

**Child Support Debts:** Cal. Civ. Code § 1785.13(g) (West). A consumer reporting agency shall include in its credit reports information about overdue child or spousal support, if the information has been reported or verified by a federal, state or local governmental agency.

**State Credit Repair Statute:** Cal. Civ. Code §§ 1789.10 to 1789.26. There must be a written contract including specific services provided, total payments due and right of rescission. Must perform agreed services within six months. Must post a bond with the state. Must disclose rights under FCRA. Remedies include actual and punitive damages, injunctive relief and reasonable attorney fees and costs.<sup>10</sup>

**State Identity Theft Statute:** Cal. Penal Code §§ 530.5 to .7; Cal. Civ. Code §§ 1798.92 to .97, 1785.11.1 and 11.2, 1785.16(k), 1785.16.1 and .2 and 1785.20.3.

**Definition of Offense:** Willfully obtains personal identifying information, [defined] of another person, and uses that information for any unlawful purpose, including to obtain, or attempt to obtain, credit, goods, services, or medical information in the name of the other person without the consent.

**Victim Remedies in Criminal Case:** If person convicted under false name, court record must show that identity theft victim did not commit crime. Person who suspects he or she is victim of identity theft may initiate law enforcement investigation, receive copy of police report, and petition court for expedited determination and certification of factual innocence if identity thief has been charged with crime under victim's name. California Department of Justice must maintain a data base of identity theft victims, accessible to law enforcement, to victims, and to persons authorized by victims. Victim who wishes to be included must submit fingerprints and copy of police report.

**Special Record-Clearing Provisions:** If a victim of identity theft (defined in Civil Code as unauthorized use of another person's personal identifying information [defined] to obtain credit, goods, services, money, or property) is sued on an obligation resulting from the theft, victim may bring a cross claim alleging identity theft. If victim prevails, he or she is entitled to a judgment stating that the victim is not obligated on the claim, any security interest in the victim's property resulting from the claim is void and unenforceable, and an injunction restraining any collection efforts. Victim may join other claimants, and court may keep continuing jurisdiction for up to ten years, so as to deal with all claims resulting from the identity theft.

**Duties of Private Entities:** If victim submits copy of police report, credit reporting agency must block all information resulting from identity theft, and must notify furnishers of that information. May unblock only if block resulted from fraud by consumer, or if consumer agrees block was erroneous, or if consumer knowingly received goods or services as a result of blocked transaction. Credit reporting agency must maintain 24-hour toll-free number, to allow

<sup>9</sup> California law regarding the responsibilities of furnishers of information is explicitly not preempted by federal law. 15 U.S.C. § 1681t(b)(1)(F). See § 10.4.4, *supra*.

<sup>10</sup> Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

consumers to report identity thefts, and seek a security alert or security freeze on account. Alert requires agency to inform all users who request information that a security alert is in place. Freeze requires agency to release information only in response to request by the consumer. Agency must delete from file records of any inquiries based on applications for credit initiated as a result of identity theft. Creditor may not sell debt if information about debt is blocked pursuant to this section, or if consumer provides sufficient information to show identity theft. Users of reports must take certain precautions against identity theft, i.e. check further if consumer's address does not agree with that in report, or if some information in credit report is blocked because of reported identity theft.

**Private Right of Action:** Against user of credit report who omits required precautions, for actual damages, costs and attorney fees, and, if appropriate, punitive damages up to \$30,000. Victim who brings cross-claim against one attempting to collect a debt that resulted from identity theft (see above) is entitled to actual damages, attorney fees and costs, if victim proves that notice was given—including a copy of a police report—to the claimant thirty days before filing the cross-claim. A civil penalty of up to \$30,000 if claimant, after being notified of possible identity theft, pursued the claim without diligently investigating the possibility of identity theft. The provisions for cross-claim, etc. do not bar any other cause of action against the thief or anyone who used or possessed the goods, services or property obtained by the theft. Remedies under this section are cumulative to rights and remedies under other laws.

**Other State Provisions:** Cal. Civ. Code § 1785.13(c), (e) (West). If a bankruptcy is reported, the report must specify the chapter of the Bankruptcy Act. If an open-end credit account was closed by the consumer, the report must say so.

#### Colorado

**State FCRA Statute:** Colo. Rev. Stat. §§ 12-14.3-101 to 12.14.3-109.

**Scope:** Same as the federal law.

**Purposes for Which Reports May Be Issued:** Same as the federal law, except that use for insurance underwriting requires prior notice to consumer.

**Consumer Access and Disclosure:** Upon request by consumer: 1) All information in its files; 2) Names of persons requesting reports within previous twelve months; 3) A toll-free number for use in resolving disputes submitted in writing to a consumer reporting agency which operates nationwide. No fee for first report requested by consumer each year. Agency must notify consumer once per year of right to free report, if agency has either 1) received eight credit inquiries on consumer or 2) received a report that would add negative information to consumer's file. The disclosures may be given in a form letter if it advises the consumer of the number and type of events, and includes a notice or separate form by which the consumer may request a free copy of her credit report.

**Disclosures to Consumer by User:** A person who intends to use credit-scoring information in connection with the underwriting or rating of the insurance must notify the consumer in writing or in the same medium used in the application of insurance.

**Restrictions on Content of Reports:** Similar to federal law, and

criminal records more than seven years old.<sup>11</sup>

**Consumer Disputes:** Same as the federal law, but consumer reporting agency must reinvestigate within thirty days and must correct reports within five days after it receives corrections from furnisher.

**Duties of Furnishers:** No relevant provisions.

**Consumer Remedies:** Disputes may be submitted to court or binding arbitration after attempt made to resolve with consumer reporting agency under Act's procedures. Willful violations: three times actual damages or \$1000 per inaccurate entry disputed by consumer, whichever is greater, reasonable attorney fees and costs. Negligent violations: actual damages or \$1000 per inaccurate entry disputed by consumer which affects consumer's creditworthiness, whichever is greater, reasonable attorney fees and costs. If negligent violation does not affect consumer's creditworthiness, minimum damages are limited to \$1000 for all inaccurate entries. No liability for negligent violations if corrected within thirty days of notice from consumer. If consumer's file remains uncorrected ten days after entry of any judgment for damages, additional penalty of \$1000 per day per inaccurate entry available, until inaccurate entry corrected.

**Miscellaneous:** Agency shall not provide users with names of others who have requested consumer's file or with the number of other inquiries.<sup>12</sup>

**Child Support Debts:** Colo. Rev. Stat. § 26-13-116. Child support enforcement agencies may report information on child support debts to consumer reporting agencies. Prior to furnishing such information, an agency must provide to the obligor parent advance notice containing an explanation of the obligor parent's right to contest the accuracy of the information.

**State Credit Repair Statute:** Colo. Rev. Stat. §§ 12-14.5-101 to 12-14.5-113. There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Must disclose rights under FCRA.<sup>13</sup>

#### Connecticut

**State FCRA Statute:** Conn. Gen. Stat. §§ 36a-695 to 36a-699e.

**Scope:** Credit for personal, family, or household purposes. Does not apply to disclosure made to federal, state, or local government officers or upon court order.

**Purposes for Which Reports May Be Issued:** Same as federal law, except credit transactions not initiated by the consumer, if the consumer gives agency written notice withholding consent.<sup>14</sup>

**Consumer Access and Disclosure:** Within five business days of receipt of request by consumer: 1) Nature and substance of all information in its files, including any credit score; and 2) Written summary of consumer's rights under state and federal law in form substantially similar to Conn. Gen. Stat. § 36a-699a.<sup>15</sup> No charge if requested within 60 days after the consumer is notified of adverse

11 This obsolescence standard was not in effect on Sept. 30, 1996, and therefore it is probably not preempted. See § 10.4.4, *supra*.

12 Note that for preemption purposes, this provision was not in effect on Sept. 30, 1996. See § 10.4.4, *supra*.

13 Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

14 State provisions concerning prescreened lists are preempted. See § 10.4.4, *supra*.

15 State laws regarding the contents of the summary of federal

action taken by a creditor; otherwise \$5 maximum charge for first report each year, \$7.50 for subsequent reports.

*Disclosures to Consumer by User:* No relevant provisions.

*Restrictions on Content of Reports:* No relevant provisions.

*Consumer Disputes:* An agency must correct an inaccuracy upon proof of error. Procedures are the same as under FCRA, but consumer reporting agency must provide consumer with its toll-free number to use in resolving dispute. If consumer reporting agency fails to meet relevant thirty or forty-five day deadline, disputed information must be deleted.

*Duties of Furnishers:* No relevant provisions.

*Consumer Remedies:* Criminal fine; cease and desist order.

*Statute of Limitations:* No relevant provisions.

*Miscellaneous:* No relevant provisions.

**Child Support Debts:** Conn. Gen. Stat. § 52-362d. The Department of Social Services shall report to any participating consumer reporting agency any overdue support in the amount of \$1,000 or more, unless the court or magistrate makes a specific finding that the amount shall not be reported. Prior to a report, the Department must give the obligor notice and opportunity for a hearing.

**State Credit Repair Statute:** Conn. Gen. Stat. § 36a-700. There must be a written contract including specific services provided and a description of rights under FCRA. Remedies available under state deceptive practices statute.<sup>16</sup> A credit clinic may not charge a fee or receive any money for performing services specified in the contract until it has fully performed those services.

**State Identity Theft Statute:** Conn. Gen. Stat. § 53a-129a; Conn. Gen. Stat. § 52-571h.

*Definition of Offense:* Intentionally, and without authority, obtains personal identifying information of another and uses that information for any unlawful purpose including, but not limited to, obtaining, or attempting to obtain, credit, goods, services or medical information in the name of that person.

*Victim Remedies in Criminal Case:* No specific provisions.

*Special Record-Clearing Provisions:* No specific provisions.

*Duties of Private Entities:* No specific provisions.

*Private Right of Action:* Person aggrieved by violation of 53a-129a may bring civil action for greater of treble damages or \$1000, plus costs and attorney fees.

## Delaware

**Child Support Debts:** Del. Code Ann. tit. 13, § 2217. Information regarding child support delinquencies shall be reported to consumer reporting agencies, provided that the amount of the delinquency is not less than \$500 and the obligor is given notice and a period of twenty days to contest the accuracy of the information.

**State Credit Repair Statute:** Del. Code Ann. tit. 6, §§ 2401 to 2414. There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Must disclose rights under FCRA. Actual damages, but not less than amount paid to the credit services

rights which must be disclosed to consumers are preempted. See § 10.4.4, *supra*.

16 Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

organization, costs, reasonable attorney fees and punitive damages available.<sup>17</sup>

**State Identity Theft Statute:** Del. Code Ann. tit. 11, § 854.

*Definition of Offense:* Knowingly or recklessly obtains, produces, possesses, uses, sells, gives or transfers personal identifying information belonging or pertaining to another person without authority and with intent to use the information to commit or facilitate any crime set forth in this title [theft and related offenses], or recklessly obtains, etc. thereby knowingly or recklessly facilitating the use of the information by a third person to commit or facilitate any crime set forth in this title. (Enhanced penalties if victim is age 62 or over.)

*Victim Remedies in Criminal Case:* Upon conviction, court must order full restitution for monetary loss, including documented loss of wages and reasonable attorney fees, suffered by the victim.

*Special Record-Clearing Provisions:* No specific provisions.

*Duties of Private Entities:* No specific provisions.

*Private Right of Action:* No specific provisions.

## District of Columbia

**Child Support Debts:** D.C. Code § 46-225. Support obligations, of \$1000 or more, over thirty days past due shall be reported to consumer reporting agencies, provided that the obligor are given thirty days advance notice and an opportunity to contest in writing the accuracy of the information.

**State Credit Repair Statute:** D.C. Code §§ 28-4601 to 28-4608.

There must be written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Must disclose rights under FCRA.<sup>18</sup>

## Florida

**Child Support Debts:** Fla. Stat. Ann. § 61.1354. Information regarding child support delinquencies shall be reported to consumer reporting agencies. Written notice to be given obligor fifteen days in advance, including notice of right to request a hearing to dispute the accuracy of the information. Notice and hearing required only for initial reporting, not for periodic release of updated information.

**State Credit Repair Statute:** Fla. Stat. Ann. §§ 817.7001 to 817.706. There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Must disclose rights under FCRA.<sup>19</sup>

**State Identity Theft Statute:** Fla. Stat. Ann. § 817.568.

*Definition of Offense:* Willfully and without authorization fraudulently uses or possesses with intent to use, personal identification information of another.

*Victim Remedies in Criminal Case:* Restitution of out-of-pocket

17 Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

18 Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

19 Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.



## Appx. B.3-GA

### Fair Credit Reporting

costs, including attorney fees incurred in clearing victim's credit history or credit rating, and costs in any civil or administrative proceeding to satisfy debts, liens or obligations of victim arising from the defendant's actions. Court may issue orders necessary to clear any public record that contains false information given in violation of this section.

*Special Record-Clearing Provisions:* No specific provisions.

*Duties of Private Entities:* No specific provisions.

*Private Right of Action:* No specific provisions.

#### Georgia

**State FCRA Statute:** Ga. Code Ann. §§ 10-1-392 and § 10-1-393(b)(29).

*Scope:* Covers consumer reporting agencies.

*Purposes for Which Reports May Be Issued:* No relevant provisions.

*Consumer Access and Disclosure:* Two free reports per year upon consumer request.

*Disclosures to Consumer by User:* No relevant provisions.

*Restrictions on Content of Reports:* No relevant provisions.

*Consumer Disputes:* No relevant provisions.

*Duties of Furnishers:* No relevant provisions.

*Consumer Remedies:* No relevant provisions.

*Statute of Limitations:* No relevant provisions.

*Miscellaneous:* No relevant provisions.

**Child Support Debts:** Ga. Code Ann. § 19-11-25. The Department of Human Resources shall make available information regarding the amount of overdue support by an absent parent to any consumer reporting agency upon request, if amount of overdue support exceeds \$1000, and may do so when the amount is less than \$1000. Information will be made available only after notice is sent to the absent parent and the absent parent has been given reasonable opportunity to contest.

**State Credit Repair Statute:** Ga. Code Ann. § 16-9-59. It is a misdemeanor for any person, other than a 501(c)(3) organization, to operate a credit repair service organization.<sup>20</sup>

**State Identity Theft Statute:** Ga. Code §§ 16-9-121 to -127.

*Definition of Offense:* Without authorization, and with intent to appropriate financial resources of another, obtains or records identifying information, or access or attempts to access financial resources through use of identifying information.

*Victim Remedies in Criminal Case:* Court may order restitution.

*Special Record-Clearing Provisions:* No specific provisions.

*Duties of Private Entities:* No specific provisions.

*Private Right of Action:* No specific provisions.

*Other:* Administrator of Fair Business Practices Act may investigate complaints, with all the powers granted by that Act.

#### Hawaii

**Child Support Debts:** Haw. Rev. Stat. § 576D-6(6). Information regarding child support delinquencies shall be made available to consumer reporting agencies. Delinquent parents must be given

notice and the opportunity to contest accuracy of the information prior to reporting.

**State Credit Repair Statute:** Haw. Rev. Stat. § 481B-12. Remedies are available under the state deceptive practices statute.<sup>21</sup>

#### Idaho

**State Credit Repair Statute:** Idaho Code §§ 26-2221 to 26-2251. Must post a bond with the state. Must deal with consumer "fairly, openly and honestly without deception."<sup>22</sup>

**State Identity Theft Statute:** Idaho Code §§ 18-3126 and -3128; §§ 28-51-101 and -102.

*Definition of Offense:* Obtain or record personal identifying information of another without authorization, with intent to obtain credit, money, goods or services in the name of that person.

*Victim Remedies in Criminal Case:* No specific provisions.

*Special Record-Clearing Provisions:* No specific provisions.

*Duties of Private Entities:* Credit reporting agency must block information resulting from violation of Idaho Code § 18-3126, and notify furnisher that a block is in place. Agency and furnisher may refuse to block, or rescind, if block is result of misrepresentation by consumer, if consumer agrees block was in error, or if consumer knowingly received goods or services as a result of the blocked transaction.

*Private Right of Action:* For violation of § 28-51-102 (duties of agency and furnisher) consumer has private right of action for damages, attorney fees, injunction and "other appropriate relief."

**Other State Provisions:** Idaho Code § 41-1843 (effective January 1, 2003). Forbids property or casualty insurers to charge a higher premium, or to cancel, nonrenew or refuse to issue a policy "based primarily upon an individual's credit rating or credit history." The statute applies only to property or casualty insurance (as defined in Idaho Code Ch. 5, title 41) issued primarily for personal, family or household purposes.

#### Illinois

**Child Support Debts:** 305 Ill. Comp. Stat. Ann. § 5/10-16.4; 750 Ill. Comp. Stat. Ann. § 5/706.3. Courts finding obligers owing more than \$10,000 or an amount equal to at least three months support obligation shall direct the clerk of the court to make the information available to consumer reporting agencies.

**State Credit Repair Statute:** 815 Ill. Comp. Stat. Ann. § 605. There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Must disclose rights under FCRA. Actual and punitive damages, reasonable attorney fees and court costs available. Remedies are also available under the state deceptive practices statute.

<sup>20</sup> Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

<sup>21</sup> Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

<sup>22</sup> Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

**State Identity Theft Statute:** 720 Ill. Comp. Stat. Ann. § 5/16G-1 to -25.

**Definition of Offense:** Knowingly uses personal identifying document or information of another to fraudulently obtain credit, money, goods, services or other property in the name of that person. Enhanced penalty if victim age 60 or over, or disabled.

**Victim Remedies in Criminal Case:** No specific provisions.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** No specific provisions.

**Other State Provisions:** Solicitations or applications to sell consumer access to reports or government records must disclose that such records and reports are otherwise available free or for nominal cost. 815 Ill. Comp. Stat. Ann. § 505/2B.2. No person may report adverse information to a credit reporting agency unless the cosigner is notified first that the primary obligor has become delinquent or defaulted, that the cosigner is responsible for payment, and that the cosigner has fifteen days to pay or make arrangements for payment. Violation is an unlawful act and may result in up to \$250 in actual damages in addition to attorney fees.<sup>23</sup> 815 Ill. Comp. Stat. Ann. § 505/2S.

#### Indiana

**State Credit Repair Statute:** Ind. Code §§ 24-5-15-1 to 24-5-15-11. There must be a written contract including specific services provided, total payments due and right of rescission. Must disclose rights under FCRA. Must post a bond with the state.<sup>24</sup>

**State Identity Theft Statute:** Ind. Code § 35-43-5-1 and -3.5.

**Definition of Offense:** Knowingly uses or intentionally obtains, possesses, transfers or uses the identifying information of another without authorization, and with intent to harm or defraud another.

**Victim Remedies in Criminal Case:** No specific provisions.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** No specific provisions.

#### Iowa

**State Credit Repair Statute:** Iowa Code §§ 538A.1 to 538A.14. Must be bonded. There must be a written contract including specific services provided, total payments due and right of rescission. Actual and punitive damages, injunctions, reasonable attorney fees and court costs are available for violations.<sup>25</sup>

**State Identity Theft Statute:** Iowa Code §§ 714.16B and 715A.8 and .9.

**Definition of Offense:** With intent to obtain a benefit, fraudulently obtains identifying information of another, and uses or attempts to use it without authorization to obtain credit, property, or services.

**Victim Remedies in Criminal Case:** No specific provisions.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** In addition to other remedies provided by law, person who suffers pecuniary loss from identity theft has civil action for the greater of treble damages or \$1000, plus reasonable costs and attorney fees. Violation of this section is also an unlawful practice under § 714.16 (UDAP).

**Other State Provisions:** Iowa Code § 654.18(4). A mortgagee shall not report that a mortgagor is delinquent on the mortgage if the mortgagor agrees to an alternative non-judicial voluntary foreclosure procedure. The mortgagee may report that an alternative non-judicial voluntary foreclosure procedure was used.<sup>26</sup>

#### Kansas

**State FCRA Statute:** Kan. Stat. Ann. §§ 50-701 to 50-722.

**Scope:** Same as the federal law.

**Purposes for Which Reports May Be Issued:** Similar to federal law, except no authorization for provision to potential investors or servicers, or current insurers, in connection with evaluation of the credit or repayment risks associated with existing credit obligations.

**Consumer Access and Disclosure:** Similar to federal law, except agency only required to disclose non-employment report recipients within previous six months.

**Disclosures to Consumers By Users:** Similar to federal law.

**Restrictions on Content of Reports:** Similar to federal law except criminal records more than seven years old or bankruptcies more than fourteen years old.<sup>27</sup> Adverse information (except public record information) from investigative consumer reports may not be used in subsequent reports unless it has been verified while preparing the new report or was received within three months.

**Consumer Disputes:** Agency must investigate within a reasonable time if informed by consumer of dispute. Must delete if information is inaccurate or no longer verifiable. If dispute not resolved, consumer may file statement, up to 100 words, describing the dispute. If information is deleted, consumer may request agency to inform users who obtained reports within two years for employment purposes or six months for other purposes. Agency must inform consumer of this right.

**Duties of Furnishers:** No relevant provisions.

**Consumer Remedies:** Civil liability for agencies and users: actual damages plus costs and reasonable attorney fees; punitive damages for willful violations. Criminal penalties also available.

**Statute of Limitations:** Two years from violation or time of discovery.

**Miscellaneous:** No relevant provisions.

**Child Support Debts:** Kan. Stat. Ann. § 23-4145. The Secretary of Social and Rehabilitation Services must make available information concerning support arrearages in excess of \$1000 owed or

<sup>23</sup> Most state laws concerning the duties of furnishers are now preempted. See § 10.4.4, *supra*.

<sup>24</sup> Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

<sup>25</sup> Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

<sup>26</sup> Most state laws concerning the duties of furnishers are now preempted. See § 10.4.4, *supra*.

<sup>27</sup> These two definitions of information which may not be contained under Kansas law in a consumer report were in effect on Sept. 30, 1996, and therefore are not preempted, although they regulate the contents of consumer reports and might otherwise be preempted. See § 10.4.4, *supra*.

assigned to the Secretary or owed to any person who has applied for services, upon the request of a consumer reporting agency. The Secretary may make information concerning smaller arrearages available. Before making this information available, the Secretary must provide advance notice to the obligor.

**State Credit Repair Statute:** Kan. Stat. Ann. §§ 50-1101 to 50-1115. There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Actual and punitive damages, plus reasonable attorney fees, are available, as are remedies under the state deceptive practices statute.<sup>28</sup>

**State Identity Theft Statute:** Kan. Stat. Ann. § 21-4018.

**Definition of Offense:** Knowingly and with intent to defraud for economic benefit, obtains, transfers, possesses or uses, or attempts to obtain, transfer, possess or use, an identification document or PIN number of another.

**Victim Remedies in Criminal Case:** No specific provisions.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** No specific provisions.

## Kentucky

**State FCRA Statute:** Ky. Rev. Stat. Ann. §§ 367.310 and 367.990(16).

**Scope:** No relevant provisions.

**Purposes for Which Reports May Be Issued:** No relevant provisions.

**Consumer Access and Disclosures:** No relevant provisions.

**Disclosures to Consumer by User:** No relevant provisions.

**Restrictions on Content of Reports:** Criminal charge in Kentucky court which did not result in conviction.<sup>29</sup>

**Consumer Disputes:** No relevant provisions.

**Duties of Furnishers:** No relevant provisions.

**Consumer Remedies:** Civil liability: each violation may result in a fine of up to \$200.

**Statute of Limitations:** No relevant provisions.

**Miscellaneous:** No relevant provisions.

**Child Support Debts:** Ky. Rev. Stat. Ann. § 205.768. Child support arrearages shall be reported to consumer reporting agencies, provided that advance notice is given to the obligor explaining the methods available to contest the accuracy of the information.

**State Identity Theft Statute:** Ky. Rev. Stat. Ann. §§ 411.201, 514.160 and .170, and 532.034.

**Definition of Offense:** Theft of identity: Without consent, knowingly possesses or uses identifying information of another to deprive that person of property, obtain benefits to which not entitled, make financial or credit transactions using identity of another, avoid detection, or obtain commercial or political benefit. Trafficking in stolen identities: Manufactures, possesses, transfers,

sells or possesses with intent to manufacture, transfer or sell, the personal identity of another for purposes forbidden by theft of identity section. Possession of 5 or more identities is prima facie evidence of possession for trafficking.

**Victim Remedies in Criminal Case:** Upon conviction, shall pay restitution for financial loss by victim, which may include any costs incurred in correcting credit history, or in any civil or administrative proceeding to satisfy debt or obligation, including lost wages and attorney fees. Victim includes financial institution, insurance company or bonding company that suffers financial loss.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** Victim of identity theft or trafficking in stolen identities has cause of action for compensatory and punitive damages.

**Other:** Attorney General (Financial Integrity Enforcement Division) shall coordinate with the Department of Financial Institutions, the U.S. Secret Service, and the Kentucky Bankers' Association to prepare and disseminate information to prevent identity theft.

## Louisiana

**State FCRA Statute:** La. Rev. Stat. Ann. §§ 9:3571.1 and 9:3571.2.

**Scope:** Consumer's credit-worthiness, credit standing or credit capacity.

**Purposes for Which Reports May Be Issued:** A motor vehicle dealer may not request or review a report without consumer's written permission in connection with a test drive, a request to test drive, a request for pricing or financing, or negotiations with a consumer, unless consumer has already applied to lease or finance a vehicle.

**Consumer Access and Disclosure:** Similar to federal law, but must be made within five days of written request and agency only required to disclose non-employment report recipients within previous six months. Agency may charge \$8 fee (unless request made within sixty days of adverse action based on consumer report). Amount of fee may increase annually with increases in consumer price index.

**Disclosures to Consumer by User:** Name and address of credit reporting agency, if adverse action based wholly or partially on report; notice of right to free report.

**Restrictions on Content of Reports:** No relevant provisions.

**Consumer Disputes:** Must investigate and correct or update within 45 days of a consumer's written notification of dispute.

**Duties of Furnishers:** No relevant provisions.

**Consumer Remedies:** Intentional or negligent violation: actual damages plus reasonable attorney fees, court costs, and other reasonable costs of prosecution.

If denied credit, insurance, or employment on the basis of erroneous or inaccurate information furnished by a credit reporting agency, and the erroneous or inaccurate information was the significant material cause of the denial, and if the credit reporting agency failed to use ordinary care or failed to exercise due diligence in discovering such error (i.e., by not complying with the FCRA, CCPA, or other provision of this section), the credit reporting agency is liable. The consumer is entitled to actual damages in addition to reasonable attorney fees and court costs.

If a person is required to have erroneous or inaccurate information removed from a credit report as a condition to having a credit,

<sup>28</sup> Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

<sup>29</sup> This provision was in effect on Sept. 30, 1996, so even if it could be said to be otherwise preempted by 15 U.S.C. § 1681c, it is not preempted. See § 10.4.4, *supra*.

insurance, or employment application approved and the erroneous or inaccurate information was a significant material cause of the request for removal, and if the credit reporting agency failed to use ordinary care or failed to exercise due diligence in discovering such error, the credit reporting agency is liable. The consumer is entitled to actual damages in addition to reasonable attorney fees and court costs.

Violations of § 9:3571.2 (requests by motor vehicle dealers before test drive, pricing inquiry or negotiations): civil penalty of up to \$2500 per violation.

*Statute of Limitations:* No relevant provisions.

*Miscellaneous:* No relevant provisions.

**State Credit Repair Statute:** La. Rev. Stat. Ann. §§ 9:3573.1 to 9:3573.16. There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Actual damages, reasonable attorney fees, plus double damages for willful violations, are available.<sup>30</sup>

**State Identity Theft Statute:** La. Rev. Stat. Ann. § 14:67.16.

*Definition of Offense:* Intentional use or attempted use of identifying information of another, without authorization, to obtain credit, money, goods, services or anything else of value.

*Victim Remedies in Criminal Case:* Court may order full restitution to the victim, or any other who suffered financial loss. If defendant is indigent, a payment plan may be ordered.

*Special Record-Clearing Provisions:* No specific provisions.

*Duties of Private Entities:* No specific provisions.

*Private Right of Action:* No specific provisions.

## Maine

**State FCRA Statute:** Me. Rev. Stat. Ann. tit. 10, §§ 1311 to 1329 (See also Advisory Rulings of Bureau of Consumer Protection).

*Scope:* Investigative consumer report includes telephone information. Adverse information is deemed to be any information likely to have a negative effect on the ability of the consumer to obtain credit, credit insurance, employment, benefits, goods or services.

*Purposes for Which Reports May Be Issued:* Same as the federal law, but reports listing a consumer as having been denied credit where the sole reason for denial was insufficient information for the granting of credit may not be issued, unless report states denial was for that reason.<sup>31</sup>

*Consumer Access and Disclosure:* The consumer has the right to have medical information given to the licensed physician of his or her choice. Only requires agency to disclose users for non-employment purposes within previous six months. Right to receive copy of file. Maximum charge: Actual costs plus \$2, unless a copy is requested within 60 days after an adverse consumer determination, in which case it is free. Public record information is the same as federal law. Must disclose to consumer the substance of public record information provided for employment purposes.

*Disclosures to Consumers By User:* Notice of requests for inves-

tigative reports must be delivered three business days prior to the investigation.

*Restrictions on Content of Reports:* Reporting information which cannot be verified unless the report also contains attempts to verify. Adverse information in investigative reports which is not reverified or received within previous three months. Reporting that a consumer was denied credit if the sole reason for denial is lack of credit information, unless the report states that denial was for that reason.<sup>32</sup> A debt collector may not disclose an overdue debt for medical expenses of a minor child, unless the debtor is the responsible party according to a court or administrative order (provided that the collector has been informed of the existence of the order), and the responsible party has been notified and given an opportunity to pay.

*Consumer Disputes:* Agency must reinvestigate within twenty-one days; otherwise similar to federal law.<sup>33</sup> In addition, an agency must retain inaccurate information in a separate folder which can only be used as defenses in a civil action. Immediate notice to a consumer if a dispute is considered "frivolous."<sup>34</sup> If information is found to be inaccurate or unverifiable, agency must notify users who obtained reports for employment purposes within 2 years or other purposes within six months.

*Duties of Furnishers:* May not furnish information it knows or should know is inaccurate. May not furnish information if it is informed by consumer that information is inaccurate, and information is, in fact, inaccurate. One who regularly furnishes information to consumer reporting agency must notify agency of corrections, if any information supplied is later found to be inaccurate. Must notify agency if consumer disputes the information. Regular furnisher must investigate dispute reported by consumer. (No private right of action for violations of these requirements; enforcement only by administrator).

*Consumer Remedies:* Similar to the federal law for willful non-compliance, but treble damages rather than punitive damages. For negligent violations, in addition to actual damages, minimum damages of at least \$100 per violation and each report containing inaccurate or irrelevant information which contributed to an adverse consumer decision. Criminal penalties for obtaining information from a consumer reporting agency on false pretenses, or for unauthorized disclosures by agency officers or employees.

*Statute of Limitations:* Same as the federal law.

*Miscellaneous:* Investigative reports must be updated every three months. Reports must be in writing and retained in a file for two years for employment purposes, six months for other purposes. (See *Equifax Services, Inc. v. Cohen*, 420 A.2d 189 (Me. 1980)). If a bankruptcy is reported, must indicate which chapter, if known. If bankruptcy withdrawn by consumer before final judgment, agency must report this. If a credit account is voluntarily closed by consumer, agency must report this along when it reports information about the account.

30 Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

31 This provision was in effect on Sept. 30, 1996, so even if it could be said to be otherwise preempted by 15 U.S.C. § 1681c, it is not preempted. See § 10.4.4, *supra*.

32 These provisions were in effect on Sept. 30, 1996, so although they may regulate the time allowed for an agency to reinvestigate a dispute, or the contents of reports, they are not preempted. See § 10.4.4, *supra*.

33 Provision was in effect on Sept. 30, 1996, so although it regulates the time allowed for an agency to reinvestigate a dispute, it is not preempted. See § 10.4.4, *supra*.

34 This provision was in effect on Sept. 30, 1996, so although it regulates the time allowed for part of the reinvestigation process, it is not preempted. See § 10.4.4, *supra*.

**Child Support Debts:** Me. Rev. Stat. Ann. tit. 10, § 1329. The Department of Human Services, upon the request of a consumer reporting agency, shall make available information regarding the amount of overdue child support owed by any parent. Prior to making the information available to the requesting agency, the Department shall provide the obligor parent with notice of the proposed action. The parent shall be given twenty days prior notice to contest the accuracy of the information. The Department may voluntarily provide this information as well.

**State Credit Repair Statute:** Me. Rev. Stat. Ann. tit. 9-A, §§ 10-101 to 10-401. There must be a written contract including specific services provided and total amount due. Must post a bond with the state. Actual damages, reasonable attorney fees and costs available.<sup>35</sup>

### Maryland

**State FCRA Statute:** Md. Code Ann. Com. Law §§ 14-1201 to 14-1218; see also Md. Regs. Code tit. 9, §§ 09.03.07.01 to 09.03.07.03.

**Scope:** Similar to Federal.

**Purposes for Which Reports May Be Issued:** Similar to federal law, except no authorization for provision to potential investors or servicers, or current insurers, in connection with evaluation of credit or prepayment risks associated with existing credit obligations.

**Consumer Access and Disclosure:** Upon customer request all information in file except medical information; in addition, an explanation of code or trade language is required. Must provide one free copy per year, may charge up to a \$5.00 fee for additional copies. Substance of any public record information reported for employment purposes.

**Disclosures to Consumers By User:** Same as the federal law. Must inform consumer if an investigative report is being requested. Must disclose to consumer, upon request, the scope of the proposed investigative report.

**Restrictions on Content of Reports:** Obsolete information: same as federal law except criminal records more than seven years after disposition, release or parole.<sup>36</sup> Adverse information in investigative reports which is not reverified or received within previous three months.<sup>37</sup>

**Consumer Disputes:** Disputed information must be investigated within thirty days of written notification by a consumer.<sup>38</sup> If found to be inaccurate, the consumer and users must be notified within seven days; if found to be accurate, the consumer must be notified within seven days. Consumer must be notified within seven days if agency considers dispute to be frivolous.

**Duties of Furnishers:** No relevant provisions.

**Consumer Remedies:** Actual damages, reasonable attorney fees and costs are available for negligent violations, plus punitive damages for willful violations. Violations made unintentionally and in good faith are not actionable. Criminal penalties for obtaining information from agency under false pretenses, or for unauthorized disclosure by officers or employees of agency.

**Statute of Limitations:** Same as the federal law.

**Miscellaneous:** Cannot provide prescreened information if the consumer precludes it in writing.<sup>39</sup>

**Child Support Debts:** Md. Code Fam. Law § 10-108.1. Upon request, the Child Support Enforcement Administration shall report child support arrearages of sixty days for longer duration. Written notice and a reasonable opportunity to contest the accuracy of the information must be given to the obligor before the information is reported.

**State Credit Repair Statute:** Md. Code Ann. Com. Law §§ 14-1901 to 14-1916. There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Must disclose rights under FCRA. Actual damages plus attorneys fees are available for negligent violations plus treble contract amount and punitive damages for willful violations. Remedies are also available under the state deceptive practices statute.<sup>40</sup> Credit repair organizations are forbidden to help consumers obtain closed end credit which, but for federal preemption of state statute, would violate the usury statute. Closed end credit is defined to explicitly include payday lenders, i.e., an extension of credit for which a payment instrument is held to insure payment.

**State Identity Theft Statute:** Md. Code Ann., Crim. § 8-301; see also Md. Govt. Code § 6-202.

**Definition of Offense:** Knowingly, willfully, without authority, with fraudulent intent obtain or help another to obtain personal identifying information of another, with intent to obtain any benefit, credit, goods, services or other thing of value in the name of another; or knowingly or willfully assume the identity of another to fraudulently obtain any benefit, etc., or evade payment of debt or legal obligation.

**Victim Remedies in Criminal Case:** In addition to restitution required by other provisions of criminal code, court may order restitution to victim for reasonable costs incurred including attorney fees, in clearing victims credit history or credit rating, and in connection with any civil or administrative proceeding to satisfy a debt, lien, judgment or other obligation arising from the identity fraud.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** No specific provisions.

**Other:** Electronic Transaction Education, Advocacy and Mediation Unit, in the Office of the Attorney General is empowered to investigate and assist in the prosecution of identity fraud, and to provide public education regarding the prevention of identity fraud.

<sup>35</sup> Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

<sup>36</sup> These two definitions of information which may not be contained under Maryland law in a consumer report were in effect on Sept. 30, 1996, and therefore are not preempted, although they regulate the contents of consumer reports and might otherwise be preempted. See § 10.4.4, *supra*.

<sup>37</sup> *Id.*

<sup>38</sup> These provisions were in effect on Sept. 30, 1996, so although they regulate the time allowed an agency to reinvestigate the contents of reports, they are not preempted. See § 10.4.4, *supra*.

<sup>39</sup> State law provisions concerning prescreening lists are now preempted. See § 10.4.4, *supra*.

<sup>40</sup> Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

**Massachusetts****State FCRA Statute: Mass. Gen. Laws Ann. ch. 93, § 50-68.**

**Scope:** Same as the federal definitions except the consumer report does not include information communicated by the consumer reporting agency on reputation, character, personal characteristics, or mode of living. Issuance of investigative consumer reports requires the prior written permission of the consumer.

**Purposes for Which Reports May Be Issued:** Similar to federal law, however business transaction use restricted to transactions where a party transfers interest in real or personal property, pays money or renders services, or becomes obligated to do so; and no authorization for provision to potential investors or servicers, or current insurers, in connection with evaluation of credit or prepayment rules associated with existing credit obligations. Consumers must be given the opportunity, via a toll-free telephone number, to opt-out of prescreened lists.<sup>41</sup>

**Consumer Access and Disclosure:** Similar to the federal law; in addition, upon customer request, contents of all non-medical information in files must be disclosed. Nationwide agencies must provide one free copy per year, \$5 from local agencies; subsequent reports \$8.

**Disclosures to Consumers By User:** Same as the federal law.

**Restrictions on Content of Reports:** Same as federal law except criminal records more than seven years after disposition, release or parole and bankruptcies over fourteen year old.<sup>42</sup>

**Consumer Disputes:** Similar to federal law, except that the consumer reporting agency must reinvestigate within thirty days and notify the consumer of the results within a further ten days. If agency determines dispute frivolous, it must notify consumer of specific reasons for decision within five days. Agency must delete information found to be inaccurate within three days and must issue corrected reports within fifteen days of request by consumer.<sup>43</sup> In addition, a consumer reporting agency does not have the right to limit the length of the statement filed by the consumer on the dispute.

**Duties of Furnishers:** Furnishers of information liable from first for failing to establish reasonable procedures to ensure accuracy of information reported, or for reporting information they know or should know is inaccurate. In addition, furnishers must report voluntary account closures and must include consumer disputes and commencement dates of any delinquencies, when reporting delinquencies.<sup>44</sup>

**Consumer Remedies:** Fine and/or imprisonment for willful introduction of false information into a file for the purpose of either damaging or enhancing a consumer's credit information or for obtaining information from agency under false pretenses, or unauthorized disclosure by agency personnel. Agencies, users and furnishers are

liable for actual damages, reasonable attorney fees and costs, plus punitive damages for willful violations. In addition, remedies in relation to negligent noncompliance are specifically nonexclusive. Failure to comply with any provision is a violation of the state deceptive practices statute.

**Statute of Limitations:** Two years from date of violation or discovery for willful misrepresentation.

**Miscellaneous:** Adverse information in an investigative report must be reverified or less than three months old to be included on a subsequent report.<sup>45</sup>

**Child Support Debts: Mass. Gen. Laws Ann. ch. 93, § 52A.** Child support arrearages in excess of \$500 must be reported upon request of consumer reporting agency. Fifteen-day advance notice must be given to obligor parent, who has right to contest accuracy of information before it is reported to agency.

**State Credit Repair Statute: Mass. Gen. Laws Ann. ch. 93, §§ 68A-68E.** There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond. Remedies are available under the state deceptive practices statute.<sup>46</sup>

**State Identity Theft Statute: Mass. Gen. Laws Ann. ch. 266, § 37E.**

**Definition of Offense:** Poses as another person and uses that persons identifying information without authority to obtain money, credit, goods, or other thing of value, or identifying documents of that person; or obtains identifying information for purpose of posing as that person or enabling another to pose as that person, for purposes listed above.

**Victim Remedies in Criminal Case:** In addition to any other punishment, court must order restitution for financial loss, which may include costs of correcting credit history and credit rating, civil or administrative proceeding to satisfy debt or other obligation, including lost wages and attorney fees.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** No specific provisions.

**Michigan**

**Child Support Debts: Mich. Comp. Laws § 552.512.** The office of friend of the court shall report to a consumer reporting agency support information concerning all child support payers with an arrearage of two months or more. Prior to making such information available, the office of friend of the court shall provide twenty-one days advance notice to the payer and a review enabling the payer to object. Any incorrect information reported must be corrected within fourteen days.

**State Credit Repair Statute: Mich. Comp. Laws §§ 445.1821 to 445.1826.** Credit repair organizations may not receive payment in advance or engage in fraudulent or deceptive acts. There must be a written contract specifying services to be provided.<sup>47</sup>

41 State law provisions concerning prescreening lists are now preempted. See § 10.4.4, *supra*.

42 These two definitions of information which may not be contained under Massachusetts law in a consumer report were in effect on Sept. 30, 1996, and therefore are not preempted, although they regulate the contents of consumer reports and might otherwise be preempted. See § 10.4.4, *supra*.

43 These provisions were in effect on Sept. 30, 1996, so although they regulate the time allowed an agency to reinvestigate a dispute, they are not preempted. See § 10.4.4, *supra*.

44 Massachusetts law regarding the responsibilities of furnishers of information is explicitly not preempted by federal law. See § 10.4.4, *supra*.

45 This provision was in effect on Sept. 30, 1996, so even if it could be said to be otherwise preempted by 15 U.S.C. § 1681c, it is not preempted. See § 10.4.4, *supra*.

46 Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

47 Many provisions of state credit repair statutes are preempted by

**State Identity Theft Statute: Mich. Comp. Laws § 750.285.**

*Definition of Offense:* Obtaining or attempting to obtain personal identity information of another without authority, with the intent to use it to: obtain credit, buy or lease property, obtain employment, access medical records, or commit any illegal act.

*Victim Remedies in Criminal Case:* No specific provisions.

*Special Record-Clearing Provisions:* No specific provisions.

*Duties of Private Entities:* No specific provisions.

*Private Right of Action:* No specific provisions.

**Other State Provisions: Mich. Comp. Laws §§ 445.271 to 445.273.** No creditor may report adverse information about a cosigner without thirty days notice, or if the cosigner makes satisfactory arrangements in response to a notice.<sup>48</sup>

**Minnesota**

**State FCRA Statute: Minn. Stat. §§ 13C.001 to 13C.04; 72A.496 to 72A.505 (insurance investigative reports).**

*Scope:* Similar to Federal.

*Purposes for Which Reports May Be Issued:* Same as federal law.

*Consumer Access and Disclosures:* Detailed requirements for medical information in insurance reports: may be disclosed to named health care provider instead of directly to consumer; if disclosure could create risk of harm to patient or others, must be disclosed only to treating physician. Insurance company must disclose reasons for adverse underwriting decision, including credit scores. Before seeking information, insurer must obtain consumer's written authorization; form must be in plain language, disclose what information is being sought, and authorization must be for a limited time. Agencies must provide one report per year for a charge of not more than three dollars.

*Disclosures to Consumer By User:* Similar to federal law, however, no one can procure a consumer report for employment purposes without written disclosure to the consumer prior to the preparation of the report; and the disclosure must include a box for the consumer to check to obtain a free copy of the report. This copy must be sent by the agency to the consumer within twenty-four hours of the time it delivers report to the user. If the report requested is an investigative consumer report, must disclose that the report may include information obtained through personal interviews regarding the consumer's character, general reputation, personal characteristics, or mode of living. Disclosure is not required if the report is to be used for employment purposes for which the consumer has not specifically applied, used for an investigation of a current violation of a criminal or civil statute by a current employer, or used for an investigation of employee conduct for which the employer may be liable. Users who request an investigative report for insurance purposes must notify consumer of right to be interviewed during the investigation and the right to request a copy of the report.

*Restrictions on Content of Reports:* No relevant provisions.

*Consumer Disputes:* Adverse decisions regarding insurance reports may be appealed to insurance commissioner.

*Duties of Furnishers:* No relevant provisions.

*Consumer Remedies:* Actual damages, equitable relief, and costs and disbursements (including costs of investigation and reasonable attorney fees). Violations of insurance information statute treated like violations of government data practices law: actual damages, costs and attorney fees; exemplary damages for willful violation of \$100 to \$10,000 per violation; injunction also available. Criminal penalties for obtaining data in violation of the insurance statute.

*Statute of Limitations:* No relevant provisions.

*Miscellaneous:* No relevant provisions.

**State Credit Repair Statute: Minn. Stat. §§ 332.52 to 332.60.**

There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Must disclose rights under FCRA.<sup>49</sup>

**State Identity Theft Statute: Minn. Stat. § 609.527.**

*Definition of Offense:* Transfers, possesses or uses an identity not one's own, with the intent to commit, aid or abet any unlawful activity.

*Victim Remedies in Criminal Case:* Court-ordered restitution available, also eligible for crime victims' compensation under Ch. 611A.

*Special Record-Clearing Provisions:* No specific provisions.

*Duties of Private Entities:* No specific provisions.

*Private Right of Action:* No specific provisions.

**Mississippi**

**Child Support Debts: Miss. Code Ann. § 93-11-69.** The Department of Human Services shall make information about child support debts, thirty days or more overdue, available to consumer reporting agencies; fifteen days advance notice and an opportunity to contest the information must be provided to obligors.

**State Identity Theft Statute: Miss. Code Ann. § 97-19-85.**

*Definition of Offense:* False statement as to identity, Social Security, credit or debit card number, or other identifying information, with intent to fraudulently obtain goods, services or other thing of value.

*Victim Remedies in Criminal Case:* Court must order restitution, as provided by § 99-37-1. (General criminal restitution statute).

*Special Record-Clearing Provisions:* No specific provisions.

*Duties of Private Entities:* No specific provisions.

*Private Right of Action:* No specific provisions.

**Missouri**

**Child Support Debts: Mo. Ann. Stat. § 454.512 (West).** State division of child support enforcement shall periodically report all child support arrearages, the noncustodial parent shall be provided notice and a reasonable opportunity to contest such information before it is reported.

**State Credit Repair Statute: Mo. Ann. Stat. §§ 407.635 to 407.644 (West).** There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Must disclose rights under FCRA. Actual and

the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

48 Most state laws concerning duties of furnishers of information are now preempted. See § 10.4.4, *supra*.

49 Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

punitive damages, plus reasonable attorney fees are available, as are remedies under the state deceptive practices statute.<sup>50</sup>

**State Identity Theft Statute: Mo. Ann. Stat. § 570.223 (West).**

**Definition of Offense:** Knowingly and with intent to deceive or defraud, obtains, transfers, possesses or uses, or attempts to obtain, transfer or use, one or more means of identification not lawfully issued for his use.

**Victim Remedies in Criminal Case:** Court may order restitution to victim, including costs and attorney fees incurred in clearing credit history or credit rating, and in any civil or administrative proceeding to satisfy a debt, lien or other obligation resulting from the identity theft.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** No specific provisions.

**Montana**

**State FCRA Statute: Mont. Code Ann. §§ 31-3-101 to 31-3-153**  
**See also Mont. Admin. R. 2.61.301.**

**Scope:** Same as the federal law.

**Purposes for Which Reports May Be Issued:** Similar to the federal law except no authorization for provision to potential investors or servicers, or current insurers, in connection with evaluation of the credit or prepayment risks associated with existing credit obligations.

**Consumer Access and Disclosure:** Upon consumer request, the nature and substance of all information, except medical, in its files, and the sources of the information must be disclosed. The request must be written. Response may be over the phone; the consumer pays the toll charge. The agency must notify the consumer if information of public record with an adverse effect on employment has been reported.

**Disclosures to Consumers By User:** Notice that an investigative report may be requested is required within three days of request, but is not required pursuant to an employment application. If credit is denied or its cost is increased due to information obtained from a person other than an agency, the user must notify the consumer and must disclose the nature of the adverse information if a request is made within sixty days.

**Restrictions on Content of Reports:** Similar to federal law, except criminal records more than seven years after disposition, release or parole, and bankruptcies over fourteen years old.<sup>51</sup> No adverse information from a prior investigative report unless it is reverified.<sup>52</sup>

**Consumer Disputes:** False information must be deleted and users must be notified. The consumer must be notified as to which users have the disputed information.

**Consumer Remedies:** Actual damages, costs and attorney fees, plus

punitive damages for willful violations. Civil action for defamation, invasion or privacy or negligence is available against agencies which do not comply with this statute, or wrongfully judge a dispute frivolous or refuse to delete inaccurate information, and against furnishers (except the Department of Public Health and Human Services) who provide misinformation maliciously or with intent to injure. Administrative procedure available for complaints against the Department. Violation of this statute violates the unfair and deceptive practices statute.

**Miscellaneous:** A credit rating is a property right with full Montana constitutional protection. An agency must maintain a record of all furnishers and users. Credit reporting agencies must warn all furnishers that they are liable to suit if the information they furnish is false, or is furnished with malice or willful intent to injure the consumer. Adverse information in investigative report may not be reused in later report unless it is verified while preparing the new report.

**Child Support Debts: Mont. Code Ann. §§ 40-5-261 & 40-5-262.**

The Department of Public Health may make information about child support debts available to consumer reporting agencies; advance notice and an opportunity to contest the information's accuracy must be provided to obligors.

**State Identity Theft Statute: Mont. Code Ann. 45-6-332.**

**Definition of Offense:** Purposely or knowingly obtains personal identifying information of another, and uses it without authority for any unlawful purpose, including to obtain credit, goods, services, financial or medical information, in name of another.

**Victim Remedies in Criminal Case:** May include costs incurred by the victim, including attorney fees, for clearing credit record or credit report, or in any civil or administrative proceeding to satisfy any debt, lien or obligation resulting from defendant's actions.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** No specific provisions.

**Nebraska**

**State FCRA Statute: Neb. Rev. Stat. § 20-149.**

**Scope:** Similar to Federal.

**Purposes for Which Reports May Be Issued:** No relevant provisions.

**Consumer Access and Disclosure:** A photocopy or typewritten copy of a report or file information is available for a reasonable fee, if disclosure is required by terms of federal FCRA as it existed on August 26, 1983; otherwise, as required by the federal law.

**Disclosures to Consumer by User:** No relevant provisions.

**Restrictions on Content of Reports:** No relevant provisions.

**Consumer Disputes:** No relevant provisions.

**Duties of Furnishers:** No relevant provisions.

**Consumer Remedies:** Misdemeanor.

**Statute of Limitations:** No relevant provisions.

**Miscellaneous:** No relevant provisions.

**State Credit Repair Statute: Neb. Rev. Stat. §§ 45-801 to 45-815.**

There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Must disclose rights under FCRA.<sup>53</sup>

50 Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

51 These two definitions of information which may not be contained under Montana law in a consumer report were in effect on Sept. 30, 1996, and therefore are not preempted, although they regulate the contents of consumer reports and might otherwise be preempted. See § 10.4.4, *supra*.

52 This provision was in effect on Sept. 30, 1996, so even if it could be said to be otherwise preempted by 15 U.S.C. § 1681c, it is not preempted. See § 10.4.4, *supra*.

53 Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See



## Nevada

**State FCRA Statute:** Nev. Rev. Stat. §§ 598C.010 to 598C.200.

**Scope:** Similar to Federal.

**Purposes for Which Reports May Be Issued:** Same as the federal law. Consumers must be given the opportunity to opt out of prescreened lists.<sup>54</sup>

**Consumer Access and Disclosure:** Rights under state FCRA. The nature and substance of a report in the files at the time of the request and disclosure of the name of the institutional sources of information. On request, shall provide a readable copy and the name of each person who has received a report within the preceding two years, if for employment purposes, or the preceding six months if for any other purpose.

**Disclosures to Consumers By User:** A consumer must be notified if adverse action is taken on the basis of a credit report, and the consumer must be given notice of the name and address of the reporting agency and of the right to obtain a copy of the report from the agency.

**Restrictions on Content of Reports:** Same as federal law except agencies are forbidden to report criminal proceedings over seven years old and medical information.<sup>55</sup>

**Consumer Disputes:** Within five days after a consumer disputes the accuracy of any information, agency must notify any institutional sources of the information, and must complete reinvestigation within thirty days.<sup>56</sup> If the information is found to be incorrect, the files must be corrected and the consumer notified. No information that was deleted because of an inaccuracy may be reinserted unless reasonable procedures are used to maximize accuracy, and the consumer is notified within five business days after the reinsertion and offered the opportunity to add a brief statement disputing or adding to the information.

**Duties of Furnishers:** No relevant provisions.

**Consumer Remedies:** Willful noncompliance: actual damages, punitive damages, costs, and reasonable attorney fees. Negligent noncompliance: actual damages, costs, and reasonable attorney fees.

**Statute of Limitations:** No relevant provisions.

**Miscellaneous:** No relevant provisions.

**Child Support Debts:** Nev. Rev. Stat. § 598C.110. Reports shall include information concerning delinquent child support payments if they are presented in an acceptable format by the welfare division or district attorney.

**State Credit Repair Statute:** Nev. Rev. Stat. §§ 598.281 to 598.289. There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Description of rights under FCRA. Actual and punitive damages, injunctive relief and attorney fees

available, as well as remedies under the state deceptive practices act.<sup>57</sup>

**State Identity Theft Statute:** Nev. Rev. Stat. §§ 41.1345, 205.463 and .465.

**Definition of Offense:** Obtains personal identifying information [very broadly defined] of another, and uses it to harm that person, or for unlawful purpose, including but not limited to obtaining goods, credit, services or other thing of value in that person's name, or to delay or avoid being prosecuted for any unlawful act. Possesses, sells or transfers any document or personal identifying information, for the purpose of establishing a false identity for self or another.

**Victim Remedies in Criminal Case:** Court must order restitution, including costs and attorney fees incurred in clearing credit record or credit rating, and in any civil or administrative proceeding to satisfy debt or obligation incurred as a result of the identity theft.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** Person injured as proximate result of violation of § 205.463 has private right of action for actual damages, reasonable costs and attorney fees, and such punitive damages as the facts may warrant.

## New Hampshire

**State FCRA Statute:** N.H. Rev. Stat. Ann. §§ 359-B:1 to 359-B:21.

**Scope:** Same as the federal law.

**Purposes for Which Reports May Be Issued:** Similar to federal law except no authorization for provision to potential investors or servicers, or current insurers, in connection with the evaluation of the credit or prepayment risks associated with existing credit obligations. Consumers must be given the opportunity via a toll-free telephone number to opt out of prescreened lists.<sup>58</sup>

**Consumer Access and Disclosure:** Upon consumer request, an agency must disclose the nature and substance of all information, except medical information, in its files. Consumers must pay a reasonable copy fee.

**Disclosures to Consumers By User:** Similar to federal law.

**Restrictions on Content of Reports:** Similar to federal law except bankruptcies over fourteen years old and criminal records more than seven years after date of disposition, release or parole.<sup>59</sup>

**Consumer Disputes:** Similar to federal law, except that the consumer reporting agency must reinvestigate within thirty days and notify the consumer of the results within a further ten days.<sup>60</sup> Agency must inform consumer of right to request description of procedures used to reinvestigate, including name, address and telephone number of person(s) contacted.

Chapter 15, on credit repair *supra*.

54 State laws concerning prescreened lists are now preempted. See § 10.4.4, *supra*.

55 These provisions were in effect on Sept. 30, 1996, so even if they could be said to be otherwise preempted by 15 U.S.C. § 1681c, they are not preempted. See § 10.4.4, *supra*.

56 This provision was in effect on Sept. 30, 1996, so although it regulates the time allowed an agency for reinvestigation, it is not preempted. See § 10.4.4, *supra*.

57 Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

58 State laws concerning prescreened lists are now preempted. See § 10.4.4, *supra*.

59 This provision was in effect on Sept. 30, 1996, so even if it could be said to be otherwise preempted by 15 U.S.C. § 1681c, it is not preempted. See § 10.4.4, *supra*.

60 This provision was in effect on Sept. 30, 1996, so although it regulates the time allowed an agency for reinvestigation, it is not preempted. See § 10.4.4, *supra*.

*Duties of Furnishers:* No relevant provisions.

*Consumer Remedies:* Actual damages, costs and reasonable attorney fees, plus punitive damages for willful violations. Criminal penalties for obtaining information from agency by false pretenses, or for unauthorized disclosures by agency personnel.

*Statute of Limitations:* Two years from accrual (or from discovery, if delay resulted from willful and material misrepresentations by defendant).

*Miscellaneous:* Adverse information in investigative reports must be reverified or less than three months old to be included in a subsequent report.<sup>61</sup>

**State Credit Repair Statute:** N.H. Rev. Stat. Ann. §§ 359-D:1 to 359-D:11. There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Must disclose rights under FCRA.<sup>62</sup>

**State Identity Theft Statute:** N.H. Rev. Stat. Ann. §§ 638:25 to :27.

*Definition of Offense:* Poses as another with intent to defraud to obtain money, credit, goods, services or other thing of value, or confidential information about that person not available to the general public; obtains records or personal identifying information of another with intent to pose as that person or enable another to do so.

*Victim Remedies in Criminal Case:* Court shall order restitution for victim's economic loss.

*Special Record-Clearing Provisions:* No specific provisions.

*Duties of Private Entities:* No specific provisions.

*Private Right of Action:* No specific provisions.

## New Jersey

**State FCRA Statute:** N.J. Stat. Ann. §§ 56:11-28 to 56:11-41.

*Scope:* Similar to Federal.

*Purposes for Which Reports May Be Issued:* Generally same as federal law, but consumers must give prior written consent for the inclusion of medical information in reports used for employment, credit, insurance or direct marketing purposes, and for the preparation of investigative consumer reports.

*Consumer Access and Disclosure:* Similar to federal law, but must disclose all information in file. Must provide one free report per twelve month period; subsequent reports \$8. Must disclose the dates, original payees and amounts of any checks that are the basis for any adverse characterization. Must disclose requests (for purposes other than a credit transaction initiated by the consumer) within one year.

*Disclosures to Consumers By User:* Prior to requesting an investigative report must disclose precise nature and scope of investigation and consumer's right to a free copy of the report, and must obtain consumer's prior written consent.

*Restrictions on Content of Reports:* No relevant provisions.

*Consumer Disputes:* Similar to federal law, except agency must notify consumer written five business days of determination that

dispute is frivolous, including the reasons for its decision.

*Duties of Furnishers:* No relevant provisions.

*Consumer Remedies:* Negligent violations: actual damages, costs and reasonable attorney fees. Willful violations: actual damages or minimum damages of at least \$100 but not more than \$1000, punitive damages, costs and reasonable attorney fees. Those who file pleadings in bad faith or to harass liable for prevailing party's attorney fees for responding to that pleading. Criminal penalties for obtaining information from agency under false pretenses.

*Statute of Limitations:* No relevant provisions.

*Miscellaneous:* No relevant provisions.

**Child Support Debts:** N.J. Stat. Ann. § 2A:17-56.21. The state Department of Human Services shall report child support arrearages to consumer reporting agencies. The Department must give obligor prior notice and an opportunity to contest the accuracy of the information.

**State Identity Theft Statute:** N.J. Stat. Ann. § 2C:21-17.

*Definition of Offense:* Impersonates another or assumes a false identity for purpose of obtaining a pecuniary benefit, or injuring or defrauding another; obtains personal identifying information of another and uses it without authority to fraudulently obtain a pecuniary benefit or services, or avoid the payment of a debt, or avoid criminal prosecution; or assists another person in using the information for these purposes.

*Victim Remedies in Criminal Case:* No specific provisions.

*Special Record-Clearing Provisions:* No specific provisions.

*Duties of Private Entities:* No specific provisions.

*Private Right of Action:* No specific provisions.

## New Mexico

**State FCRA Statute:** N.M. Stat. Ann. §§ 56-3-1 to 56-3-8.

*Scope:* A consumer is any natural person seeking credit for personal, family, or household purposes.

*Purposes for Which Reports May Be Issued:* Credit reports for the granting of credit. Other bona fide business transactions. Employment purposes. No financial information to non-credit granting government agencies except by court order.

*Consumer Access and Disclosure:* Upon consumer request, an agency must disclose all information in a credit report or rating.

*Disclosures to Consumer by User:* No relevant provisions.

*Restrictions on Content of Reports:* A credit bureau must delete any derogatory data as soon as practical after ascertaining it can no longer be verified. A credit bureau cannot merge specialized information which is applicable only to personnel investigations.<sup>63</sup> Criminal records over seven years old, convictions if a full pardon is granted, and arrests and indictments if learned no conviction resulted.<sup>64</sup> Bankruptcies over 14 years.

*Consumer Disputes:* A credit bureau must give a consumer who is examining credit reports forms on which to designate errors. If disputed, an agency must reinvestigate at no cost to the consumer if the consumer is denied credit. If the consumer is not denied

61 This provision was in effect on Sept. 30, 1996, so even if it could be said to be otherwise preempted by 15 U.S.C. § 1681c, it is not preempted. See § 10.4.4, *supra*.

62 Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

63 This provision was in effect on Sept. 30, 1996, so even if it could be said to be otherwise preempted by 15 U.S.C. § 1681c, it is not preempted. See § 10.4.4, *supra*.

64 These provisions were in effect on Sept. 30, 1996, so even if they could be said to be otherwise preempted by 15 U.S.C. § 1681c, they are not preempted. See § 10.4.4, *supra*.

credit, the consumer can be charged up to \$5 for the reinvestigation.

*Duties of Furnishers:* No relevant provisions.

*Consumer Remedies:* After a credit bureau is given notice of an error, it is liable for any subsequent report which fails to correct the error. It is not liable for damages for an unintentional error prior to receiving notice of its existence. Damages for negligence include actual damages, costs and attorney fees, plus punitive damages for willful violations. Criminal penalties for obtaining information from agency under false pretenses, and for unauthorized disclosures by agency personnel.

*Statute of Limitations:* No relevant provisions.

*Miscellaneous:* A credit bureau must require service contracts in which the user certifies that inquiries will be made only for proper purposes; a credit bureau must refuse services to one who will not certify.

*Child Support Debts:* N.M. Stat. Ann. § 56-3-3. Child Support Enforcement Division may obtain credit reports for use in locating obligors and enforcing obligations. Division must furnish to credit bureau, on request, the judgment or case number for the obligation for which a report is requested.

*State Identity Theft Statute:* N.M. Stat. Ann. § 30-16-24.1.

*Definition of Offense:* Willfully obtaining, recording or transferring personal identifying information of another, without authority, and with intent to defraud that person or another.

*Victim Remedies in Criminal Case:* Out-of-pocket costs, plus expenses incurred, including attorney fees, in clearing credit record or credit report, and in civil or administrative proceeding to satisfy any debt, lien or obligation resulting from the theft. Sentencing court shall issue written findings of fact, and make such orders as are necessary to correct a public record that contains misinformation as a result of the theft.

*Special Record-Clearing Provisions:* No specific provisions.

*Duties of Private Entities:* No specific provisions.

*Private Right of Action:* No specific provisions.

## New York

*State FCRA Statute:* N.Y. Gen. Bus. Law §§ 380 to 380-s.

*Scope:* Adverse information is any information that is likely to have a negative effect upon the ability or eligibility of a consumer to obtain credit insurance, employment or other benefits, goods or services, or information responsible for increases in charges for credit or insurance.

*Purposes for Which Reports May Be Issued:* Similar to the federal law, but explicitly authorize use for residential rentals and does not authorize provision to potential investors or servicers, or current insurers, in connection with evaluation of the credit or prepayment risks associated with existing credit obligations. May not issue reports listing credit denial if the denial is only due to insufficient information.<sup>65</sup>

*Consumer Access and Disclosure:* Similar to federal law, except that all information in files must be disclosed. Medical information only to be disclosed to physician designated by consumer. An

agency must inform a consumer upon any contact of the right to receive a credit report. All consumers denied credit must be notified of the right to receive a report within thirty days at no charge. All requests for reports for employment purposes for two years, for other purposes for six months. If medical information, or reasons for an adverse action based on medical information must be disclosed, it should be disclosed to a physician designated by the consumer.

*Disclosures to Consumers By User:* Similar to the federal law, except that a consumer must be informed in writing that a credit report may be requested.<sup>66</sup> Upon consumer request, a user must tell a consumer if a credit report is actually used, and the source of the report. For an investigative consumer report, the user must obtain authorization in all situations. An authorization must state that the consumer can request a credit report, and that the user may request a report from the agency and, upon request, will inform a consumer whether it has done so. A consumer must be furnished with the reason for the denial of credit (statute refers to Federal Equal Credit Opportunity Act); cannot furnish the report to others without a legitimate business need.

*Restrictions on Content of Reports:* Similar to the federal law. Judgments over five years old which have been paid. Bankruptcies over fourteen years old. Information known to be incorrect. In addition:<sup>67</sup> information relative to an arrest or criminal charge unless it is still pending or resulted in conviction. Criminal convictions seven years after disposition, release or parole. Information on race, religion, color, or ethnic origin. Drug/alcohol addiction or mental institution confinement information over seven years old. Agencies may not collect or maintain in its files any information related to or derived from a polygraph examination or similar device. For employment purposes only, an agency may report information related to the detention of an individual by a retail establishment if an uncoerced admission of wrongdoing was executed, and the retail establishment notified the individual that it is furnishing information to a reporting agency, and that the individual may dispute the information's completeness or accuracy.

*Consumer Disputes:* Similar to the federal law. If an item is corrected or can no longer be verified, an agency must mail a corrected copy to the consumer at no charge.

*Duties of Furnishers:* No relevant provisions.

*Consumer Remedies:* Actual damages, costs and reasonable attorney fees, plus punitive damages for willful violations. Criminal penalties for obtaining information from agency under false pretenses; for willfully introducing or attempting to introduce false information into file to damage or enhance credit rating; and for unauthorized disclosures by agency personnel.

*Statute of Limitations:* Two years from accrual (or from discovery, if delay results from willful material misrepresentation by defendant).

*Miscellaneous:* No adverse information may be included within a subsequent investigative consumer report unless it is reverified or less than three months old.<sup>68</sup>

<sup>65</sup> This provision was in effect on Sept. 30, 1996, so even if it could be said to be otherwise preempted by 15 U.S.C. § 1681c, it is not preempted. See § 10.4.4, *supra*.

<sup>66</sup> *Scott v. Real Estate Finance Group*, 183 F.3d 97 (2d Cir. 1999).

<sup>67</sup> Even if these provisions could be said to be otherwise preempted by 15 U.S.C. § 1681c, they were in effect on September 30, 1996 and therefore not preempted.

<sup>68</sup> This provision was in effect on September 30, 1996, so even if it could be said to be otherwise preempted by 15 U.S.C. § 1681c, it is not preempted. See § 10.4.4, *supra*.

**State Credit Repair Statute:** N.Y. Gen. Bus. Law §§ 458-a to 458-k. There must be a written contract including specific services provided and right of rescission. Must disclose rights under FCRA. Up to three times actual damages, and no less than amount paid to credit services business, plus reasonable attorney fees, available for violations.<sup>69</sup>

#### North Carolina

**State Credit Repair Statute:** N.C. Gen. Stat. §§ 66-220 to 66-226. There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Description of rights under FCRA. Remedies also available under state deceptive practices statute.<sup>70</sup>

**State Identity Theft Statute:** N.C. Gen. Stat. § 14-113.20 to .23.

**Definition of Offense:** Knowingly obtains, possesses or uses personal identifying information of another, without authority, with intent to fraudulently represent self to be that person for purposes of making financial or credit transactions, or avoiding legal consequences. Punishment is enhanced if victim suffers arrest, detention or conviction as a proximate result of the fraud.

**Victim Remedies in Criminal Case:** If person commits a crime under a stolen name, court records shall reflect that ID theft victim did not commit the crime.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** No specific provisions.

**Other State Provisions:** Agency, upon written request by married person, must report both separate credit history of each spouse and history of joint accounts, if any. N.C. Gen. Stat. § 25B-2.

#### North Dakota

**Child Support Debts:** N.D. Cent. Code § 50-09-08.4. Enforcement agencies may report past due support amounts provided obligors given notice and a reasonable opportunity to contest the accuracy of the report first.

**State Identity Theft Statute:** N.D. Cent. Code § 12.1-23-11.

**Definition of Offense:** Uses personal identifying information of another without authority to obtain credit, money, goods, services or anything of value, while representing self to be another or to be acting under that person's authority

**Victim Remedies in Criminal Case:** No specific provisions.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** No specific provisions.

#### Ohio

**State FCRA Statute:** Ohio Rev. Code Ann. §§ 3904.01 to 3904.22.

**Scope:** Consumer reports used in connection with a life, health or disability insurance transaction.

**Purposes for Which Reports May Be Issued:** Life, health or disability insurance transactions.

**Consumer Access and Disclosures:** Authorization to obtain information must be in plain language, in writing, signed by consumer, indicate what information is sought, be dated, and limited to a specific time. Medical information may be provided to a medical professional designated by the consumer. Disclosure requirements do not apply to certain information gathered in connection with or reasonable anticipation of, civil or criminal proceeding involving the consumer.

**Disclosures to Consumer By User:** Insurance institutions or agents must disclose that a report may be requested and provide a notice of information practices summarizing consumers' rights under Ohio law. No insurance institution, agent or insurance support organization may procure an investigative consumer report in connection with an insurance transaction without informing consumer of their right to be interviewed for the report and to receive a copy of the report. Upon written request, insurance institutions, agents or insurance support organizations must disclose all recorded personal information to consumer and the sources of such information, and must provide a summary of procedures available to request correction, amendment or deletion of such information. Insurance institutions or agents must notify consumer of reasons for adverse underwriting decision and, if requested within ninety business days, the specific items and sources of information that support those reasons.

**Restrictions on Content of Reports:** No relevant provisions.

**Consumer Disputes:** Within thirty days of being informed of dispute, must either correct or delete the information or inform the consumer of its refusal, the reasons, and the right to file a statement describing the dispute. If information is changed or deleted, must notify (at request of consumer) users who have received reports within two years. Must notify insurance support organizations which use the information, or which supplied the information.

**Duties of Furnishers:** Imposes disputed accuracy procedures similar to those imposed upon consumer reporting agencies by federal law upon insurance institutions, agents and insurance support organizations. Also imposes duties similar to federal law upon insurance institutions, agents and insurance support organizations when furnishing information to others.

**Consumer Remedies:** Actual damages only available for unauthorized disclosure of information to others, equitable relief available to remedy violations of some other provisions. Costs and reasonable attorney fees available to prevailing party. Criminal penalties for obtaining information from agency under false pretenses. Administrative enforcement by commissioner of insurance, who may issue cease and desist orders, suspend or revoke licenses, and impose civil penalties: up to \$10,000 or for violations frequent enough to be a general business practice, up to \$50,000.

**Statute of Limitations:** Two years from date violation is or should have been discovered.

**Miscellaneous:** No relevant provisions.

**Child Support Debts:** Ohio Rev. Code Ann. §§ 3123.91 to 3123.932 (West). If the court or agency makes a final determination that an obligor is delinquent, it must report this information to at least one consumer reporting agency. If the entire arrearage is paid, the reporting agency may not record the payment until it is

<sup>69</sup> Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

<sup>70</sup> Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

confirmed by the child support agency. Any credit reporting agency may request information regarding child support from the child support agency, which may report whether the consumer is obliged to pay child support, the court or agency that issued the order, and whether the order is being administered by the child support agency.

**State Credit Repair Statute:** Ohio Rev. Code Ann. §§ 4712.01 to 4712.99. There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Description of rights under FCRA. Actual damages, not less than amount consumer paid credit services organization, reasonable attorney fees and punitive damages available. Remedies are also available under the state deceptive practices statute.<sup>71</sup>

**State Identity Theft Statute:** Ohio Rev. Code Ann. § 2913.49.

**Definition of Offense:** Obtains, possesses or uses the personal information of any living or dead individual with intent to obtain credit, property or services, or avoid the payment of any debt, or to aid or abet another to violate this section.

**Victim Remedies in Criminal Case:** No specific provisions.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** No specific provisions.

## Oklahoma

**State FCRA Statute:** Okla. Stat. tit. 24, §§ 81–86, 147–148.

**Scope:** Credit rating book or list published to retail or wholesale businesses.

**Purposes for Which Reports May Be Issued:** Oklahoma law regulates the business of credit rating.

**Consumer Access and Disclosure:** Similar to federal statute. Before giving an opinion upon any consumer's credit standing to a retail merchant, an agency must mail a copy of the opinion to the consumer.

**Disclosures to Consumers By User:** Anyone having a rating book or list must show a consumer his/her rating upon request. Similar to Federal statute; when a report is requested for employment purposes, consumers must be given the option to receive a copy.

**Restrictions on Content of Reports:** Tax liens may not be disclosed unless the information is obtained directly from the state tax commission, and the reporting agency uses due diligence in updating the status of the liens.

**Consumer Disputes:** No relevant provisions.

**Duties of Furnishers:** No relevant provisions.

**Consumer Remedies:** Anyone who knowingly publishes a false opinion in a book or list and circulates it to retail or wholesale business concerns is liable for the amount of injuries in addition to exemplary damages, as determined by a jury. Fine for failure to show a consumer rating upon request. Criminal penalties for introducing false information to damage or enhance credit rating, or for willfully circulating false report.

**Statute of Limitations:** No relevant provisions.

**Miscellaneous:** No relevant provisions.

<sup>71</sup> Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

**State Credit Repair Statute:** Okla. Stat. tit. 24, §§ 131–147. There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Must disclose rights under FCRA. Actual damages, not less than amount consumer paid to credit services organization, reasonable attorney fees and punitive damages available.<sup>72</sup>

**State Identity Theft Statute:** Okla. Stat. tit. 21, § 1533.1.

**Definition of Offense:** Willfully and with fraudulent intent obtain the personal identifying information of another with intent to use, sell, or allow another to use or sell it, to obtain or attempt to obtain credit, goods, property or services in the name of another; or offer another the use of one's own personal identifying information for the purpose of obtaining a false identifying document.

**Victim Remedies in Criminal Case:** No specific provisions.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** No specific provisions.

**Other State Provisions:** Before rating, a consumer agency must attempt to obtain from the person to be rated a statement of assets and liabilities. Okla. Stat. tit. 24, § 81.

**Child Support Debts:** Okla. Stat. tit. 56, § 240.7. Department of Human Services shall report child support arrearages to consumer reporting agencies. Obligers must be notified prior to the release of the information and be given a reasonable opportunity to contest the accuracy of the information.

## Oregon

**Child Support Debts:** Or. Rev. Stat. Ann. § 25.650. The Department of Justice shall provide information on child support arrearages to consumer reporting agencies, but first both obligor and obligee parents must be notified and given opportunity to contest accuracy of information. Department of Justice shall promptly notify agency when obligor pays off previously reported arrearage.

**State Credit Repair Statute:** Or. Rev. Stat. Ann. §§ 646.380 to 646.396. There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Must disclose rights under FCRA.<sup>73</sup>

**State Identity Theft Statute:** Or. Rev. Stat. § 165.800.

**Definition of Offense:** With intent to deceive or defraud, obtains, possesses, creates, utters, or converts to person's own use the personal identification of another person.

**Victim Remedies in Criminal Case:** No specific provisions.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** No specific provisions.

## Pennsylvania

**Child Support Debts:** 23 Pa. Cons. Stat. Ann. § 4303. State shall

<sup>72</sup> Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

<sup>73</sup> Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

report any child support arrearages provided that obligor is given notice and a period of up to twenty days to contest the accuracy of the information.

**State Credit Repair Statute:** Pa. Stat. Ann. tit. 73, §§ 2181-2192. There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Must disclose rights under FCRA. Actual damages, not less than amount of contract, plus attorney fees and punitive damages are available, as are remedies under the state deceptive practices act.<sup>74</sup>

**State Identity Theft Statute:** 18 Pa. Cons. Stat. § 4120 and 42 Pa. Cons. Stat. § 9720.1.

**Definition of Offense:** Possesses or uses identifying information of another without consent to further any unlawful purpose. Enhanced penalty if victim aged 60 or above.

**Victim Remedies in Criminal Case:** Court may order restitution for all reasonable expenses incurred by or on behalf of the victim to investigate the theft, bring or defend criminal actions related to the theft, correct victim's credit record or negative credit reports resulting from the theft; reasonable expenses include attorney fees, fees or costs imposed by credit bureaus or incurred in private investigations, court costs and filing fees.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** No specific provisions.

## Rhode Island

**State FCRA Statute:** R.I. Gen. Laws §§ 6-13.1-20 to 6-13.1-27.

**Scope:** Same as the federal law.

**Purposes for Which Reports May Be Issued:** Same as federal law.

**Consumer Access and Disclosure:** Similar to federal law. Upon consumer request, an agency must disclose within four business days of the request all information in its files that pertains to the consumer at the time of the request. Any charge is not to exceed \$8 per report, although the charge may increase with the Consumer Price Index. Must disclose to the consumer that the consumer has the right to request that corrected credit reports be sent to employers within two years, and to any other person within six months, when the agency has corrected information contained in the report.

**Disclosures to Consumers By User:** A consumer must be notified that a credit report may be requested before a report is requested in connection with an application for credit, employment, or insurance. Otherwise similar to federal law.

**Restrictions on Content of Reports:** No relevant provisions.

**Consumer Disputes:** Once a credit bureau receives notice of a dispute, it has thirty calendar days to reinvestigate the status of the information unless it has reason to believe that the dispute is frivolous or irrelevant.<sup>75</sup> If it is inaccurate, it must be deleted promptly. If reinvestigation does not resolve the dispute, the consumer may file a brief summary of the dispute. The bureau must then include that summary or a summary of its own with any

subsequent credit report that it issues. The bureau must furnish free of charge a copy of any corrected credit report to the consumer, and if the consumer requests, furnish a copy of the corrected report to any person designated by the consumer who has received a credit report within the past two years, if for employment purposes, or within the past six months for any other purpose.

**Duties of Furnishers:** No relevant provisions.

**Consumer Remedies:** Violations constitute a deceptive trade practice for enforcement purposes. Negligent noncompliance: three working days to correct after being notified of the noncompliance or liability for \$10 a day for each day in noncompliance in addition to actual damages, costs, and reasonable attorney fees.

**Statute of Limitations:** No relevant provisions.

**Miscellaneous:** Agencies must register with the office of the Secretary of State. Consumers have right to furnish a statement concerning any lapse in employment to agency, at no charge, which must be included in agency's file.

**Child Support Debts:** R.I. Gen. Laws § 15-25-1. The child support enforcement agency shall inform reporting agencies of child support arrearages, unless it determines release of information inappropriate in a particular case. Obligor must be given ten days prior notice and an opportunity to contest the accuracy of the information. State child support enforcement agency must give consumer ten days notice prior to requesting report, must make report available to consumer, and must use report solely to establish consumer's capacity to make child support payments. Department must "periodically" report to credit reporting agencies if overdue support is paid, or amount of support due is amended.

**State Identity Theft Statute:** R.I. Gen. Laws § 11-49.1-1 to -5.

**Definition of Offense:** Deals primarily with producing, selling or using false ID documents, but also includes knowingly transfers or uses with intent to defraud, without lawful authority, a means of identification of another person with the intent to commit, or to aid or abet, any unlawful activity that constitutes a violation of federal, state or local law.

**Victim Remedies in Criminal Case:** No specific provisions.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** No specific provisions.

## South Carolina

**Child Support Debts:** S.C. Code Ann. § 43-5-585. Department of Social Services shall inform agencies of child support arrearages greater than \$1000. Obligor must be given notice and an opportunity to contest accuracy of the information.

**State Identity Theft Statute:** S.C. Code Ann. §§ 16-13-500 to -530.

**Definition of Offense:** With intent to appropriate the financial resources of another for self or a third party, obtains or records identifying information which would assist in accessing financial records of another, or accesses or attempts to access the financial resources of another by use of identifying information.

**Victim Remedies in Criminal Case:** Court may order restitution pursuant to § 17-25-322. [general criminal restitution statute].

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** No specific provisions.

<sup>74</sup> Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

<sup>75</sup> This provision was in effect on Sept. 30, 1996, so although it regulates the time allowed an agency to reinvestigate, it is not preempted. See § 10.4.4, *supra*.

## South Dakota

**State Identity Theft Statute:** S.D. Codified Laws 22-30A-3.1 to -3.3.

**Definition of Offense:** Obtains, transfers, uses, attempts to obtain or records identifying information not lawfully issued for that person's use; accesses or attempts to access the financial resources of another through the use of identifying information.

**Victim Remedies in Criminal Case:** No specific provisions.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** No specific provisions.

## Tennessee

**Child Support Debts:** Tenn. Code Ann. § 36-5-106. The Department of Human Services shall report child support arrearages to agencies and also those who are current with their payments. Must provide obligor with notice and an opportunity to contest accuracy of information before release.

**State Credit Repair Statute:** Tenn. Code Ann. § 47-18-1001 to 47-18-1011. There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Must disclose rights under FCRA. Actual damages available for negligent violations. Actual damages or amount paid to the credit repair business, whichever is greater, plus punitive damages, available for willful violations. Remedies are also available under the state deceptive practices statute.<sup>76</sup>

**State Identity Theft Statute:** Tenn. Code Ann. §§ 39-14-150, 39-16-303, 47-18-2101 to -2106.

**Definition of Offense:** Knowingly transfers or uses without authority a means of identification of another, with intent to permit, promote, carry on or facilitate any unlawful activity (means of identification broadly defined) § 39-14-150. With intent to injure or defraud another, assumes a false identity § 39-16-303. Obtains, transfers, possesses or uses, attempts to obtain, possess, transfer or use, for unlawful economic benefit, one or more identification documents or personal identification numbers of another, or otherwise obtains, transfers, possesses or uses, or attempts to obtain, transfer, possess or use, one or more financial documents of another. § 47-18-2102. Engages in any unfair, deceptive, misleading act or practice for the purpose of engaging in identity theft. § 47-18-2102.

**Victim Remedies in Criminal Case:** No specific provisions.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** Private right of action for damages, costs, attorney fees, and "such other relief" as court considers necessary. Treble damages for willful and knowing violation. Declaratory judgment and injunction available. Plaintiff must send copy of complaint to attorney general. Violation of identity theft statute also violates the Consumer Protection Act.

**Other:** Attorney general may sue for violation of this section, seeking restitution for ascertainable loss (plus interest) suffered by consumers, as well as for injunction, asset freeze, civil penalties, court costs, and reasonable expenses of the investigation. Restitu-

<sup>76</sup> Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

tion under this section is a set-off against any judgment obtained in private civil action.

## Texas

**State FCRA Statute:** Tex. Fin. Code Ann. §§ 391.001 to 391.002 & 392.001 to 392.404.

**Scope:** Applies to credit reporting bureaus, i.e. persons who assemble or report credit information about individuals, for purposes of furnishing that information to third parties.

**Purposes for Which Reports May Be Issued:** No relevant provisions.

**Consumer Access and Disclosure:** All information in agency files must be disclosed to consumer within 45 days.

**Disclosures to Consumer by User:** No relevant provisions.

**Restrictions on Content of Reports:** No relevant provisions.

**Consumer Disputes:** Agency must provide consumer with form to report inaccuracies and, if requested, provide consumer assistance completing the form. Within thirty days, agency must send consumer a written notice of the results of its reinvestigation or a statement that there has been insufficient time to finish investigation. If disputed item inaccurate or investigation incomplete, agency must correct inaccuracy or claimed inaccuracy within five business days and send a corrected report to every user who received an incorrect or potentially incorrect report.<sup>77</sup>

**Duties of Furnishers:** No relevant provisions.

**Consumer Remedies:** No liability for bona fide errors which result despite agency maintaining reasonable procedures to avoid errors. Injunctive relief, actual damages, statutory damages of \$100 per violation of provisions concerning disputed accuracy, reasonable attorney fees and costs available. Fine of \$200 for knowingly furnishing false information about a person's credit record. Remedies are also available under the state deceptive practices statute.

**Statute of Limitations:** No relevant provisions.

**Miscellaneous:** Credit bureau must post bond for \$10,000 and file copy with secretary of state before doing business in Texas.

**Child Support Debts:** Tex. Fam. Code Ann. § 231.114. Amount of child support owed and amount paid shall be reported to consumer reporting agencies, after thirty days notice and an opportunity to contest the accuracy of the information is given to the obligor.

**State Credit Repair Statute:** Tex. Fin. Code Ann. §§ 393.001 to 393.505. There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with state. Must disclose rights under FCRA. Injunctive relief, actual damages (not less than amount consumer paid to credit services organization), punitive damages, reasonable attorney fees and costs available. Remedies are also available under the state deceptive practices statute. Credit services organizations must register annually with the Secretary of State.<sup>78</sup>

<sup>77</sup> This provision was in effect on Sept. 30, 1996, although it was recodified at a new location in 1997. Therefore, although it regulates the time allowed agency for reinvestigation, it is not preempted. See § 10.4.4, *supra*.

<sup>78</sup> Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

**State Identity Theft Statute: Tex. Penal Code Ann. § 32.51.**

*Definition of Offense:* Obtains, transfers, possesses, or uses identifying information of another without consent and with intent to harm or defraud another.

*Victim Remedies in Criminal Case:* Court may order restitution, including lost wages and other expenses—except attorney fees—incurred as a result of the offense.

*Special Record-Clearing Provisions:* No specific provisions.

*Duties of Private Entities:* No specific provisions.

*Private Right of Action:* No specific provisions.

**Utah****State FCRA Statute: Utah Code Ann. § 70C-7-107.**

*Scope:* Applies to creditors who furnish negative information to credit reporting agencies.

*Purposes for Which Reports May Be Issued:* No relevant provisions.

*Consumer Access and Disclosures:* No relevant provisions.

*Disclosures to Consumer by User:* No relevant provisions.

*Restrictions on Content of Reports:* No relevant provisions.

*Consumer Disputes:* No relevant provisions.

*Duties of Furnishers:* Notice of negative credit report to be sent in writing by mail, or given in person, to last known address within thirty days after transmission of the information to the reporting agency.<sup>79</sup>

*Consumer Remedies:* Actual damages, court costs, and attorney fees for failure to provide notice of a negative credit report. Punitive damages of no more than twice actual damages for willful violations. Maintenance of reasonable procedures to avoid errors are a defense to liability.

*Statute of Limitations:* No relevant provisions.

*Miscellaneous:* No relevant provisions.

**State Credit Repair Statute: Utah Code Ann. §§ 13-21-1 to 13-21-9.** There must be written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Description of rights under FCRA. Actual damages, not less than amount consumer paid credit services organization, punitive damages, reasonable attorney fees and costs available.<sup>80</sup> May not charge or receive any consideration until services fully performed.

**State Identity Theft Statute: Utah Code Ann. §§ 76-6-1101 to 1104; see also § 13-11-4.5.**

*Definition of Offense:* Knowingly or intentionally, without authorization, obtains personal identifying information of another and uses or attempts to use it with fraudulent intent, including to obtain credit, goods, services, other thing of value, or medical information, or employment, in the name of another without consent.

*Victim Remedies in Criminal Case:* If thief commits a crime under a false name, court must make "appropriate findings" that theft victim did not commit that crime.

*Special Record-Clearing Provisions:* No specific provisions.

*Duties of Private Entities:* No specific provisions.

*Private Right of Action:* Violation of this section violates the

Consumer Protection Act.

*Other:* Division of Consumer Protection, as well as law enforcement agencies, may investigate violations.

**Other State Provisions: Utah Code Ann. § 31A-22-320.** Motor vehicle insurers may not use credit report or credit score [defined—does not include driving record or insurance claims history] to determine renewal, non-renewal, termination, eligibility, underwriting or rating, of motor vehicle related insurance, or eligibility for certain statutory discounts.

**Vermont****State FCRA Statute: Vt. Stat. Ann. tit. 9, §§ 2480a-2480g; Vermont Attorney General Consumer Fraud Rule CF 112.**

*Scope:* Same as the federal law.

*Purposes for Which Reports May Be Issued:* Only purposes consented to by the consumer. No exception made for sharing of information between affiliates.<sup>81</sup>

*Consumer Access and Disclosure:* All available information including credit score or predictor. Free once per year; \$7.50 maximum for each additional copy. Written summary of consumer's rights under Vermont law. Agencies must be listed in the white and yellow pages under "Credit Reporting Agency."

*Disclosures to Consumer by User:* No relevant provisions.

*Restrictions on Content of Reports:* No disclosure without consumer consent. No exception made for sharing of information between affiliates.<sup>82</sup>

*Consumer Disputes:* Notice to provider of information within five days of consumer dispute; reinvestigation complete within thirty days.<sup>83</sup> May not reinsert disputed information, if deleted, without a separate affirmation from the provider.

*Duties of Furnishers:* No relevant provisions.

*Consumer Remedies:* Injunctive relief, actual damages or \$100, whichever is greater; punitive damages if willful; costs and attorney fees.

*Statute of Limitations:* No relevant provisions.

*Miscellaneous:* No relevant provisions.

**Child Support Debts: Vt. Stat. Ann. tit. 15, § 793.** Arrearage equal to at least one-quarter of the annual child support obligation may be reported if the obligor is given notice by first class mail or other means likely to give actual notice and given a period not to exceed twenty days to contest the accuracy of the information. Office of child support must immediately report increases or decreases in the account balance of previously reported accounts.

**Virginia**

**State Credit Repair Statute: Va. Code Ann. §§ 59.1-335.1 to 59.1-335.12.** There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Must disclose rights under FCRA. Actual damages, plus punitive damages for willful violations, are

<sup>81</sup> This provision of Vermont law is explicitly not preempted. See § 10.4.4, *supra*.

<sup>82</sup> This provision of Vermont law is explicitly not preempted. See § 10.4.4, *supra*.

<sup>83</sup> This provision was in effect on Sept. 30, 1996, so although it regulates the time agency allowed for reinvestigation, it is not preempted. See § 10.4.4., *supra*.

<sup>79</sup> Most state laws concerning the duties of furnishers of information are preempted. See § 10.4.4, *supra*.

<sup>80</sup> Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.



available. Remedies are also available under the state deceptive practices statute.<sup>84</sup>

**State Identity Theft Statute: Va. Code Ann. § 18.2-186.3.**

*Definition of Offense:* Without authority and with intent to defraud, for own use or that of a third person: obtains, records or accesses identifying information not available to the general public, that would assist in accessing financial resources, or obtaining benefits or identification documents of another; obtains goods or services by use of identifying information of another; obtains identification documents in the name of another. Penalty enhanced if victim is arrested or detained.

*Victim Remedies in Criminal Case:* Court must order restitution, which may include actual expenses incurred in correcting errors in victim's credit report or other identifying information.

*Special Record-Clearing Provisions:* At victim's request, Attorney General will assist victim in obtaining information necessary to correct inaccuracies or errors in credit report or other identifying information.

*Duties of Private Entities:* No specific provisions.

*Private Right of Action:* No specific provisions.

**Washington**

**State FCRA Statute: Wash. Rev. Code §§ 19.182.005 to 19.182.902.**

*Scope:* Similar to Federal.

*Purposes for Which Reports May Be Issued:* Similar to federal law, except no authorization for provision to potential investors or servicers, or current insurers, in connection with evaluation of the credit or prepayment risks associated with existing credit obligations. In addition, if a report is procured for employment purposes, the consumer must be an employee at the time it is procured unless there is written disclosure that the report will be used in consideration for employment, or unless the consumer authorizes.

*Consumer Access and Disclosure:* All information in file, but only required to reveal medical information to consumer's health care provider. Otherwise similar to federal law. Must provide consumer with summary of rights under Washington FCRA. Must disclose all users who obtained report for employment purposes within two years, or for any other purpose (including a credit transaction not initiated by consumer) within six months. May charge \$8 (to be adjusted for CPI) for disclosure of consumer's file, unless consumer has been subject to adverse action within sixty days, in which case disclosure is free.

*Disclosures to Consumers By User:* Employers must disclose in writing that consumer reports may be used for employment purposes. Prior to any adverse action based on a report, an employer must provide the name, address, and telephone number of the reporting agency; the description of consumer rights under Washington law pertaining to consumer reports for employment purposes; and a reasonable opportunity to respond to any information in a report that is disputed by the consumer. If adverse action is taken by any user, the consumer must be provided with written notice and the name, address, and telephone number of the reporting agency. Verbal notice may be given involving businesses

regulated by state utilities and transportation commission, or involving an application for rental or leasing of residential real estate if it does not impair a consumer's ability to obtain a credit report without charge, and the consumer is provided with the name, address, and telephone number of the consumer reporting agency. Must inform consumer of intent to obtain an investigative consumer report. On consumer's request, must disclose the scope of the proposed investigation.

*Restrictions on Content of Reports:* Same as federal law, except criminal records more than seven years after date of disposition, release or parole.<sup>85</sup> If consumer provides copy of police report regarding identity theft, agency must notify furnisher of information, and block information resulting from the theft.

*Consumer Disputes:* If the accuracy of an item is disputed by a consumer, the consumer reporting agency must reinvestigate and record the status of the disputed information before the end of thirty business days with no charge.<sup>86</sup> If agency determines the dispute is frivolous it must notify consumer in writing of its reasons within five days. Before the end of five business days after notice of a dispute by the consumer, the agency shall notify any person who provided an item of information in the dispute. If the information is found to be inaccurate, it must be deleted promptly. If reinvestigation does not resolve the dispute, the consumer may file a brief statement of contentions. The agency must inform the consumer of the right to request a corrected notification to all users within six months, and employers within two years; notification must be within thirty days at no charge. If the agency operates on a nationwide basis, it must have a toll free telephone number that the consumer can use in case of a dispute.

*Duties of Furnishers:* No relevant provisions.

*Consumer Remedies:* Knowingly and willfully obtaining information under false pretenses: fine of up to \$5000, imprisonment for up to one year or both. Violation is an unfair or deceptive act in trade or commerce and an unfair method of competition under state deceptive practices statute. Remedies available for negligent violations: actual damages, costs, and reasonable attorney fees. For willful noncompliance: actual damages, \$1,000, costs, and reasonable attorney fees.

*Statute of Limitations:* Two years from violation or time of discovery.

*Miscellaneous:* Every agency must maintain reasonable procedures to avoid misuse of reports; agencies must require prospective users to identify themselves, to certify the purposes for which information is sought, and to certify that the information will be used for no other purpose. Agencies must also use reasonable efforts to verify the identity of a new user. If an agency has reasonable grounds for believing that a consumer report will not be used for the above purposes then it is prohibited from furnishing the report. May issue consumer's name, address, former addresses, places of employment or former places of employment to a governmental agency. Cannot provide prescreened information if the consumer precludes it in writing.<sup>87</sup>

<sup>84</sup> Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

<sup>85</sup> This provision was in effect on Sept. 30, 1996, so even if it could be said to be otherwise preempted by 15 U.S.C. § 1681c, it is not preempted. See § 10.4.4, *supra*.

<sup>86</sup> This provision was in effect on Sept. 30, 1996, so although it regulates the time agency allowed for reinvestigation, it is not preempted. See § 10.4.4, *supra*.

<sup>87</sup> State law provisions concerning prescreening lists are now

**State Credit Repair Statute:** Wash. Rev. Code § 19.134.010 to 19.134.900. There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Must disclose rights under FCRA. Actual damages, not less than amount paid to credit services organization, punitive damages, reasonable attorney fees and costs are available. Remedies are also available under the state deceptive practices statute.<sup>88</sup>

**State Identity Theft Statute:** Wash. Rev. Code §§ 9.35.001 to .902, § 19.182.160.

**Definition of Offense:** Uses false statement, or fraudulent or fraudulently obtained document to obtain financial information of another from various sources (financial institution, merchant, etc.). Obtains, possesses, uses or transfers, financial information or means of identification of another with intent to commit, aid or abet any crime. Uses means of identification or financial information of another to solicit undesired mail for purposes of harassing another. **Victim Remedies in Criminal Case:** If means of identification or financial information used without authority to commit a crime, court shall issue necessary orders to correct any public record which contains false information resulting from identity theft.

**Special Record-Clearing Provisions:** An identity theft victim may request that his or her fingerprints be filed, along with a statement about the theft. (Law enforcement agency may charge \$5 for this service) A copy the statement may be presented to businesses when the victim requests copies of application, etc. records. (See Duties of Private Entities, above).

**Duties of Private Entities:** Entity (merchant, financial institution, financial information repository, etc.) that deals with thief must, upon victim's request, provide all relevant transaction and application information. Violation of this section violates the Consumer Protection Act. Credit reporting agency must permanently block information added to credit report as a result of identity theft within thirty days of receiving copy of police report. May unblock only if block resulted from fraud by consumer, or consumer agrees block was erroneous, or consumer knowingly received goods or services as a result of the blocked transaction.

**Private Right of Action:** Improperly obtaining financial information – greater of \$500 or actual damages plus reasonable attorney fees. Identity theft—same, including costs incurred to repair credit record. Identity crime violates the Consumer Protection Act, and these provisions for private action do not limit a victim's ability to seek treble damages under the act.

**Other:** State has banned the use of Social Security Numbers as college ID numbers. Legislative findings note that this was done because identity theft is becoming more common, and widespread use of Social Security numbers facilitates the crime.

## West Virginia

**Child Support Debts:** W. Va. Code § 48A-2-31. Those in arrears for child support payments must be provided procedural due process, including notice and a reasonable opportunity to contest accuracy of information, prior to state reporting such arrearages to consumer reporting agencies. State child support enforcement

preempted. See § 10.4.4, *supra*.

88 Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

agency must give consumer ten days notice prior to requesting report and must use report solely to establish consumer's capacity to make child support payments.

**State Credit Repair Statute:** W. Va. Code §§ 46A-6C-1 to 46A-6C-12. There must be a written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Must disclose rights under FCRA. Actual damages not less than amount consumer paid to credit services organization, punitive damages, costs and reasonable attorney fees are available. Remedies are also available under the state deceptive practices statute.<sup>89</sup>

**State Identity Theft Statute:** W. Va. Code § 61-3-54.

**Definition of Offense:** Knowingly takes the name or other identifying information of another, without authority, in order to fraudulently represent self as that person, for purpose of making financial or credit transactions in that person's name.

**Victim Remedies in Criminal Case:** No specific provisions.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** No specific provisions.

## Wisconsin

**Child Support Debts:** Wis. Stat. § 49.22(11). Department of Public Assistance shall report child support arrearages, but must give twenty business days prior notice to obligor and disclose methods available to contest accuracy of information. Department must report any errors or payments within thirty days and reporting agency must correct consumer files within thirty days.

**State Credit Repair Statute:** Wis. Stat. §§ 422.501 to 422.506. There must be written contract including specific services provided, total payments due and right of rescission. Must post a bond with the state. Must disclose rights under FCRA. Violations void the transaction.<sup>90</sup>

**State Identity Theft Statute:** Wis. Stat. §§ 943.201 and 895.80.

**Definition of Offense:** Uses or attempts to use any personal identifying information or personal identification document of another, without authorization, to obtain credit, goods, money, services or anything of value by misrepresenting self as that other person, or as acting with that person's authority.

**Victim Remedies in Criminal Case:** No specific provisions.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** Civil action for treble damages, plus all reasonable costs of investigation and litigation. Criminal conviction not a prerequisite.

**Other State Provisions:** Wis. Stat. §§ 186.53, 214.507, 215.26(8)(a)(3), 224.26. A customer, loan applicant or credit applicant of a bank, credit union, savings and loan or other banking institution may request a free copy of any written credit report on them held by the institution, for which a fee was imposed.

89 Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

90 Many provisions of state credit repair statutes are preempted by the comprehensive Federal Credit Repair Organizations Act. See Chapter 15, on credit repair *supra*.

Wyoming

**State Identity Theft Statute:** Wyo. Stat. Ann. §§ 1-1-128 and 6-3-901.

**Definition of Offense:** Willfully obtains personal identifying information of another and uses it without authority for any unlawful purpose, including to obtain money, credit, goods, services or medical information in the name of the other person.

**Victim Remedies in Criminal Case:** May include any costs incurred by victim, including attorney fees, in clearing credit rating or credit

history, or in any civil or administrative proceeding to satisfy debt, lien or other obligation resulting from the theft. If thief commits another crime under victim's name, court records shall reflect that victim did not commit that crime.

**Special Record-Clearing Provisions:** No specific provisions.

**Duties of Private Entities:** No specific provisions.

**Private Right of Action:** Civil action for damages, costs and attorney fees. Injunction may also be available. Criminal conviction not a prerequisite.

## **Exhibit 2**

### **ECONOMIC INDICATORS IN STATES WITH EXEMPTIONS FROM THE 1996 FCRA AMENDMENTS**

# ECONOMIC INDICATORS IN STATES WITH EXEMPTIONS FROM THE 1996 FCRA AMENDMENTS<sup>1</sup>

	Statute	Non-commercial Bankruptcies <sup>2</sup>		Mortgage Loan Rates <sup>3</sup>		Auto Loans Rates <sup>4</sup>	
		Households Per Filing	Rank <sup>5</sup>	Effective Rates	Rank	Rate	Rank
California	§§1785.1 – 1787.3	80	27	6.25	51	5.30	31
Massachusetts	Ch. 93, §50-68	142.8	49	6.43	46	5.36	24
Vermont	Tit. 9, §2490a-2480g	143.7	50	6.59	26	4.86	50

<sup>1</sup> The information on bankruptcies is from the American Bankruptcy Institute, the information about mortgage loan rates is from the Federal Housing Finance Board, and the information about auto loan rates comes from Bankrate.com.

<sup>2</sup> For the 12 months ending June 30, 2002.

<sup>3</sup> For 2002.

<sup>4</sup> As of May 30, 2003.

<sup>5</sup> Each state is ranked in comparison to the other 49 states and the District of Columbia.

In the category of bankruptcy, the state ranked #1 had the highest level of consumer bankruptcies, and the state ranked 51 had the lowest level of consumer bankruptcies.

In the categories of mortgage loans and auto loans, the states ranked #1 had the highest loan rates, and the states ranked 51 had the lowest loan rates.

**Exhibit 3**

**Sample of Credit Advertisements,  
Vermont,  
May 19-29, 2003**

Free business checking?

# “Yes!”

That will be your reaction when you come to KeyBank and discover financial solutions to your small business needs, such as free checking with a \$500 minimum daily balance. Key is committed to helping you focus on your business, while we focus on ways to make you even more successful. Isn't that what a banking relationship should be all about? Yes, indeed. **The Solution Is Key.**

# Free

business checking\*

Plus, you'll get even more savings

with a small business MasterCard.®

0% APR for the first six months and no annual fee.

**KeyBank**



Open an account at any KeyCenter, call  
1-888-KEYBANK, or go to [Key.com/smallbiz](http://Key.com/smallbiz).

**Achieve anything.**

\*Free checking offer applies to new Business Basics Checking accounts. Monthly maintenance service and transaction charges waived when certain minimum balance requirements are maintained and when transaction limits are not exceeded. If account is closed within 180 days of opening, a \$25 fee will apply. Other charges may apply. Business Basics Checking accounts require a \$250 minimum deposit to open. Credit products subject to credit approval. Credit

frank of KeyCorp.

Member FDIC SBA Preferred Lender

©2003 KeyCorp

5/27/03  
858 58

**The 24/7 Small Business Partner.** When it comes to small business, Tess knows you can't go it alone. That's why she chose Banknorth. If she needs advice on Friday night or has a question on Sunday—they'll be there with the solution **that's right for her.** After all, she's the boss. It's nice knowing one local bank is as committed to her business as she is.

- 24/7 pager access
- Conventional and SBA loans
- Business Preferred Checking
- No-fee VISA® Business CheckCard

Call a banking partner you can always count on. 800 211-1979 x601



VERMONT

It's nice knowing

Banking Investments Insurance Mortgages

www.BanknorthVT.com

Investment and insurance products are not bank deposits, not insured by the FDIC or any other government agency, and obligations of any bank or bank affiliate, and may involve investment risk, including the possible loss of value or principal amount invested. Securities and insurance products are offered through Banknorth Investment Management Group, a division of Banknorth, N.A., or through Banknorth, N.A., in association with its affiliate, Banknorth Investment Planning Group, Inc. Insurance products are offered through Banknorth Insurance Group, Inc., an independent registered broker/dealer, Member SIPC. Securities and some insurance products offered through Banknorth, N.A., Banknorth Investment and Insurance Agency, Inc., or Banknorth Investment Planning Group, Inc., are provided by Prudential Financial Services, Inc., an independent registered broker/dealer, Member SIPC.

Bank deposits FDIC insured. A division of Banknorth, N.A. Equal Housing Lender

VISA® is a registered trademark of VISA International



# Take A Couple Of Strokes Off Your Loan With... **THE MULLIGAN LOAN**

Take **2%** off your current rate at another financial institution

**BRING IN ANY LOAN\* FROM ANOTHER FINANCIAL INSTITUTION AND IMPROVE YOUR GAME TODAY!**

Please Call for more information  
**1.888.252.8932**

rates as low as **4.44%**

**12 month term!**



## Heritage Family

CREDIT UNION

LONGDAIR BRANCH      MAIN OFFICE      HOOBETT BRANCH

1000 Main St.      1000 Main St.      1000 Main St.

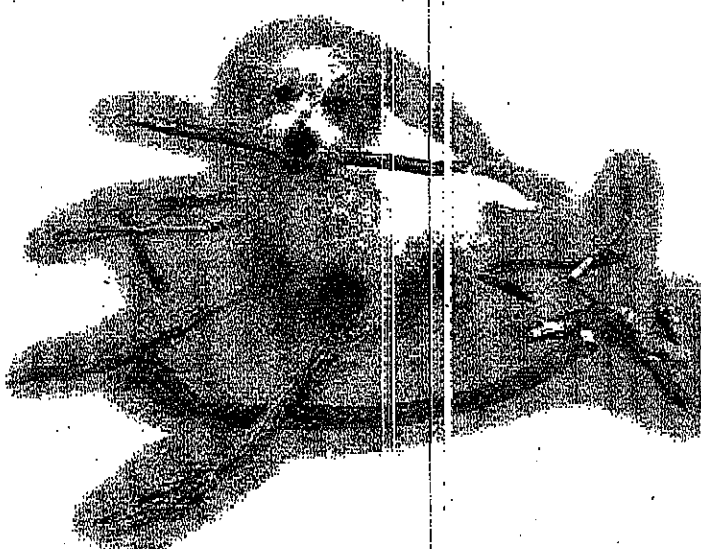
05401      05401      05401

**www.hfcuvt.com**

Member FDIC. Equal Housing Lender. Member NCUA. © 2003 Heritage Family Credit Union. All rights reserved.

# FIRST COMMUNITY BANK

WOODSTOCK      WHALEN      RUTLAND



Customers with a personal or business checking account at First Community Bank can now open a Turbo-CD Account offering the following fetching rates:

**18 - MONTH  
TURBO - CD**

**36 - MONTH  
TURBO - CD**

**2.67%**  
Annual  
Percentage  
Yield over 18  
month term

**3.33%**  
Annual  
Percentage  
Yield over 36  
month term

**3.75%**  
Annual  
Percentage  
Yield in 3rd  
6 months

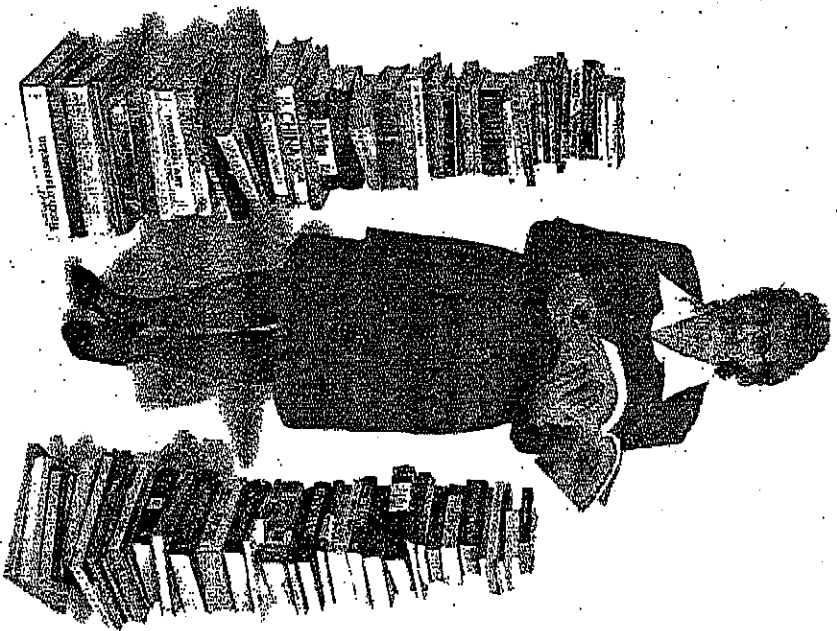
**4.50%**  
Annual  
Percentage  
Yield in 3rd  
12 months

**2.75%**  
Annual  
Percentage  
Yield in 2nd  
6 months

**3.00%**  
Annual  
Percentage  
Yield in 2nd  
12 months

RH 5/17/03 A2

**NSB bankers** always get straight A's for helping home equity customers finance college tuition.



When it comes to helping you finance big expenses like college tuition, home improvements and more - NSB bankers really make the grade, with an NSB home equity loan or line of credit. Call an NSB banker today to learn more about how NSB can help finance your future.

Christine Martin, Waitsfield Branch Manager

### Home Equity Line of Credit

**Prime minus .25%**

**4.00% APR**

up to 80% of value

Interest may be tax deductible.

**Prime**

**4.25% APR**

up to 89.9% of value

Call today 800-NSB-CASH  
or 802-485-5871 • [www.NSBVT.com](http://www.NSBVT.com)

**NSB** NORTHFIELD  
SAVINGS BANK

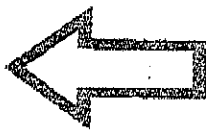
MEMBER  
FDIC Equal Housing Lender

NSB PROUDLY DONATES 10% OF ITS PROFITS  
TO VERMONT COLLEGE INITIATIVE

TA 5/18/03 ET

**We want to  
STEAL**

**Your  
Car!**



**Loan—  
that is.**



**Refinance your car loan with Granite Hills  
at rates as low as 3.49% APR\* over 24 months.**

Are you paying too much interest on your car loan? For a limited time, we're offering 100% refinancing on vehicles model years 2001 or newer, at rates as low as 3.49% APR for 24 months, 3.99% APR for 36 months, 4.49% APR for 48 months and 4.99% APR for 60 months. No tricks. No gimmicks. We're giving you the details right up front.

\*APR includes bank credit-quality. Amounts with down or vehicle age / loan or Washington counties may apply. There are some restrictions. To find out more, visit us on the Internet or call toll-free 888-996-5328.

discover the difference at

[www.granitehills.org](http://www.granitehills.org)

\*Annual Percentage Rate



**GRANITE HILLS**

TA 5/18/03 ET



## Weekly Mortgage Rate Reference

Financial Institution	Type	Rate	APR	Term	Points
<b>Merchants Bank</b> 800-322-5222	Fixed	6.125	6.125	30	0
	Fixed	5.625	5.810	30	2
	Fixed	5.250	5.250	15	0
	Fixed	4.750	5.056	15	2
<b>Mortgage Financial</b> 866-322-1212	1Yr Adj	4.000	4.357	30	1.5
	Fixed	5.750	5.970	30	2
	Fixed	6.125	6.150	30	0
	Fixed	5.125	5.350	15	2
<b>Mortgage Solutions</b> 802-297-2361	Fixed	5.500	5.520	15	0
	Fixed	5.375	5.402	30	0
	Fixed	5.250	5.296	15	0
	Fixed	4.875	4.990	30	1
<b>Vt. State Credit Union</b> 800-371-5162 ext. 3204	Fixed	4.750	4.948	15	1
	Fixed	5.625	5.640	30	0
	Fixed	5.375	5.480	30	1
	Fixed	5.000	5.020	15	0
<b>Factory Point</b> 802-362-2424	Fixed	4.875	5.050	15	1
	Fixed	6.125	6.157	30	0
	Fixed	5.625	5.842	30	1
	Fixed	5.500	5.553	15	0
<b>Heritage Family Credit Union</b> 802-775-4930	Fixed	5.000	5.359	15	1
	Fixed	5.625	5.625	30	0
	Fixed	5.250	5.431	30	2
	Fixed	5.000	5.000	15	0
<b>Springfield Savings and Loan</b> 1-888-892-9500	Fixed	4.500	5.804	15	2
	Fixed	4.75	4.75	15	0
	Fixed	5.25	5.25	20	0
	Fixed	5.50	5.50	30	0
<b>Charter One Bank</b> 1-877-888-6521	1YR ARM	3.375	3.78	30	0
	Fixed	5.500	5.629	30	0
	Fixed	5.250	5.429	30	1
	Fixed	4.750	4.948	15	0
<b>Home &amp; Loan Center</b> 802-773-9050	Fixed	4.500	4.855	15	1
	Fixed	5.250	5.280	30	0
	Fixed	4.875	5.082	30	3
	Fixed	4.750	4.780	15	0
<b>Pinnacle Mortgage Corp.</b> 1-802-824-9400	Fixed	4.250	4.582	15	3
	Fixed	5.000	5.090	15	1
	Fixed	5.250	5.290	15	0
	Fixed	5.625	5.720	30	1
<b>Banknorth Mortgage</b> 1-800-358-2651	Fixed	5.875	5.879	30	0
	Fixed	5.000	5.348	30	3
	Fixed	5.625	5.703	30	0
	Fixed	4.375	4.965	15	3
<b>First Community Bank</b> 1-802-773-1119	Fixed	5.125	5.255	15	0
	Fixed	5.00	5.311	30	3
	Fixed	5.375	5.427	30	0
	Fixed	5.550	5.550	30	0
<b>First Brandon Nat'l. Bank</b> 1-802-247-5771 1-800-247-5144	Fixed	4.890	4.890	15	2
	Fixed	4.875	4.961	15	0
	Fixed	5.375	5.5030	30	1
	Fixed	5.625	5.6625	30	0
<b>State Farm Bank</b> 877-734-2265	Fixed	5.550	5.5873	30	0
	Fixed	4.750	4.9647	15	1
	Fixed	5.000	5.0624	15	0
	Fixed	5.750	5.843	30	0
<b>Amortgage.com</b>	Fixed	5.125	5.279	15	5.153
	Fixed	N/A	N/A	15	1
	Fixed	N/A	N/A	15	2
	Fixed	5.375	N/A	15	0

## CD's Coming Due Soon? Spare Cash in Your Money Market?

Look into the unique advantages of a Flexible Premium Deferred Annuity Policy LA-Dij with a 2% Bonus.

**4% PLUS 2% 6%**

**\* CURRENT RATE SUBJECT TO CHANGE**

\* Rate At Time Of Issue  
Guaranteed First 12 Months.

**Bonus \*\*** \* 2% Bonus Interest applies for first 12 months only.

**TAX-DEFERRED EARNINGS**

PHONE TODAY FOR DETAILS

**BANKERS**  
LIFE AND CASUALTY COMPANY  
S-5225

**LEO J. DUTIL**  
**802-479-9767**

TA 5/25/03 8.4

## MORTGAGE RATES

A	B	C	D	E	F	G	H
Type	Rate	APR	Term	PTS	Days	Cap	Rate
Adriatic Mortgage May 8, '03 802-476-2177/800-334-4422	Fixed	5.125	5.407	30 Years	2	2%	n/a
Banknorth Mortgage May 15, '03 1-800-358-2651	Fixed 1 Yr. ARM	5.125 3.250	5.353 3.800	30 Years 30 Years	2 0	2% 0%	n/a 2%
Chitenden Bank May 15, '03 550-2345	Fixed 1 Yr. ARM	5.125 3.50	5.313 4.007	30 Years 30 Years	2 1	2% 0%	n/a 2%
Granite Hills Credit Union May 19, '03 522-5000	Fixed 1 Yr. ARM	5.125 4.000	5.404 4.225	30 Years 30 Years	2 0.500	2% 0%	n/a 2%
Merchants Bank May 14, '03 802-322-5222	Fixed 1 Yr. ARM	5.625 4.000	5.810 4.657	30 Years 30 Years	2 1.5	2% 0%	n/a 2%
Northfield Savings Bank May 10, '03 802-485-5071	Fixed 1 Yr. ARM	5.125 5.500	5.351 4.159	30 Years 30 Years	2 0	2% 0%	n/a 2%
VSECU May 8, '03 800-371-5182	Fixed 1 Yr. ARM	5.250 3.000	5.44 4.01	30 Years 30 Years	2 0	2% 0%	n/a 2%
VHFA May 19, '03 802-884-3743	Fixed	5.25	5.43	30 Years	2	2%	n/a
Wells Fargo Home Mortgage Apr 21, '03 1-800-879-3559	Fixed 1 Yr. ARM	5.375 2.50	5.632 2.74	30 Years 30 Years	2 2	2% 0%	n/a 2%

TA 5/22/03 0.5



# derman's

The Chevrolet Superstore

1000 North Main St., Rutland, Vt. 05701 802-775-7151

## SUPERSTORE 500

Our quest is to Sell 500 cars in 90 days and You are going to save A lot of Money by us giving you Huge Incentives and Dealer Discounts!

0% FINANCING  
FOR AS LONG AS  
60 MONTHS  
ON ALL  
CHEVROLETS

(Excludes Corvettes)

### 2003 IMPALA



4V6, Tilt, CD, PL, PW,  
Electric Mirror

MSRP \$22,390

OWN FOR \$17,790

SAVE \$4,500

Lease for \$269<sup>98</sup> per mo.  
3yr/36,000 mile lease  
Total due at signing \$1264.98  
Security Deposit Waived

### 2003 CAVALIER



2dr, Tilt, 5spd

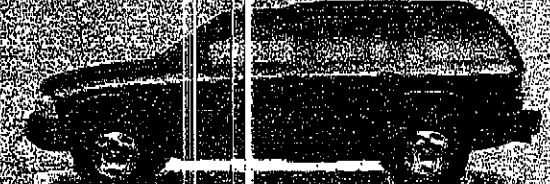
MSRP \$15,100

OWN FOR \$11,100

SAVE \$4,000

Lease for \$226<sup>61</sup> per mo.  
3yr/36,000 mile lease  
Total due at signing \$1471.61

### 2003 CHEVY BLAZER LS



4dr, Sunroof, Keyless Entry,  
5 CD Changer

MSRP \$24,416

OWN FOR \$24,416

SAVE \$5,000

Lease for \$338<sup>89</sup> per mo.  
3yr/36,000 mile lease  
Total due at signing \$1333.89

MSRP \$26,667

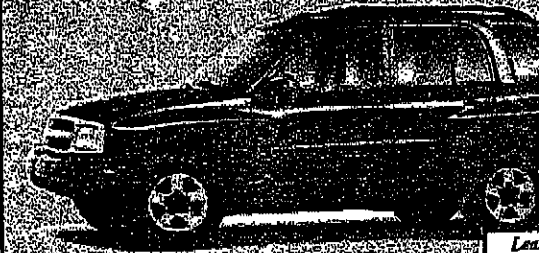
OWN FOR \$22,667

SAVE \$6,000

4dr, Ext Cab  
Auto, Tilt  
4800 V8

Lease for \$326<sup>54</sup> per mo.  
4yr/60,000 mile lease  
Total due at signing \$1671.54

### 2003 CHEVY TRACKER 4Dr



MSRP \$19,185

OWN FOR \$14,685

SAVE \$4,500

5spd, AC,  
CD, 24

Lease for \$248<sup>39</sup> per mo.  
3yr/36,000 mile lease  
Total due at signing \$1493.39

Advantage of the best selection in town at the lowest prices in town! Over 280 vehicles available for delivery.

ADDITIONAL REBATE OF \$750 TO CURRENT AND FORMER MILITARY PERSONNEL OR RETIREES.


LOWEST LASTING  
TRUCKS ON THE ROAD




0% Interest or Rebate  
Not Both

RH 5/23/03

B10



# Credit Issues?



Lost credit through divorce, credit card debt, bankruptcy, repossession?  
 We'll help you get into a dependable car or truck and re-establish good credit.  
 All you need is a valid driver's license, verifiable proof of income and \$500 cash or trade.  
 Many makes and models available.  
 Call Steve Lehr or Pam Porter at 658-1111. Or, 24 hours a day: 1-800-660-0618.  
 Or apply online: [www.shearerfreshstar.com](http://www.shearerfreshstar.com)

## Shearer Chevrolet

1675 Shelburne Road, So. Burlington.

5/25/03 v. 106

Sunday, May 25, 2003

BFP 176

## CODY CHEVROLET - OLDSMOBILE - CADILLAC



2003 Trail Blazer



2003 Venture



2003 Alero



2003 Cadillac CTS



2003 Escalade



2003 Bravada



2003 Z-71



2003 Impala



2003 Malibu



2003 Tracker

# WE'RE ROLLING INTO SPRING WITH

# 0%

\* UP TO 60 MONTH

## FINANCING PLUS

# REBATES UP TO \$4000 \* AND

# BONUS SAVINGS OF MORE THAN YOU CAN IMAGINE!

# SAVE AT LEAST \$2003

ON THESE TOP QUALITY, CLEAN USED VEHICLES

C12 B

The Sunday Rutland Herald

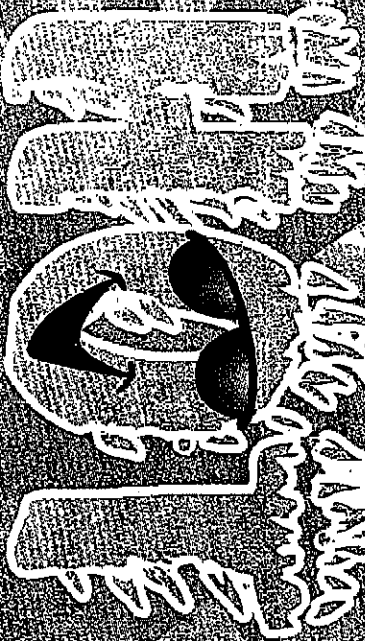
Classified

The Sunday Times Argus

Sunday, 1

# CODY CHEVROLET - OLDSMOBILE - CADILLAC

UNLIKE THE  
WEATHER MAN  
WE KNOW



WEATHER IS  
COMING!

COMMERCIAL  
INCENTIVES

0%\*

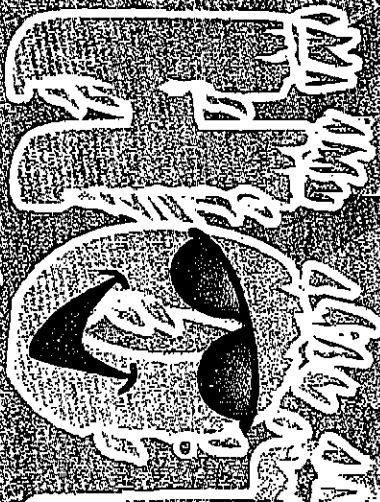
UP TO  
60 MONTH

FINANCING  
PLUS

REBATES  
UP TO

4000

SO COME  
CODY'S FC




DEALS IN  
THESE

SAVINGS



# QUALITY PRE-OWNED



**CERTIFIED PRE-OWNED  
TOYOTA  
SALES CENTER**

**ALL CERTIFIED  
VEHICLES  
COME WITH**

- 6 YEAR/100,000 MI WARRAN
- 6 YEAR/100,000 ROADSIDE
- 160 PT. QUALITY ASSURANCE
- LATE MODEL LOW MILEAGE



**25,900**

**2002 SOLARA SLE CONVERTIBLE 2D**  
 V6 3.0L, Auto, 5 SPD, AC, PS, PW, TR, Tilt, Cruise, ABS, Power Steering, Traction Control, Dual Air Bags, 15" Steel Wheel Covers, 15" Steel Spokes, Alloy Wheels, 150,000 Miles.



**33,900**

**2001 TOYOTA SEQUOIA LTD SPORT UTILITY 4D**  
 V8 4.7L, Auto, 4 SPD, AC, PS, PW, TR, Tilt, Cruise, ABS, Power Steering, Traction Control, Dual Air Bags, 15" Steel Wheel Covers, 15" Steel Spokes, Alloy Wheels, 110,000 Miles.



**19,980**

**2003 TOYOTA CAMRY SEDAN 4D**  
 4cyl, 1.8L, Hybrid, Auto, 5 SPD, AC, PS, PW, TR, Tilt, Cruise, ABS, Power Steering, Traction Control, Dual Air Bags, 15" Steel Wheel Covers, 15" Steel Spokes, Alloy Wheels, 80,000 Miles.



**19,980**

**2003 TOYOTA CAMRY SEDAN 4D**  
 4cyl, 1.8L, Hybrid, Auto, 5 SPD, AC, PS, PW, TR, Tilt, Cruise, ABS, Power Steering, Traction Control, Dual Air Bags, 15" Steel Wheel Covers, 15" Steel Spokes, Alloy Wheels, 80,000 Miles.



**19,980**

**2003 TOYOTA CAMRY SEDAN 4D**  
 4cyl, 1.8L, Hybrid, Auto, 5 SPD, AC, PS, PW, TR, Tilt, Cruise, ABS, Power Steering, Traction Control, Dual Air Bags, 15" Steel Wheel Covers, 15" Steel Spokes, Alloy Wheels, 80,000 Miles.



**19,980**

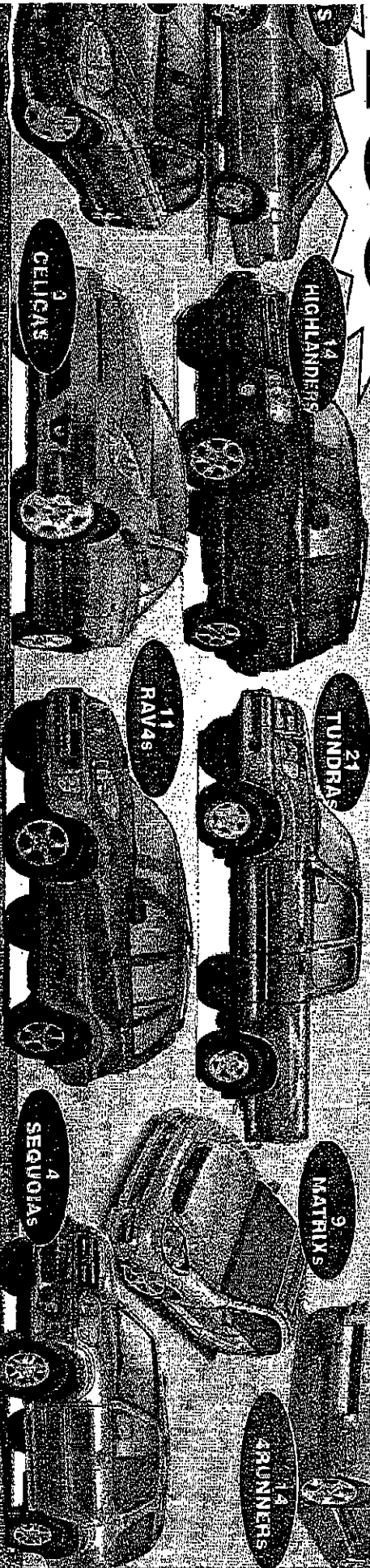
**2003 TOYOTA CAMRY SEDAN 4D**  
 4cyl, 1.8L, Hybrid, Auto, 5 SPD, AC, PS, PW, TR, Tilt, Cruise, ABS, Power Steering, Traction Control, Dual Air Bags, 15" Steel Wheel Covers, 15" Steel Spokes, Alloy Wheels, 80,000 Miles.



**LEASE FOR \$175.70**

2002 HONDA CIVIC EX SEDAN 4D.....	\$16,325
1999 AUDI A4 SEDAN 4D.....	\$17,820
1999 FORD TAURUS SE SEDAN 4D.....	\$8,715
1999 TOYOTA COROLLA VE SEDAN 4D.....	\$7,975
2000 TOYOTA TUNDRA SR5 ACCESS CAB 4D.....	\$22,685
2000 TOYOTA TACOMA SHORT BED.....	\$8,830
1997 HONDA ACCORD DX SEDAN 4D.....	\$7,920
2000 SUBARU LEGACY GT WAGON 4D.....	\$16,475
1999 HONDA CIVIC LX SEDAN 4D.....	\$9,985

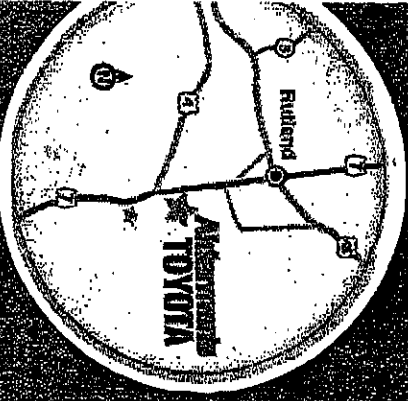
# 190 NEW TOYOTA'S AVAILABLE



**TOYOTA**

STANDARD BY WHICH OTHER VEHICLES ARE MEASURED

VISIT US ON THE WEB AT [www.alldemurstoyce.com](http://www.alldemurstoyce.com)



# Adrian

# The Toyota Superstore

# Box 7 South Island

**802-776-6000 ★ 800-924-2828**

# PAQUIN'S

## North Country NISSAN

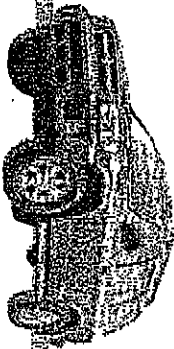
4 Franklin Park West • St. Albans, VT 05478  
Phone: 802-527-8129 • Toll Free: 8088-303-315

Email: nissansales@paquins.com

### 03 NISSAN PATHFINDER

MSRP.....	\$30,395
Paquin's Discount.....	-\$2,945
Nissan Rebate.....	-\$1,500
<b>FINAL PRICE:</b>	<b>\$25,950</b>

*Auto,  
Popular Package*  
#B00140



### 03 NISSAN SENTRA GXE

<i>Auto, PW, PL, CD</i> #B00160	MSRP.....	\$15,666
	Paquin's Discount.....	-\$1,276
	Nissan Rebate.....	-\$1,500
	<b>FINAL PRICE:</b>	<b>\$12,890</b>

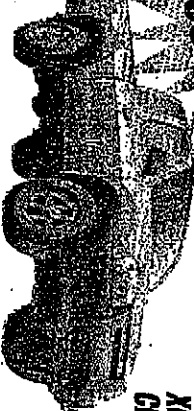
*or finance @ 0.9%  
for 60 mos*



### 03 NISSAN FRONTIER KC

MSRP.....	\$21,866
Paquin's Discount.....	-\$1,246
Nissan Rebate.....	-\$1,500
<b>FINAL PRICE:</b>	<b>\$19,120</b>

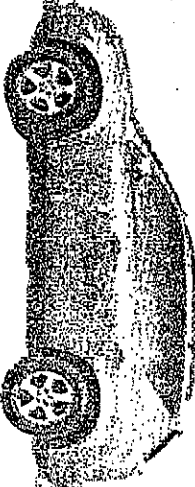
*XE-V6, Auto, A/C,  
CD, Bed Extender*  
#B00810



### 03 NISSAN MURANO SL

MSRP.....	\$32,085
Paquin's Discount.....	-\$1,090
<b>FINAL PRICE:</b>	<b>\$30,995</b>

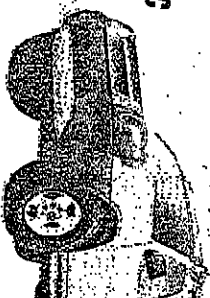
*CD, A/C,  
PW, PL*  
#B00700



### 03 NISSAN XTE

MSRP.....	\$23,474
Paquin's Discount.....	-\$779
Nissan Rebate.....	-\$1,500
<b>FINAL PRICE:</b>	<b>\$21,195</b>

*4x4, CD, A/C*  
#B00740



PRICES INCLUDE MANUFACTURER'S REBATES IN LIEU OF LOW FINANCING. MSRP IS THE PRICE SET BY THE MANUFACTURER. NOT NECESSARILY REFLECT THE PRICE PAID BY THE CONSUMER. OFFER EXPIRES 5/31/03.

5/27/03 BHT

Audi 1.8 T quattro

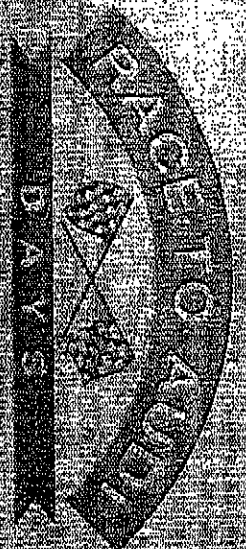
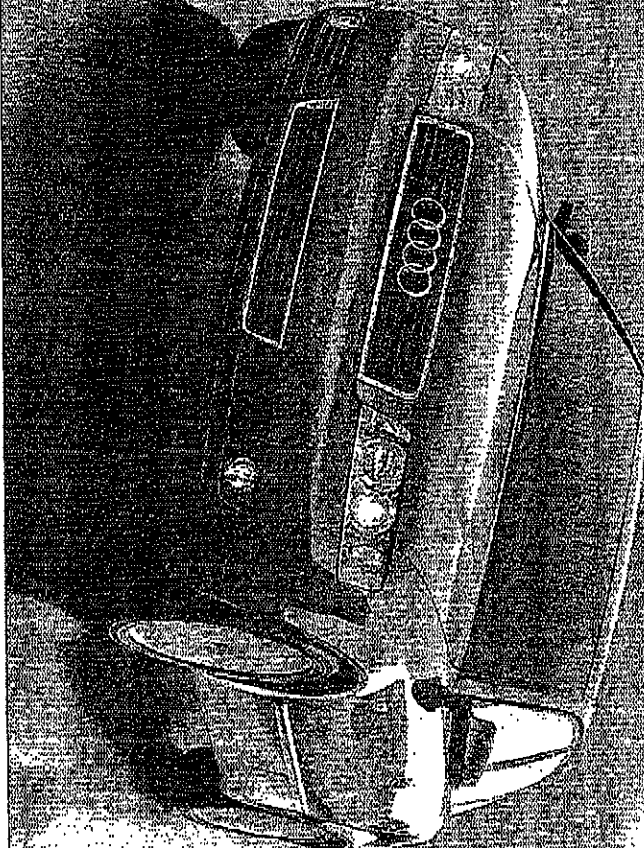
**1.9%**  
APR

Purchase Financing

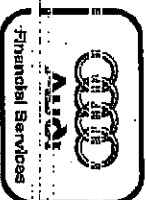
Available On

All New

2003 Audi Models

Never Follow [www.audiusa.com](http://www.audiusa.com)

Exceptional prices on  
the A4 1.8 T quattro •  
Turbocharged 170 hp engine  
• Race-bred five-valve  
engine technology for  
increased efficiency and  
performance • Legendary  
quattro® all-wheel drive  
for maximum performance  
and control



LEWIS MOTORS, INC.

1325 Shelburne Road

South Burlington, VT

802-658-1130

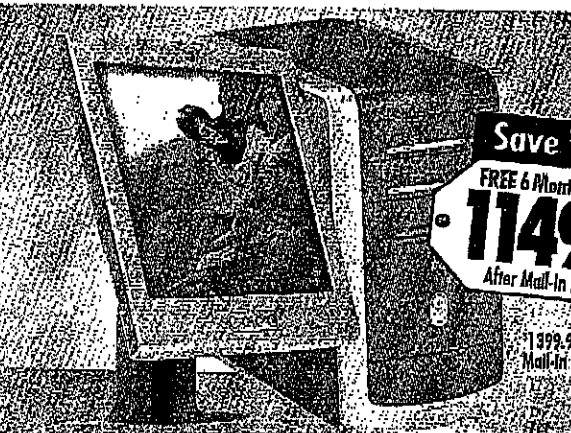
AUDI ADVANTAGE®  
**4 YEARS**  
OR 80,000 MILES  
NO CHARGE SCHEDULED  
MAINTENANCE

1.9% APR financing available on all new 2003 Audi models to qualified buyers through June 3, 2003. See dealer for details. Model shown A4 1.8 T sedan with 5-speed manual FrontTrek FWD, optional 17" wheels and all-season tires, \$25,600. "Audi," "quattro," "44" and the four rings emblem are registered trademarks of AUDI AG. "Never Follow" is a trademark and "Audi Advantage" is a service mark of Audi of America, Inc. ©2003 Audi of America, Inc. To find out more about Audi, call 1-800-FOR-AUDI or visit us at [audiusa.com](http://audiusa.com).

5/27/03 off

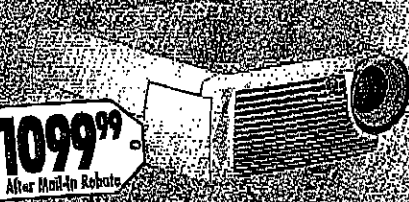
4H





Save \$250  
FREE 6 Months MSN\*  
**1149.97**  
After Mail-In Rebate

- or BUILD it your way  
of our in-store  
Computer Creation Station
- COMPUTER  
CREATION STATION
- UPGRADE the processor to an  
AMD Athlon® XP 2800+  
and the hard drive to  
120 gigabyte 7200 PRM
- Upgrade For  
an Additional  
**\$105**  
After Mail-In Rebate
- \*\$205 - \$100 Rebate = \$105  
Plus get free 2 day shipping on all HP desktop computers.



**1099.99**  
After Mail-In Rebate

Infocus  
PORTABLE PROJECTOR  
Project from any flat surface  
and enjoy the big screen!  
\$1149.99 - \$100 Rebate = \$1049.99



**399.99**  
After Mail-In Rebate



**699.99**  
After Mail-In Rebate

APPLE  
17" LCD FLAT-PANEL MONITOR  
(Apple iMac G4)  
\$499.99 - \$100 Rebate = \$399.99

SAMSUNG  
19" LCD FLAT-PANEL MONITOR  
This ultra-high performance display  
delivers outstanding brightness, sharp  
images and vivid colors. 2007 design  
award winner.  
\$799.99 - \$100 Mail-In Rebate = \$699.99



**299.99**  
After Mail-In Rebate

SAMSUNG  
15" LCD FLAT-PANEL MONITOR  
(600 design award)  
\$499.99 - \$200 Rebate = \$299.99

ALSO AVAILABLE:  
17" LCD FLAT-PANEL MONITOR  
(2007 design award)  
\$499.99 - \$50 Rebate = \$449.99

**449.99**  
After Mail-In Rebate

COMPUTER  
CREATION STATION

Build your  
own gaming  
notebook

FREE 6 Months MSN\*  
**2449.99**  
After Mail-In Rebate

PLAYS BEST ON  
**ALIENWARE**  
PENTIUM® 4 PROCESSOR 3.06GHz NOTEBOOK  
WITH DVD/CD-RW COMBO DRIVE

- 512MB DDR RAM memory
- ATI Mobility Radeon 9000 128MB DR
- 40 gigabyte hard drive (Area-51)

\*\$249.99 - \$100 Best Buy Mail-In Rebate = \$2449.99  
(Shown in cyborg green. Also available in majestic blue, space black, conspiracy black, and standard.)

Get Blackhawk Down, the  
game, FREE with the purchase  
of any Alienware Creation  
Station notebook  
(Shipped to your doorstep with the notebook.)

Intel Inside  
Pentium 4

THE Sims  
SUPERSTAR

FOR 6 MONTHS  
notebook or connected device

Internet Access (\$21.95/mo., as of 5/18/03) is charged to your credit card until you select another ISP plan or cancel your account. May not be combined with any other promotion from the same ISP. See inside book or visit [www.bestbuy.com](http://www.bestbuy.com).

BestBuy.com

Includes Computer Creation Station desktop packages. Package includes computer, monitor and printer. Excludes prior purchases. Return shipping, delays and required minimum monthly payment is greater of \$10 or 2.95% of balance. Interest will be charged to your account from the date of purchase. Mail-in rebate is not paid in full within 60 days of purchase. Monthly payments are not made. Online offer may vary. See inside back cover for details.



**emachines**

# ALL CPU PACKAGES†

**UNO COMPACT**

NO INTEREST

# 18 MONTHS \$100-\$150

AFTER BEST BUY MAIL-IN REBATE

Complete computer package solutions

Get yourself up and running

More options. More fun.



**emachines**

(1730/2740/2700)

- Intel® Celeron® Processor 2.26GHz
- 128MB DDR RAM memory
- 40 gigabyte hard drive
- 48X max. CD-ROM drive

17" emachines flat-screen monitor (16" viewable image size) 25" HP monitor  
Lexmark 2705 printer

**250 TOTAL SAVINGS**

\$689.97 - \$100 Best Buy Bundle Mail-In Rebate - \$100 Monthly Mail-In Rebate - \$50 Printer Bundle Mail-In Rebate = **\$439.97**

FREE 6 Months MSN®  
**439.97**  
After Mail-In Rebates



(3420/3440/3420)

- Intel® Celeron® Processor 2.3GHz
- 256MB DDR RAM memory
- 40 gigabyte hard drive
- 16X max DVD-ROM drive and 48X max CD-RW drive

17" HP flat-screen monitor (16" viewable image size) 25" HP monitor  
HP 3420 printer

**250 TOTAL SAVINGS**

\$719.97 - \$150 Best Buy Bundle Mail-In Rebate - \$30 HP Monitor Mail-In Rebate - \$50 HP Printer Bundle Mail-In Rebate = **\$669.97**

FREE 6 Months MSN®  
**669.97**  
After Mail-In Rebates



Save \$300  
FREE 6 Months MSN®  
**789.97**  
After Mail-In Rebates

Power Packed into an affordable package

**emachines**

- PENTIUM® 4 Processor 2.53GHz computer with 1.5MB cache
- 15" SCREEN MONITOR (14" viewable image size) 25" HP monitor
- AND LEXMARK COLOR PRINTER (1510/1520/2605)
- 512MB DDR RAM memory
- 100 gigabyte hard drive
- 16X max DVD-ROM drive
- 48X max CD-RW drive

**300 TOTAL SAVINGS**  
\$1089.97 - \$150 Best Buy Bundle Mail-In Rebate - \$100 Monthly Mail-In Rebate - \$50 Printer Bundle Mail-In Rebate = **\$789.97**

Stay safe through storm season  
**SAVE \$20** by mail-in on all APC UPS with battery backup



**39.99**  
After Mail-In Rebate

**APC**

500VA UPS WITH BATTERY BACKUP  
Provides up to 15 minutes of backup power (best load)  
EATON/3M/DELTA



**SIMS**  
SUPERSTAR

# FREE INTERNET ACCESS

With the purchase of any computer,

16 2002 Best Buy

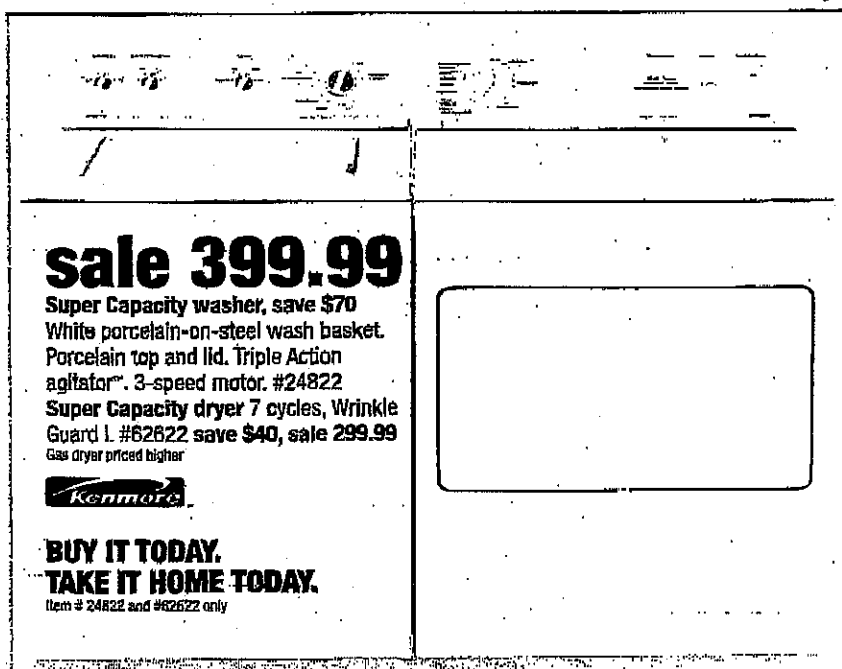
†With purchase of qualifying computer or digital camera/camcorder, scanner, printer, monitor, PDA or MP3 and in-store Internet Service Provider (ISP) registration. Excludes Best Buy.com purchases. After free period, current price of ISP. Click-up

2 out of 3 homeowners  
have an appliance from Sears

summer '03

**0% financing until May 2004**  
on all home appliances over \$399 when  
you use your Sears card

See page 31 for important 0% financing details.  
Excludes outlet stores. Offer good thru May 27.



**sale 399.99**  
Super Capacity washer, save \$70  
White porcelain-on-steel wash basket.  
Porcelain top and lid. Triple Action  
agitator. 3-speed motor. #24822  
Super Capacity dryer 7 cycles, Wrinkle  
Guard I. #62622 save \$40, sale 299.99  
Gas dryer priced higher

**Kenmore**

**BUY IT TODAY.  
TAKE IT HOME TODAY.**  
Item # 24822 and #62622 only

**free delivery**  
with mail-in rebate  
on all home appliances  
over \$399

Free standard local delivery. Outside local delivery area, customer pays an additional charge.  
Rebate values, local area and additional charges vary. Excludes KitchenAid built-in refrigeration  
and outlet stores. Offer good thru May 27.

**now all on sale**  
washers and dryers

Excludes Maytag Neptune, Exceptional Values and closeouts

**save an extra 10%**  
on a dryer when  
you buy a washer

See inside back cover for details.

☒ **Price Match Plus**  
we'll match any appliance price  
plus, give you 10% of the difference  
See inside back cover for details.

**SEARS**

Good life. Great price.

Sale prices in effect Sunday, May 18-Saturday, May 24 Availability of items shown in this advertisement may vary by store.

An advertising supplement to: The Tribune, The Sun, The Herald, Daily News, Standard Examiner, Daily Herald, Tribune/General News, Daily World, Outside Journal, Herald, Sun, Brantford Patriot, Daily Chronicle, Herald, Daily News, South County Journal, Daily News, South Valley Herald, Windsor News-Times, Olympian, Peninsula Daily News, Times/Pacific Intelligence, Spectator Review, News Tribune, Calaveras, Union Bulletin, World, Herald Republic.



**VISIT US THIS SUNDAY & MONDAY FOR OUR SILENT SALE!**  
Every new and used car will be tagged with its lowest price! Open Tuesday so you can claim your vehicle.

THE ION  
QUAD COUPE  
HAS ARRIVED

**0%**

Financing  
For  
up to  
**60**  
Months

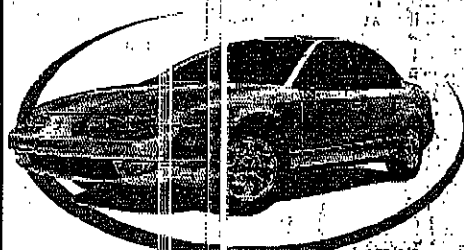
## All New 2003 ION

MSRP  
**\$12,875**



Stock # 152798

## 2002 Saturn S Series

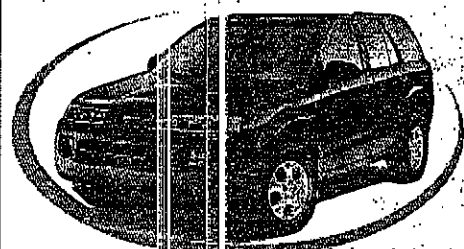


Stock # 304943

**ONLY 6 LEFT! HURRY!**

**\$3000** in savings  
off MSRP,  
starting at **\$14,315**

## 2003 Saturn VUE



Stock # 825701

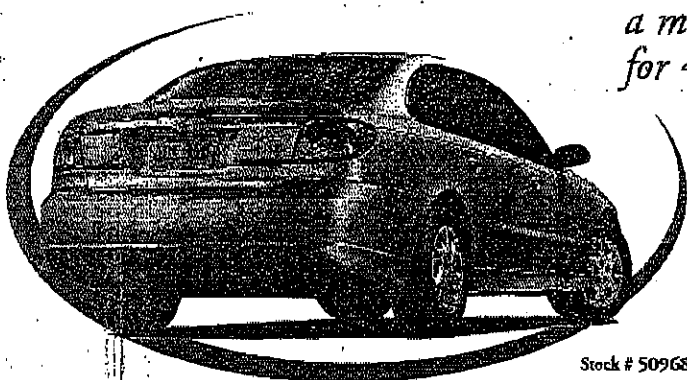
Starting at...

**\$16,900**

And 0% financing for up to 60 months  
or \$2000 Customer Cash

## 2003 Saturn L200

Lease for  
**\$199<sup>00</sup>**  
a month  
for 48 months\*



Stock # 509686

\*Lease 2003 Saturn L200 stock #509686 for \$199.00/mo. for 48 months, 12,000 miles per year. MSRP is \$18,380. \$0 down, Vermont tax, title, registration and 1st payment extra. Total due at signing \$910.47. Lease end value \$8,271. To qualified buyers. Offer ends May 31st, 2003.

## CHECK OUT THESE USED CAR SPECIALS!

### 00 ACURA INTEGRA LS



Stock #059945, 5 Spd. Alloys, Spoiler

### 00 SATURN LW1



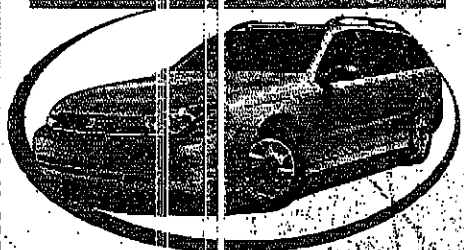
Stock #700875, Automatic, A/C, PW

### 98 VW BEETLE



Stock #173663, 2Dr, Auto, Alloys, Air, Power

## 2003 Saturn L Wagon



**\$3000** Customer  
Choice Allowance

0% financing

Address

<http://www.amortgagerearch.com/>

> 30

**amortgagerearch.com**

**National Lenders/Local Service**

# **0 Closing Cost Mortgages!**

10 yr	Fixed	4.875% APR
15 yr	Fixed	5.00% APR
20 yr	Fixed	5.375% APR
30 yr	Fixed	5.50% APR

No points or broker fees. \$350 Application Fee will be refunded at closing. Rates based on a 30% Equity position. Minimum loan size \$150,000.  
Maximum loan size \$322,700. Rates subject to change without notice.

## **Call 802-425-Lend or 888-622-5633**

Licensed Vermont Mortgage Brokers

5/25/03 BFP 2F



**AT LEO'S WE KNOCK-OUT OUR  
COMPETITORS' SALE PRICE WITH OUR  
EVERYDAY LOWEST GUARANTEED!  
PRICES**

**0% FINANCING FOR  
12 FULL MONTHS!**  
No Interest • No Payments • No Down Payment For Qualified Buyers!

**MEMORIAL WEEKEND - SPECIAL SAVINGS & HOURS:  
SATURDAY 9:30-5:00 SUNDAY 11:00-4:00 MONDAY 9:30-6:00  
MEMORIAL DAY**

Entering Our 2nd Half Century of Servicing Central Vermont

# HOW CAN WE GO

We Love  
to say  
**YES!**

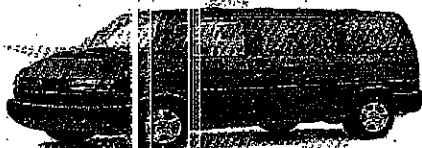
How About...

**1.9% APR FINANCING 60 MONTHS\***

For Up To

Special 1.9% APR Financing Excludes Jetta Wolfsburg, New Beetle Convertible and Euro Van. Contact Financing through VW Credit, Inc. Offer ends May 31, 2003. See Walker VW for details.

The Volkswagen Family Portrait - a proud tradition continues



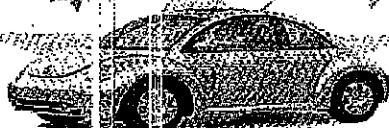
VW Euro Van



VW Passat Wagon



VW Golf



VW New Beetle



VW New Beetle Convertible



VW Jetta Wagon



VW Passat Sedan



VW Jetta Sedan

Plus **\$500** Owner Loyalty Rebate...

For anyone who owns a Volkswagen that is currently registered... regardless of age.

on the road of life there are passengers, and drivers

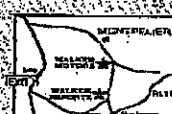
Drivers wanted.®



Hurry Down to Walker Volkswagen...

German Engineering, Performance, and Design at an Affordable Price

**WALKER**



LOCATED ON THE  
BARRÉ-MONTEPELIER RD  
800-639-8095  
802-223-3434

B8

The Times Argus

Nation

Tuesday, May 27, 2003

**0% FINANCING**

We Love to say  
**YES!**

**BIG REBATES UP TO \$3500**

## 2003 MAZDA MIATA MX 5 CONVERTIBLE



**0% FINANCING**  
60 MONTHS OR  
**\$2000 CASH BACK**

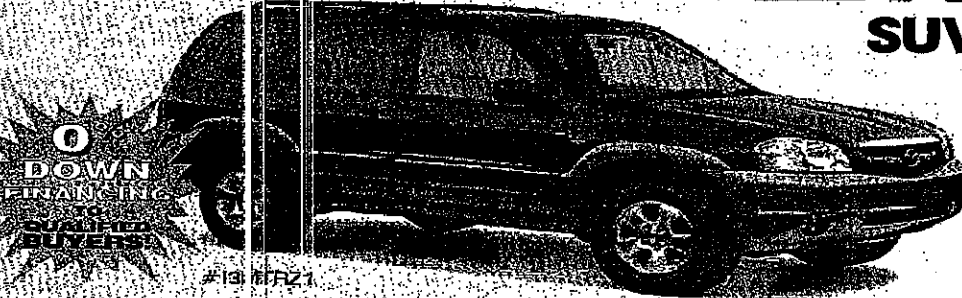


**0 DOWN FINANCING**  
TO QUALIFIED BUYERS!

**3 IN STOCK**  
For Immediate Delivery!

#13MA01

## 2003 MAZDA TRIBUTE SUV - 4x4



**0% FINANCING**  
60 MONTHS OR  
**\$2000 CASH BACK**

**10 IN STOCK**  
For Immediate Delivery!

#13MP21

## 2003 MAZDA TRUCKS



**0 DOWN FINANCING**  
TO QUALIFIED BUYERS!

**0% / 60 Month OR \$3500 Cash Rebate!**

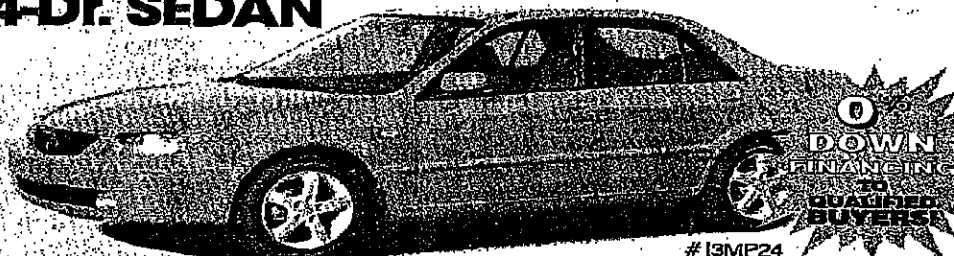
**TEST BEST**

## 2003 MAZDA PROTEGE



**0% FINANCING**  
60 MONTHS OR  
**\$2000 CASH BACK**

**4-Dr. SEDAN**



**0 DOWN FINANCING**  
TO QUALIFIED BUYERS!

**14 IN STOCK**  
For Immediate Delivery!

#13MP24

# MAZDA TRUCKS

**0% / 60 Month OR \$3500 Cash Rebate!**

## 2003 MAZDA PROTEGE



**4-Dr. SEDAN**

**0% FINANCING**  
60 MONTHS OR  
**\$2000 CASH BACK**



**0 DOWN FINANCING TO QUALIFIED BUYERS!**

#13MP24

**14 IN STOCK**

**For Immediate Delivery!**



## 2003 MAZDA MPV VAN

**0% FINANCING**  
36 MONTHS OR  
**\$2000 CASH BACK**



**10 IN STOCK**  
**For Immediate Delivery!**

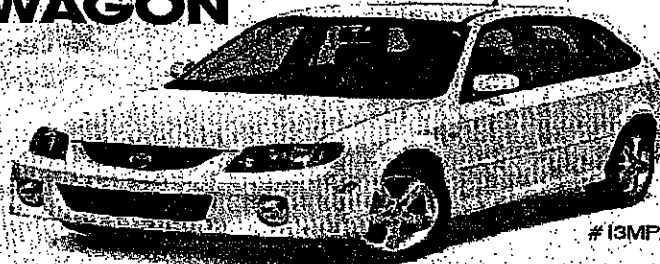
#13N V01

## 2003 MAZDA PROTEGE 5



**SPORT WAGON**

**0% FINANCING**  
36 MONTHS OR  
**\$1750 CASH BACK**



**0 DOWN FINANCING TO QUALIFIED BUYERS!**

#13MP26

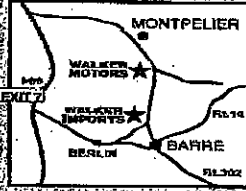
**8 IN STOCK**

**For Immediate Delivery!**

**Get Your Best Deal At Walkers & Divide by 36 or 60 for your low monthly Payment.**



**WALKER MAZDA**



All financing to credit approved customers.  
Mazda, Mazda Protege, Sport Wagon  
tribute finance for 0% for up to 60  
months. Finance Mazda MPV and  
Protege 5 for 0% for up to 36 months.  
Tax, title and registration extra.

**LOCATED ON THE  
BARRE-MONTPELIER RD**

**800-639-8095**  
**802-223-3434**

**WWW.WALKERMAZDA.COM**