

AMENDED IN ASSEMBLY APRIL 19, 1999

AMENDED IN ASSEMBLY APRIL 5, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 758

Introduced by Assembly Member Thomson

**(Coauthors: Assembly Members Alquist, Cardoza, Havice,
Honda, House, Jackson, Longville, Reyes, Romero, Shelley,
Strom-Martin, and Washington)**

(Coauthors: Senators Figueroa, Hughes, Ortiz, and Solis)

February 24, 1999

An act to amend ~~Section 1785.17~~ *Sections 1785.31 and 1785.35* of the Civil Code, relating to consumer credit.

LEGISLATIVE COUNSEL'S DIGEST

AB 758, as amended, Thomson. Consumer credit—~~reports~~ *reporting agencies*.

Existing law, referred to as the Consumer Credit Reporting Agencies Act, provides that the prevailing parties in any action to recover damages in the case of a negligent or willful violation of the act shall be entitled to recover court costs and attorneys' fees.

This bill would limit the recovery of those costs and fees to the prevailing plaintiffs.

Under existing law, transactions by mail where the credit grantor and its major credit application processing center are located outside the state are excluded from the Consumer Credit Reporting Agencies Act.

This bill would delete that exclusion.

~~Existing law authorizes a consumer credit reporting agency to charge a fee not exceeding \$8 for disclosures made to a consumer, as specified, regarding the content of the file maintained by that agency concerning that consumer.~~

~~This bill would prohibit a consumer credit reporting agency from charging that fee for the first disclosure made within any 12-month period. The bill would authorize the agency to charge that fee for each subsequent disclosure made to the consumer, as specified, within a 12-month period.~~

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 1785.17 of the Civil Code is~~
2 *SECTION 1. Section 1785.31 of the Civil Code is*
3 *amended to read:*
4 1785.31. (a) Any consumer who suffers damages as a
5 result of a violation of this title by any person may bring
6 an action in a court of appropriate jurisdiction against that
7 person to recover the following:
8 (1) In the case of a negligent violation, actual damages,
9 including court costs, loss of wages, attorney’s fees and,
10 when applicable, pain and suffering.
11 (2) In the case of a willful violation:
12 (A) Actual damages as set forth in paragraph (1)
13 above;
14 (B) Punitive damages of not less than one hundred
15 dollars (\$100) nor more than five thousand dollars
16 (\$5,000) for each violation as the court deems proper;
17 (C) Any other relief—~~which~~ *that* the court deems
18 proper.
19 (3) In the case of liability of a natural person for
20 obtaining a consumer credit report under false pretenses
21 or knowingly without a permissible purpose, an award of
22 actual damages pursuant to paragraph (1) or
23 subparagraph (A) of paragraph (2) shall be in an amount
24 of not less than two thousand five hundred dollars
25 (\$2,500).



1 (b) Injunctive relief shall be available to any consumer
2 aggrieved by a violation or a threatened violation of this
3 title whether or not the consumer seeks any other
4 remedy under this section.

5 (c) Notwithstanding any other provision of this
6 section, any person who willfully violates any
7 requirement imposed under this title may be liable for
8 punitive damages in the case of a class action, in an
9 amount that the court may allow. In determining the
10 amount of award in any class action, the court shall
11 consider among relevant factors the amount of any actual
12 damages awarded, the frequency of the violations, the
13 resources of the violator and the number of persons
14 adversely affected.

15 (d) The prevailing ~~parties~~ *plaintiffs* in any action
16 commenced under this section shall be entitled to
17 recover court costs and reasonable attorney's fees, ~~unless~~
18 ~~the plaintiff only seeks and obtains injunctive relief to~~
19 ~~compel compliance with this title.~~ If the plaintiff only
20 seeks and obtains injunctive relief to compel compliance
21 with this title, court costs and attorney's fees shall be
22 awarded pursuant to Section 1021.5 of the Code of Civil
23 Procedure.

24 SEC. 2. Section 1785.35 of the Civil Code is amended
25 to read:

26 1785.35. This title does not apply to any consumer
27 credit report ~~which~~ *that* by its terms is limited to
28 disclosures from public records relating to land and land
29 titles and does not apply to any person whose records and
30 files are maintained for the primary purpose of reporting
31 those portions of the public records ~~which~~ *that* impart
32 constructive notice under the law of matters relating to
33 land and land titles, ~~nor does it apply to transactions by~~
34 ~~mail where the credit grantor and its major credit~~
35 ~~application processing office are located outside the State~~
36 ~~of California.~~

37 amended to read:

38 1785.17. (a) Except ~~as~~ ~~otherwise~~ ~~provided,~~ a
39 consumer credit reporting agency may impose a
40 reasonable charge upon a consumer, as follows:



1 ~~(1) For making a disclosure pursuant to Section~~
2 ~~1785.10 or 1785.15, the consumer credit reporting agency~~
3 ~~shall not charge a fee for the first disclosure made within~~
4 ~~any 12-month period. For each subsequent disclosure~~
5 ~~within that 12-month period, a consumer credit reporting~~
6 ~~agency may charge a fee not exceeding eight dollars (\$8).~~

7 ~~(2) For furnishing a notification, statement, or~~
8 ~~summary, to any person pursuant to subdivision (h) of~~
9 ~~Section 1785.16, the consumer credit reporting agency~~
10 ~~may charge a fee not exceeding the charge that it would~~
11 ~~impose on each designated recipient for a consumer~~
12 ~~credit report, and the amount of the charge shall be~~
13 ~~indicated to the consumer before furnishing the~~
14 ~~notification, statement, or summary.~~

15 ~~(b) A consumer credit reporting agency shall make all~~
16 ~~disclosures pursuant to Sections 1785.10 and 1785.15 and~~
17 ~~furnish all consumer reports pursuant to Section 1785.16~~
18 ~~without charge, if requested by the consumer within 60~~
19 ~~days after receipt by the consumer of a notification of~~
20 ~~adverse action pursuant to Section 1785.20 or of a~~
21 ~~notification from a debt collection agency affiliated with~~
22 ~~the consumer credit reporting agency stating that the~~
23 ~~consumer's credit rating may be or has been adversely~~
24 ~~affected.~~

25 ~~(c) A consumer credit reporting agency shall not~~
26 ~~impose any charge for (1) providing notice to a consumer~~
27 ~~required under Section 1785.16 or (2) notifying a person~~
28 ~~pursuant to subdivision (h) of Section 1785.16 of the~~
29 ~~deletion of any information which is found to be~~
30 ~~inaccurate or which can no longer be verified, if the~~
31 ~~consumer designates that person to the consumer credit~~
32 ~~reporting agency before the end of the 30-day period~~
33 ~~beginning on that date of notice under subdivision (d) of~~
34 ~~Section 1785.16.~~

