

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Chapter 38 of Title 28 of the District of Columbia Official Code to require credit reporting agencies to accept a personal statement from a consumer indicating the consumer experienced financial hardship resulting from a public health emergency, to prohibit users of credit reports from taking into consideration adverse information in a report that was the result of the consumer’s action or inaction that occurred during the public health emergency, to require credit reporting agencies to notify residents of the right to request a personal statement, and to provide for a civil action for violations of these requirements.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Public Health Emergency Credit Alert Amendment Act of 2023”.

Sec. 2. Chapter 38 of Title 28 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new subchapter designation to read as follows:

“Subchapter IV. Public Health Emergency Credit Alert.
“28-3871. Public health emergency credit alert.”.

(b) Section 28-3861(2) is amended to read as follows:

“(2) “Credit report” means any written, oral, or other communication of any information by a credit reporting agency bearing on a consumer’s creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer’s eligibility for:

“(A) Credit or insurance to be used primarily for person, family, or household purposes;

“(B) Employment purposes; or

“(C) Any other purpose authorized under the Fair Credit Reporting Act, approved October 26, 1970 (84 Stat. 1127; 15 U.S.C. § 1681 *et seq.*).”.

(c) A new subchapter IV is added to read as follows:

“Subchapter IV. Public Health Emergency Credit Alert.

“§ 28-3871. Public health emergency credit alert.

“(a)(1) If a consumer reports in good faith that the consumer has experienced financial hardship resulting directly or indirectly from a public health emergency declared pursuant to § 7-2304.01, a credit reporting agency maintaining a file on the consumer shall accept and include in that file a personal statement furnished by the consumer indicating that the consumer has been financially impacted by the public health emergency.

“(2) A credit reporting agency shall provide that personal statement, along with any credit report provided by the agency, beginning on the date the credit reporting agency receives the personal statement, unless the consumer requests that the personal statement be removed.

“(b) This section shall not apply to a federal credit union, as defined by 12 U.S.C. § 1752(1), a national bank, as defined by 12 U.S.C. § 25b(a)(1), or a federal savings association, as defined by 12 U.S.C. § 1462(3); except, that an exception granted by this subsection shall not apply to any entity to which the savings clause at 12 U.S.C. § 25b(b)(2) applies.

“(c)(1) No user of a credit report shall consider adverse information in a report that was the result of an action or inaction of a consumer that occurred during, and was directly or indirectly the result of, a public health emergency declared pursuant to § 7-2304.01, if:

(A) The credit report includes a personal statement pursuant to subsection (a) of this section; or

(B) The consumer provides a written statement to the user of a credit report that indicates in good faith that the consumer has experienced financial hardship resulting directly or indirectly from the public health emergency declared pursuant to § 7-2304.01, before the user of the credit report makes a determination.

“(2) If the consumer receives a denial or rejection by the user of a credit report due to adverse information that was the result of an action or inaction of a consumer that occurred during, and was directly or indirectly the result of, the public health emergency declared pursuant to § 7-2304.01, the user must inform the consumer of the consumer’s right to provide a written statement pursuant to paragraph (1) of this subsection.

“(d) When a District resident requests a copy of a credit report pursuant to 15 U.S.C. § 1681j, the entity providing the credit report must notify the resident of the right to request that a personal statement accompany the credit report as set forth in subsection (a) of this section.

“(e) If a credit reporting agency willfully fails to comply with any requirement imposed under this section, the affected consumer may bring a civil action against the agency in the Superior Court for the District of Columbia to recover:

“(1) Any actual damages sustained by the consumer as a result of the failure or damages of not less than \$100 and not more than \$1,000;

“(2) Such amount of punitive damages as the court may allow; and

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“(3) In the case of any successful action brought under this subsection, the costs of the action together with reasonable attorney’s fees as determined by the court.

“(f)(1) The Attorney General may petition the Superior Court of the District of Columbia to obtain temporary or permanent injunctive relief prohibiting the use of a method, practice, or act that violates this section and requiring the violator to take affirmative action, including the restitution of money.

“(2) In addition, in an action under this subsection, the Attorney General may recover:

“(A) A civil penalty not to exceed \$1,000 for each violation of this section; and

“(B) Reasonable attorney’s fees and costs of the action.

“(g) The following terms shall have the same meaning as set forth in § 28-3861:

“(1) Consumer;

“(2) Credit report; and

“(3) Credit reporting agency.

“(h) This section shall not be construed in a manner inconsistent with the Fair Credit Reporting Act, approved October 26, 1970 (84 Stat. 1127; 15 U.S.C. § 1681 *et seq.*), or any other federal law or regulation.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in sections 602(c)(1) of the District of Columbia Home Rule Act, approved December

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24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia