

VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

CHAPTER 359

An Act to amend and reenact § 59.1-335.2 of the Code of Virginia, relating to the Virginia Credit Services Businesses Act.

[H 2193]

Approved March 16, 2003

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-335.2 of the Code of Virginia is amended and reenacted as follows:

§ 59.1-335.2. Definitions.

In this chapter the following words have the following meanings:

"Attorney General" means the Office of the Attorney General of Virginia.

"Commissioner" means the Commissioner of Agriculture and Consumer Services, or a member of his staff to whom he may delegate his duties under this chapter.

"Consumer" means any individual who is solicited to purchase or who purchases the services of a credit services business.

"Consumer report" means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which (i) is furnished or (ii) is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for:

1. Credit or insurance to be used primarily for personal, family, or household purposes; or
2. Employment purposes; or
3. Other purposes which shall be limited to the following circumstances:
 - a. In response to the order of a court having jurisdiction to issue the order.
 - b. In accordance with the written instructions of the consumer to whom the report relates.
 - c. To a person which the agency has reason to believe:
 - (i) Intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to or review or collection of an account of, the consumer; or
 - (ii) Intends to use the information for employment purposes; or
 - (iii) Intends to use the information in connection with the underwriting of insurance involving the consumer; or
 - (iv) Intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or
 - (v) Otherwise has a legitimate business need for the information in connection with a business transaction involving the consumer.

The term "consumer report" does not include:

1. Any report containing information solely as to transactions or experiences between the consumer and the person making the report;
2. Any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device; or
3. Any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his decision with respect to the request, if the third party advises the consumer of the name and address of the person to whom the request was made and the person makes the disclosures to the consumer as to the exact nature of the request and the effect of the report on its decision to extend credit.

"Consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of commerce for the purpose of preparing or furnishing consumer reports. "Consumer reporting agency" does not include a private detective or investigator licensed under the provisions of Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1.

"Credit services business" means any person who, with respect to the extension of credit by others, sells, provides, or performs, or represents that such person can or will sell, provide, or perform, any of the following services in return for the payment of money or other valuable consideration:

1. Improving a consumer's credit record, history, or rating;
2. Obtaining an extension of credit for a consumer; or
3. Providing advice or assistance to a consumer with regard to either subdivision 1 or 2 herein.

"Credit services business" does not include:

(i) The making, arranging, or negotiating for a loan or extension of credit under the laws of this Commonwealth or the United States;

(ii) Any bank, trust company, savings bank, or savings institution whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or other federal insurance agency, or any credit union organized and chartered under the laws of this Commonwealth or the United States;

(iii) Any nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code (26 U.S.C. § 501 (c) (3));

(iv) Any person licensed as a real estate broker by this Commonwealth where the person is acting within the course and scope of that license;

(v) Any person licensed to practice law in this Commonwealth where the person renders services within the course and scope of that person's practice as a lawyer;

(vi) Any broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission where the broker-dealer is acting within the course and scope of that regulation; or

(vii) Any consumer reporting agency as defined in the Federal Fair Credit Reporting Act (15 U.S.C. §§ 1681-1681t); or

(viii) *Any person selling personal, family, or household goods to a consumer who, in connection with the seller's sale of its goods to the consumer, assists the consumer in obtaining a loan or extension of credit or extends credit to the consumer.*

"Extension of credit" means the right to defer payment of debt or to incur debt and defer its payment, offered or granted primarily for personal, family, or household purposes.

"File" when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by a consumer reporting agency regardless of how the information is stored.

"Investigative consumer report" means a consumer report or portion of it in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom he is acquainted or who may have knowledge concerning any items of information. However, the information does not include specific factual information on a consumer's credit record obtained directly from a creditor of the consumer or from a consumer reporting agency when the information was obtained directly from a creditor of the consumer or from the consumer.

"Person" includes an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, and any other legal or commercial entity.