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DIVISION 3. OBLIGATIONS [1427 - 3273.69] (*Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.*)

PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS [1738 - 3273.69] (*Part 4 enacted 1872.*)

TITLE 1.6. CONSUMER CREDIT REPORTING AGENCIES ACT [1785.1 - 1785.36] (*Title 1.6 repealed and added by Stats. 1975, Ch. 1271.*)

CHAPTER 4. Remedies [1785.30 - 1785.36] (*Chapter 4 added by Stats. 1975, Ch. 1271.*)

1785.30. Upon notification of the results of a consumer credit reporting agency's reinvestigation pursuant to Section 1785.16, a consumer may make a written demand on any person furnishing information to the consumer credit reporting agency to correct any information that the consumer believes to be inaccurate. The person upon whom the written demand is made shall acknowledge the demand within 30 days. The consumer may require the consumer credit reporting agency to indicate on any subsequent reports issued during the dispute that the item or items of information are in dispute. If upon investigation the information is found to be inaccurate or incorrect, the consumer may require the consumer credit reporting agency to delete or correct the item or items of information within a reasonable time. If within 90 days the consumer credit reporting agency does not receive any information from the person requested to furnish the same or any communication relative to this information from this person, the consumer credit reporting agency shall delete the information from the report.

(Amended by Stats. 2004, Ch. 183, Sec. 31. Effective January 1, 2005.)

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

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

(2) In the case of a willful violation:

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

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

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

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

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

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

(d) Except as provided in subdivision (e), the prevailing plaintiffs in any action commenced under this section shall be entitled to recover court costs and reasonable attorney's fees.

(e) If a plaintiff brings an action pursuant to this section against a debt collector, as defined in subdivision (c) of Section 1788.2, and the basis for the action is related to the collection of a debt, whether issues relating to the debt collection are raised in the same or another proceeding, the debt collector shall be entitled to recover reasonable attorney's fees upon a finding by the court that the action was not brought in good faith.

(f) If a plaintiff only seeks and obtains injunctive relief to compel compliance with this title, court costs and attorney's fees shall be awarded pursuant to Section 1021.5 of the Code of Civil Procedure.

(g) Nothing in this section is intended to affect remedies available under Section 128.5 of the Code of Civil Procedure.

(Amended by Stats. 1999, Ch. 836, Sec. 1. Effective January 1, 2000.)

1785.32. Except as provided in Section 1785.31, no consumer may bring any action or proceeding in the nature of defamation, invasion of privacy or negligence with respect to the reporting of information against any consumer reporting agency, any user of information, or any person who furnishes information to a consumer reporting agency, based on information disclosed pursuant to Section 1785.10, 1785.15 or 1785.20 of this title, except as to false information furnished with malice or willful intent to injure such consumer.

(Added by renumbering Section 1785.31 by Stats. 1976, Ch. 666.)

1785.33. An action to enforce any liability created under this chapter may be brought in any appropriate court of competent jurisdiction within two years from the date the plaintiff knew of, or should have known of, the violation of this title, but not more than seven years from the earliest date on which liability could have arisen, except that where a defendant has materially and willfully misrepresented any information required under this chapter to be disclosed to a consumer and the information so misrepresented is material to the establishment of the defendant's liability to the consumer under this chapter, the action may be brought at any time within two years after the discovery by the consumer of the misrepresentation.

(Amended by Stats. 1997, Ch. 768, Sec. 5. Effective January 1, 1998. Operative July 1, 1998, by Sec. 7 of Ch. 768.)

1785.34. (a) Any consumer credit reporting agency or user of information against whom an action brought pursuant to Section 1681n or 1681o of Title 15 of the United States Code is pending shall not be subject to suit for the same act or omission under Section 1785.31.

(b) The entry of a final judgment against a consumer credit reporting agency or user of information in an action brought pursuant to the provisions of Section 1681n or 1681o of Title 15 of the United States Code shall be a bar to the maintenance of any action based on the same act or omission which might be brought under this chapter.

(Added by renumbering Section 1785.33 by Stats. 1976, Ch. 666.)

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

(Amended by Stats. 1999, Ch. 836, Sec. 2. Effective January 1, 2000.)

1785.36. Any waiver of the provisions of this title is contrary to public policy, and is void and unenforceable.

(Added by Stats. 2002, Ch. 815, Sec. 8. Effective January 1, 2003.)