

Underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 309

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

MARK L. BOITANO

AN ACT

**RELATING TO CREDIT BUREAUS; REQUIRING CREDIT BUREAUS TO
IMPLEMENT CREDIT REPORT CORRECTIONS WITHIN A SPECIFIC TIME;
AUTHORIZING A CIVIL FINE FOR NONCOMPLIANCE; AMENDING SECTIONS
OF THE NMSA 1978.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 56-3-2 NMSA 1978 (being Laws 1969,
Chapter 259, Section 2, as amended) is amended to read:**

**"56-3-2. AVAILABILITY OF INFORMATION TO THE PUBLIC--
LIABILITY. --**

**A. Any credit bureau conducting business in the
state shall provide trained personnel to interview and counsel
with a consumer, during normal business hours, concerning any
information about that consumer contained in the credit
bureau's files.**

Underscored material = new
[bracketed material] = delete

1 B. A credit bureau, upon request, shall disclose
2 the content of all information about that particular consumer
3 [~~which~~] that is included in his credit report or rating if the
4 consumer making the request presents adequate identification.

5 C. For any consumer to whom credit has been
6 refused because of a credit bureau's report, the reporting
7 credit bureau [~~which compiled the report~~] shall make any
8 necessary re-investigation and perform any necessary updating
9 or correction of records at no cost to the consumer. A credit
10 bureau may charge a fee [~~of~~] not to exceed five dollars
11 (\$5.00) for any re-investigation requested by [~~any~~] a consumer
12 if that consumer has not been refused credit on the basis of a
13 credit bureau report.

14 D. After a credit bureau has been given written
15 notice of any error in its credit report or record by a
16 consumer, the credit bureau [~~is liable for any subsequent~~
17 ~~report which fails to correct the error~~] shall correct that
18 error within fifteen days of the written notice. However,
19 prior to receiving written notice of such error, a credit
20 bureau or its source of information is not liable for any
21 damages caused by any reports or dispersal of information
22 [~~which~~] that is the result of an unintentional error of either
23 the credit bureau or its source of information. A credit
24 bureau shall be subject to a fine in the amount of fifty
25 dollars (\$50.00) for each month after that fifteen-day period

Underscored material = new
[bracketed material] = delete

1 that the error is not corrected, as provided in Subsection B
2 of Section 56-3-7 NMSA 1978.

3 E. A credit bureau shall give to any consumer
4 examining his credit record forms upon which to designate any
5 errors [~~which~~] that the consumer discovers in his credit
6 record or report. "

7 Section 2. Section 56-3-7 NMSA 1978 (being Laws 1971,
8 Chapter 278, Section 2) is amended to read:

9 "56-3-7. CIVIL LIABILITY FOR NONCOMPLIANCE. --

10 A. Any credit bureau or user of information that
11 willfully fails to comply with any requirement of Sections
12 [~~50-18-1 through 50-18-6 NMSA 1953~~] 56-3-1 through 56-3-6 NMSA
13 1978 with respect to any consumer is liable to that consumer
14 in an amount equal to:

- 15 (1) any actual damages sustained by the
16 consumer as a result of the failure;
- 17 (2) punitive damages as the court may allow;
- 18 and
- 19 (3) in the case of any successful action
20 under this section, costs of the action and reasonable
21 [~~attorney's~~] attorney fees as determined by the court.

22 B. Any credit bureau or user of information [~~that~~
23 ~~is negligent in failing~~] who fails to comply with any
24 requirement of Sections [~~50-18-1 through 50-18-6 NMSA 1953~~]
25 56-3-1 through 56-3-6 NMSA 1978 with respect to any consumer

Underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

is liable to that consumer in an amount equal to:

(1) any actual damages sustained by the consumer as a result of the failure; [~~and~~]

(2) in the case of any successful action under this section, costs of the action and reasonable [~~attorney's~~] attorney fees as determined by the court; and

(3) a fine in the amount of fifty dollars (\$50.00) for each month after a credit bureau has received written notice of an error on a consumer's credit report, but has failed to correct that report. "

1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

3
4
5
6 February 4, 1998

7
8 Mr. President:

9
10 Your COMMITTEES' COMMITTEE, to whom has been referred

11
12 SENATE BILL 309

13
14 has had it under consideration and finds same to be GERMANE,
15 pursuant to Senate Executive Message No. 45, and thence referred to
16 the CORPORATIONS & TRANSPORTATION COMMITTEE.
17

18
19 Respectfully submitted,

20
21
22
23
24 _____
25 Manny M. Aragon, Chairman

Underscored material = new
~~[bracketed material] = delete~~

Adopted _____ Not Adopted _____

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

(Chief Clerk)

(Chief Clerk)

Date _____

S0309CC1

1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

3 SB 309/a

4
5
6 February 13, 1998

7
8
9 Mr. President:

10
11 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to whom
12 has been referred

13
14 SENATE BILL 309

15
16 has had it under consideration and reports same with recommendation
17 that it DO PASS, amended as follows:

18
19 1. On page 1, line 13, strike "AUTHORIZING A CIVIL FINE" and
20 insert in lieu thereof "INCREASING CIVIL LIABILITY".
21

22
23 2. On page 2, line 18, strike "fifteen" and insert in lieu
24 thereof "thirty".
25

. 121829. 1

Underscored material = new
[bracketed material] = delete

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

SCORC/SB 309

Page 8

3. On page 2, lines 23 through 25 and on page 3, lines 1 and 2, strike the underscored language.

4. On page 3, line 16, before the semicolon insert "or damages of not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000)".

5. On page 3, line 18, strike "and".

6. On page 3, line 21, strike the period and insert in lieu thereof "; and" and between lines 21 and 22, insert the following new paragraph:

"(4) for obtaining a consumer report under false pretenses or knowingly without a permissible purpose, any actual damages sustained by the consumer as a result of the failure, or one thousand dollars (\$1,000), whichever is greater."

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

SCORC/SB 309

Page 9

7. On page 3, between lines 21 and 22, insert the following new subsections:

"B. Any user of information who obtains a consumer report from a credit bureau under false pretenses or knowingly without a permissible purpose shall be liable to the credit bureau for actual damages sustained by the credit bureau or one thousand dollars (\$1,000), whichever is greater.

C. Upon a finding by the court that an unsuccessful action was filed in bad faith or for purposes of harassment, the court shall award to the prevailing party attorney fees reasonable in relation to the work expended. "

8. Reletter the succeeding subsection accordingly.

9. On page 3, line 22 and 23, remove the brackets and line-through and strike the underscored language.

10. On page 4, line 3, remove the brackets and line-through.

. 121829. 1

Underscored material = new
[bracketed material] = delete

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

SCORC/SB 309

Page 10

11. On page 4, line 6, strike "; and" and insert in lieu thereof
a period and strike lines 7 through 10.

12. On page 4, between lines 10 and 11, insert the following new
subsection:

"E. Upon a finding by the court that an unsuccessful action
was filed in bad faith or for purposes of harassment, the court shall
award to the prevailing party attorney fees reasonable in relation to
the work expended. ""

and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

SCORC/SB 309

Page 11

Roman M. Maes, III, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Kidd, Robinson, Wilson, Maloof

Absent: None

S0309CT1

. 123209. 2

. 121829. 1

Underscored material = new
[bracketed material] = delete

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

SCORC/SB 309

Page 12

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

February 16, 1998

Mr. President:

Your JUDICIARY COMMITTEE, to whom has been referred

SENATE BILL 309, as amended

has had it under consideration and reports same with recommendation
that it DO PASS.

Respectfully submitted,

. 121829. 1

Underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

SCORC/SB 309

Page 13

Fernando R. Macias, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Sanchez

Absent: None

. 121829. 1

Underscored material = new
[bracketed material] = delete

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SCORC/SB 309

Page 14

S0309JU1

Underscored material = new
~~[bracketed material]~~ = delete

. 121829. 1

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

SCORC/SB 309

Page 15

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

February 16, 1998

Mr. President:

Your JUDICIARY COMMITTEE, to whom has been referred

SENATE BILL 309, as amended

has had it under consideration and reports same with recommendation
that it DO PASS.

Respectfully submitted,

. 121829. 1

Underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

SCORC/SB 309

Page 16

Fernando R. Macias, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Sanchez

Absent: None

. 121829. 1

Underscored material = new
[bracketed material] = delete

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SCORC/SB 309

Page 17

S0309JU1

Underscored material = new
~~[bracketed material]~~ = delete

. 121829. 1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FORTY-THIRD LEGISLATURE

SECOND SESSION

February 17, 1998

SENATE FLOOR AMENDMENT number _____ to SENATE BILL 309, as amended

Amendment sponsored by Senator Mark L. Boitano

1. Strike Senate Corporations and Transportation Committee

Amendment 2.

2. On page 2, lines 17 and 18, strike the underscored language and insert in lieu thereof:

"shall, after reinvestigation of information disputed by the consumer, delete or modify an item from the consumer's file that is inaccurate, incomplete or cannot be verified no more than thirty days from the date the credit bureau received notice from the consumer of the dispute. The credit bureau shall provide the consumer with written notice of the results of the reinvestigation no more than

. 123458. 3

Underscored material = new
[bracketed material] = delete

FORTY-THIRD LEGISLATURE
SECOND SESSION

SF1/SB 309, aa

Page 19

five business days after the reinvestigation has been completed."

Mark L. Boitano

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

123458. 3

Underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25