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Credit Reports Updated in 30 Days Meet Reasonable Standard

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Legislative history indicative of uniformity of regulations

The legislative history of title 25, section 2011 of the Maine Code supports the conclusion that the legislature intended to preempt the regulation of firearms by the PHA. The principle thrust of the legislation is to make Maine's firearm laws uniform for all Maine citizens. Title 25, section 2011 of the Maine Code was passed on the heels of a Maine constitutional amendment changing Maine's constitutional right to bear arms from a collective to an individual right. The statute was enacted to reinforce the amendment and ensure uniformity in the regulation of guns for all Maine citizens. Therefore, the legislative history is consistent with title 25, section 2011 of the Maine Code's expressed intent to occupy and preempt the entire field of legislation concerning the regulation of firearms.

Although two exceptions to title 25, section 2011 of the Maine Code exist, the PHA does not qualify for either one. The first upholds municipal ordinances if they conform exactly with state law or only concern the

discharge of firearms. The second permits law enforcement agencies to regulate the type or use of firearms issued to its employees. Furthermore, there is no indication that the PHA lease provision should be exempted. The legislature even rejected the possibility of exempting municipalities of over 15,000 from the ordinance.

The PHA also claimed that by enacting the United States Housing Act, Congress intended to override any preemption under state law. Under the Housing Act, federal law gives housing authorities management responsibilities over their projects. The Maine Supreme Court, however, rejected this argument because title 25, section 2011 of the Maine Code does not conflict with federal law.

Therefore, the PHA lease provision is contrary to the legislature's intent to ensure the equal treatment of all Maine citizens concerning firearm regulations. Because the PHA had broad powers consistent with its mission of carrying out public and essential functions, it qualified as a political subdivision. Therefore, the court held state law preempted the PHA lease provision and was unenforceable.

Credit reports updated in 30 days meet reasonable standard

by Melissa Jerves

In *Elliott v. TRW, Inc.*, 889 F. Supp. 960 (N.D. Tex. 1995), the United States District Court for the Northern District of Texas held that a credit reporting agency acted reasonably under the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. §1681, when it deleted an outstanding judgment from a credit report within 24 days of receiving notice that the judgment had been paid.

On May 13, 1988, a \$200 judgment was entered against the plaintiff, Gary Elliott ("Elliott"), for failure to pay rent. Elliott satisfied the judgment on June 20, 1991, and immediately gave TRW, Inc. ("TRW"), a credit reporting agency, a copy of the release of judgment so that TRW could update his credit report. TRW

requested that Elliott obtain a statement verifying his payment because the date on the release of judgment was unclear. On July 8, 1991, Elliott provided TRW with a letter confirming that he had paid the judgment. TRW claimed that it requested that the judgment be deleted from Elliott's credit report on July 31, 1991; on August 1, 1991, the report was updated. Elliott alleged that TRW acted unreasonably in the length of time it took TRW to delete the judgment from his credit report and that as a result, three creditors denied him credit. He also claimed that there was a genuine issue of fact for trial regarding the accuracy of the information on his credit report about the judgment after June 20, 1991.

Agency has 30 days to update inaccuracies

The court found that TRW did not act unreasonably in updating Elliott's credit report 24 days from the date it received adequate notice that the judgment had been paid. According to the FCRA, if a consumer brings a dispute about the accuracy of his credit report directly to the credit reporting agency, the agency must reinvestigate and record the current status of the information within a reasonable time. 15 U.S.C. § 1681i. The court specifically relied on its previous holding that "if the credit reporting agency can determine the nature of the dispute in good faith, the agency should complete its reinvestigation and delete the disputed item from the credit report within 30 days of receipt of the consumer's dispute." *FTC v. TRW, Inc.*, 784 F. Supp. 361, 363 (N.D. Tex. 1991).

The standard of conduct for a consumer reporting agency's procedures is what a reasonably prudent person would do under the circumstances. *Thompson v. San Antonio Retail Merchants Assn.*, 682 F.2d 509, 513 (5th Cir. 1982). The alleged inaccuracy in the credit report must be proved before making an inquiry into the reasonableness of the reporting procedures. *Cahlin v. General Motors Acceptance Corp.*, 936 F.2d 1151, 1156 (11th Cir. 1991). In this case, the court found that the report was accurate as of June 20, 1991, and that TRW's request for confirmation of the payment

was reasonable because the date was unclear on the first document. Therefore, Elliott provided TRW with adequate notice of the release of judgment as of July 8, 1991, and TRW had 30 days from that date to correct the report.

Inaccurate report did not cause credit denial

Finally, the court noted that of the three creditors who allegedly denied Elliott credit as a result of the inaccurate credit report, only one, Red Oak State Bank ("Red Oak"), actually inquired about Elliott's credit during the 24-day period in question. One creditor requested Elliott's credit report before his judgment was satisfied, and the other creditor asked for Elliott's credit history after TRW had updated the report. Red Oak's inquiry occurred only 15 days after Elliott provided adequate notice to TRW that he had satisfied the judgment. The court also noted that Red Oak cited insufficient value of Elliott's collateral in addition to the outstanding judgment as reasons for denying him credit.

As a result, the court granted TRW's motion for summary judgment with respect to all Elliott's claims. The district court held that TRW met the reasonableness standard of the FCRA in updating an inaccurate credit report within 30 days of the consumer providing adequate notice of the inaccuracy.