

AMENDED IN SENATE AUGUST 17, 1999  
AMENDED IN ASSEMBLY APRIL 19, 1999  
AMENDED IN ASSEMBLY APRIL 5, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 758**

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**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

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An act to amend 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 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, *except as otherwise specified*.

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.

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 1785.31 of the Civil Code is  
2 amended to read:

3 1785.31. (a) Any consumer who suffers damages as a  
4 result of a violation of this title by any person may bring  
5 an action in a court of appropriate jurisdiction against that  
6 person to recover the following:

7 (1) In the case of a negligent violation, actual damages,  
8 including court costs, loss of wages, attorney’s fees and,  
9 when applicable, pain and suffering.

10 (2) In the case of a willful violation:

11 (A) Actual damages as set forth in paragraph (1)  
12 above:

13 (B) Punitive damages of not less than one hundred  
14 dollars (\$100) nor more than five thousand dollars  
15 (\$5,000) for each violation as the court deems proper;

16 (C) Any other relief that the court deems proper.

17 (3) In the case of liability of a natural person for  
18 obtaining a consumer credit report under false pretenses  
19 or knowingly without a permissible purpose, an award of  
20 actual damages pursuant to paragraph (1) or  
21 subparagraph (A) of paragraph (2) shall be in an amount  
22 of not less than two thousand five hundred dollars  
23 (\$2,500).

24 (b) Injunctive relief shall be available to any consumer  
25 aggrieved by a violation or a threatened violation of this  
26 title whether or not the consumer seeks any other  
27 remedy under this section.

28 (c) Notwithstanding any other provision of this  
29 section, any person who willfully violates any  
30 requirement imposed under this title may be liable for  
31 punitive damages in the case of a class action, in an  
32 amount that the court may allow. In determining the



1 amount of award in any class action, the court shall  
2 consider among relevant factors the amount of any actual  
3 damages awarded, the frequency of the violations, the  
4 resources of the violator and the number of persons  
5 adversely affected.

6 (d) The prevailing plaintiffs in any action commenced  
7 under this section shall be entitled to recover court costs  
8 and reasonable attorney's fees. If the plaintiff only seeks  
9 and obtains injunctive relief to compel compliance with  
10 this title, court costs and attorney's fees shall be awarded  
11 pursuant to Section 1021.5 of the Code of Civil Procedure.

12 (e) *Nothing in this section is intended to affect*  
13 *remedies available under Section 128.5 of the Code of*  
14 *Civil Procedure.*

15 SEC. 2. Section 1785.35 of the Civil Code is amended  
16 to read:

17 1785.35. This title does not apply to any consumer  
18 credit report that by its terms is limited to disclosures  
19 from public records relating to land and land titles and  
20 does not apply to any person whose records and files are  
21 maintained for the primary purpose of reporting those  
22 portions of the public records that impart constructive  
23 notice under the law of matters relating to land and land  
24 titles.

