

AMENDED IN ASSEMBLY APRIL 17, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2161

Introduced by Assembly Member Maddox

February 20, 2002

An act to amend Section ~~1785.13~~ 1786.18 of the Civil Code, relating to consumer credit reports.

LEGISLATIVE COUNSEL'S DIGEST

AB 2161, as amended, Maddox. Consumer credit reports: crimes.

Under existing law, an investigative consumer reporting agency is prohibited from making or furnishing any investigative consumer report containing, among other things, records of conviction of a crime that, from the date of disposition, release, or parole, antedate the report by more than 7 years.

This bill would delete that prohibition.

~~Under the existing Consumer Credit Reporting Agencies Act, no consumer credit reporting agency may make any consumer credit report that contains, among other things, records of arrest, indictment information, misdemeanor complaint, or conviction of a crime that, from the date of disposition, release, or parole, antedate the report by more than 7 years, as specified.~~

~~This bill would delete that prohibition.~~

~~Under the act, no consumer credit reporting agency may make any consumer credit report that contains any other adverse information that antedates the report by more than 7 years.~~

~~This bill would exclude from that prohibition, records of convictions of crime.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—Section 1785.13 of the Civil Code is amended~~

2 SECTION 1. Section 1786.18 of the Civil Code is amended to
3 read:

4 1786.18. (a) Except as authorized under subdivision (b), no
5 investigative consumer reporting agency shall make or furnish any
6 investigative consumer report containing any of the following
7 items of information:

8 (1) Bankruptcies that, from the date of adjudication, antedate
9 the report by more than 10 years.

10 (2) Suits that, from the date of filing, and satisfied judgments
11 that, from the date of entry, antedate the report by more than seven
12 years.

13 (3) Unsatisfied judgments that, from the date of entry, antedate
14 the report by more than seven years.

15 (4) Unlawful detainer actions where the defendant was the
16 prevailing party or where the action is resolved by settlement
17 agreement.

18 (5) Paid tax liens that, from the date of payment, antedate the
19 report by more than seven years.

20 (6) Accounts placed for collection or charged to profit and loss
21 that antedate the report by more than seven years.

22 (7) Records of arrest, indictment, information, *or*
23 misdemeanor complaint, ~~or conviction~~ of a crime that, from the
24 date of disposition, *or* release, ~~or parole~~, antedate the report by
25 more than seven years. These items of information shall no longer
26 be reported if at any time it is learned that, ~~in the case of a~~
27 ~~conviction, a full pardon has been granted~~ *or*, in the case of an
28 arrest, indictment, information, or misdemeanor complaint, a
29 conviction did not result, except that records of arrest, indictment,
30 information, or misdemeanor complaints may be reported pending
31 pronouncement of judgment on the particular subject matter of
32 those records.

33 (8) Any other adverse information that antedates the report by
34 more than seven years.



1 (b) ~~The provisions of subdivision (a) are~~ *Subdivision (a) is not*
2 applicable in the case of any investigative consumer report to be
3 used in the underwriting of life insurance involving, or that may
4 reasonably be expected to involve, an amount of two hundred fifty
5 thousand dollars (\$250,000) or more.

6 (c) Except as otherwise provided in Section 1786.28, an
7 investigative consumer reporting agency ~~shall~~ *may* not furnish an
8 investigative consumer report that includes information that is a
9 matter of public record and that relates to an arrest, indictment,
10 conviction, civil judicial action, tax lien, or outstanding judgment,
11 unless the agency has verified the accuracy of the information
12 during the 30-day period ending on the date on which the report
13 is furnished.

14 (d) An investigative consumer reporting agency ~~shall~~ *may* not
15 prepare or furnish an investigative consumer report on a consumer
16 that contains information that is adverse to the interest of the
17 consumer and that is obtained through a personal interview with
18 a neighbor, friend, or associate of the consumer or with another
19 person with whom the consumer is acquainted or who has
20 knowledge of the item of information, unless either (1) the
21 investigative consumer reporting agency has followed reasonable
22 procedures to obtain confirmation of the information, from an
23 additional source that has independent and direct knowledge of the
24 information, or (2) the person interviewed is the best possible
25 source of the information.

26 ~~to read:~~

27 ~~1785.13.—(a) No consumer credit reporting agency may make~~
28 ~~any consumer credit report containing any of the following items~~
29 ~~of information:~~

30 ~~(1) Bankruptcies that, from the date of adjudication, antedate~~
31 ~~the report by more than 10 years.~~

32 ~~(2) Suits and judgments that, from the date of entry or renewal,~~
33 ~~antedate the report by more than seven years or until the governing~~
34 ~~statute of limitations has expired, whichever is the longer period.~~

35 ~~(3) Unlawful detainer actions, unless the lessor was the~~
36 ~~prevailing party. For purposes of this paragraph, the lessor is the~~
37 ~~prevailing party only if (A) final judgment was awarded to the~~
38 ~~lessor (i) upon entry of the tenant's default, (ii) upon the granting~~
39 ~~of the lessor's motion for summary judgment, or (iii) following~~
40 ~~trial, or (B) the action was resolved by a written settlement~~



1 agreement between the parties that states that the unlawful detainer
2 action may be reported. In any other instance in which the action
3 is resolved by settlement agreement, the lessor is not the prevailing
4 party for purposes of this paragraph.

5 ~~(4) Paid tax liens that, from the date of payment, antedate the~~
6 ~~report by more than seven years.~~

7 ~~(5) Accounts placed for collection or charged to profit and loss~~
8 ~~that antedate the report by more than seven years.~~

9 ~~(6) Any other adverse information, other than records of~~
10 ~~convictions of crimes, that antedates the report by more than seven~~
11 ~~years.~~

12 ~~(b) The seven-year period specified in paragraphs (5) and (7)~~
13 ~~of subdivision (a) shall commence to run, with respect to any~~
14 ~~account that is placed for collection (internally or by referral to a~~
15 ~~third party, whichever is earlier), charged to profit and loss, or~~
16 ~~subjected to any similar action, upon the expiration of the 180-day~~
17 ~~period beginning on the date of the commencement of the~~
18 ~~delinquency that immediately preceded the collection activity,~~
19 ~~charge to profit and loss, or similar action. If more than one of these~~
20 ~~actions is taken with respect to a particular account, the seven-year~~
21 ~~period specified in paragraphs (5) and (7) shall commence~~
22 ~~concurrently for all these actions on the date of the first of these~~
23 ~~actions.~~

24 ~~(c) Any consumer credit reporting agency that furnishes a~~
25 ~~consumer credit report containing information regarding any case~~
26 ~~involving a consumer arising under the bankruptcy provisions of~~
27 ~~Title 11 of the United States Code shall include an identification~~
28 ~~of the chapter of Title 11 of the United States Code under which~~
29 ~~the case arose if that can be ascertained from what was provided~~
30 ~~to the consumer credit reporting agency by the source of the~~
31 ~~information.~~

32 ~~(d) A consumer credit report may not include any adverse~~
33 ~~information concerning a consumer antedating the report by more~~
34 ~~than 10 years or that otherwise is prohibited from being included~~
35 ~~in a consumer credit report.~~

36 ~~(e) If a consumer credit reporting agency is notified by a~~
37 ~~furnisher of credit information that an open-end credit account of~~
38 ~~the consumer has been closed by the consumer, any consumer~~
39 ~~credit report thereafter issued by the consumer credit reporting~~
40 ~~agency with respect to that consumer, and that includes~~



1 ~~information respecting that account, shall indicate the fact that the~~
2 ~~consumer has closed the account. For purposes of this subdivision,~~
3 ~~“open-end credit account” does not include any demand deposit~~
4 ~~account, such as a checking account, money market account, or~~
5 ~~share draft account.~~

6 ~~(f) Consumer credit reporting agencies may not include~~
7 ~~medical information in their files on consumers or furnish medical~~
8 ~~information for employment, insurance, or credit purposes in a~~
9 ~~consumer credit report without the consent of the consumer.~~

10 ~~(g) A consumer credit reporting agency shall include in any~~
11 ~~consumer credit report information, if any, on the failure of the~~
12 ~~consumer to pay overdue child or spousal support, where the~~
13 ~~information either was provided to the consumer credit reporting~~
14 ~~agency pursuant to Section 4752 or has been provided to the~~
15 ~~consumer credit reporting agency and verified by another federal,~~
16 ~~state, or local governmental agency.~~

