

CS for SB 1035

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  
26  
27  
28

**THE STATE SENATE**  
**Monday, February 28, 2000**

**Committee Substitute for**  
**Senate Bill No. 1035**

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1035 - By: RABON of the Senate and ERWIN of the House.

An Act relating to consumer credit; amending 24 O.S. 1991, Section 83, which relates to prohibited acts and penalties; requiring certain statement to be provided before execution of contract or agreement for consumer credit sale or before receipt of consideration by seller; requiring statement to be kept on file for certain period; specifying contents of statement; allowing person disputing credit information to bring certain action; prohibiting reporting of certain information; providing for certain court orders; providing that person may be subject to certain provisions; providing penalty; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-314 of Title 14A, unless there is created a duplication in numbering, reads as follows:

(1) Before the execution of a contract or agreement for a consumer credit sale or before the receipt by the seller of any money or other valuable consideration, whichever occurs first, the seller shall provide the buyer with a statement in writing containing all the information required in this section. The seller shall maintain on file for a period of two (2) years an exact copy

1 of the statement, personally signed by the buyer, acknowledging  
2 receipt of a copy of the statement.

3 (2) The information statement required by this section shall be  
4 printed in at least ten-point type and shall include:

5 (a) The following statements concerning consumer credit reports  
6 and consumer credit agencies:

7 "RIGHTS UNDER OKLAHOMA AND FEDERAL LAW"

8 1. You have a right to obtain a copy of your credit report  
9 from a credit bureau for a small fee.

10 2. You have a right to dispute inaccurate information by  
11 contacting the credit bureau directly. However, you have no right to  
12 have accurate information removed from your credit bureau report.

13 3. Under the federal "Fair Credit Reporting Act", the credit  
14 bureau must remove accurate negative information from your report  
15 only if it is over seven (7) years old. Bankruptcy can be reported  
16 for ten (10) years. Even when a debt has been completely repaid,  
17 your report can show that it was paid late if that is accurate.

18 4. The Uniform Consumer Credit Code also gives you a right to  
19 cancel a contract for a home solicitation sale for any reason within  
20 three (3) working days from the date you sign it.

21 5. The Federal Trade Commission enforces the federal "Fair  
22 Credit Reporting Act". For more information, call or write the  
23 regional office of the Federal Trade Commission.

1           6. The Administrator of the Department of Consumer Credit  
2 enforces the Uniform Consumer Credit Code. For more information,  
3 call or write the Administrator."

4           (b) A complete and detailed description of the services to be  
5 performed by the seller for the buyer and the total amount the buyer  
6 will have to pay, or become obligated to pay, for the services;

7           (c) A statement of the buyer's right to proceed against any  
8 bond required under the Uniform Consumer Credit Code in the event of  
9 any violation of the Uniform Consumer Credit Code;

10          (d) The name and address of the surety company that issued the  
11 bond; and

12          (e) Such information as may be required by the Administrator.

13          SECTION 2.           NEW LAW           A new section of law to be codified  
14 in the Oklahoma Statutes as Section 87 of Title 24, unless there is  
15 created a duplication in numbering, reads as follows:

16           If a person disputes any information contained in the files of a  
17 consumer reporting agency or credit bureau relating to the person,  
18 and the consumer reporting agency or credit bureau fails or refuses  
19 to remove such information within a reasonable time after receiving  
20 a written request from the person to do so, the person may bring an  
21 action in district court. Upon the filing of such an action, the  
22 information shall not be reported by the agency or bureau unless the  
23 agency or bureau can demonstrate, to the satisfaction of the

1 district court, that the information is accurate. If the person  
2 prevails in such action, the court shall order the information to be  
3 permanently removed. The court may enter an order awarding costs  
4 and attorney fees to the prevailing party. Any person bringing an  
5 action pursuant to the provisions of this section with respect to  
6 information that is determined to be accurate may be subject to the  
7 provisions of Section 83 of Title 24 of the Oklahoma Statutes.

8 SECTION 3. AMENDATORY 24 O.S. 1991, Section 83, is  
9 amended to read as follows:

10 Section 83. A. Any person, firm or corporation who knowingly  
11 and willfully introduces, attempts to introduce or causes to be  
12 introduced false information into the files of a consumer reporting  
13 agency or credit bureau for the purpose of wrongfully damaging or  
14 wrongfully enhancing the credit information of any individual, shall  
15 be guilty of a misdemeanor and upon conviction shall be punished by  
16 imprisonment in the county jail for not more than one (1) year or by  
17 a fine of not more than Five Thousand Dollars (\$5,000.00), or by  
18 both such fine and imprisonment. Any person who knowingly and  
19 willfully disputes accurate information contained in the files of a  
20 consumer reporting agency or credit bureau for the purpose of  
21 causing such information not to be reported pursuant to the  
22 provisions of Section 2 of this act shall be guilty of a misdemeanor  
23 and upon conviction shall be punished by imprisonment in the county

1 jail for not more than one (1) year or by a fine of not more than  
2 Five Thousand Dollars (\$5,000.00), or by both such fine and  
3 imprisonment.

4 B. Any person, firm or corporation who knowingly promulgates or  
5 publishes a false opinion or statement in any book or list as to the  
6 credit or financial standing of any person, and circulates such book  
7 or list among wholesale or retail business concerns, shall be liable  
8 in damages to the person about whom the false opinion or statement  
9 is made, for the full amount of injury sustained, and in addition  
10 thereto for exemplary damages in any sum to be fixed by the jury,  
11 and shall also be guilty of a misdemeanor and upon conviction shall  
12 be punished by imprisonment in the county jail for not more than one  
13 (1) year or by a fine of not more than Five Thousand Dollars  
14 (\$5,000.00), or by both such fine and imprisonment.

15 SECTION 4. This act shall become effective November 1, 2000.

16 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-22-00 - DO PASS,  
17 As Amended and Coauthored.