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H. R. 2622

IN THE SENATE OF THE UNITED STATES

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Received; read twice and referred to the Committee on Banking, Housing, and
Urban Affairs

AN ACT

To amend the Fair Credit Reporting Act, to prevent identity theft, improve resolution of consumer disputes, improve the accuracy of consumer records, make improvements in the use of, and consumer access to, credit information, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Fair and Accurate Credit Transactions Act of 2003”.

6 (b) TABLE OF CONTENTS.—The table of contents for
 7 this Act are as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Effective dates.

TITLE I—UNIFORM NATIONAL CONSUMER PROTECTION
STANDARDS

- Sec. 101. Uniform national consumer protection standards made permanent.

TITLE II—IDENTITY THEFT PREVENTION

- Sec. 201. Investigating changes of address and inactive accounts.
- Sec. 202. Fraud alerts.
- Sec. 203. Truncation of credit card and debit card account numbers.
- Sec. 204. Summary of rights of identity theft victims.
- Sec. 205. Blocking of information resulting from identity theft.
- Sec. 206. Establishment of procedures for depository institutions to identify
possible instances of identity theft.
- Sec. 207. Study on the use of technology to combat identity theft.

TITLE III—IMPROVING RESOLUTION OF CONSUMER DISPUTES

- Sec. 301. Coordination of consumer complaint investigations.
- Sec. 302. Notice of dispute through reseller.
- Sec. 303. Reasonable investigation required.
- Sec. 304. Duties of furnishers of information.
- Sec. 305. Prompt investigation of disputed consumer information.

TITLE IV—IMPROVING ACCURACY OF CONSUMER RECORDS

- Sec. 401. Reconciling addresses.
- Sec. 402. Prevention of repollution of consumer reports.
- Sec. 403. Notice by users with respect to fraudulent information.
- Sec. 404. Disclosure to consumers of contact information for users and fur-
nishers of information in consumer reports.
- Sec. 405. FTC study of the accuracy of consumer reports.

TITLE V—IMPROVEMENTS IN USE OF AND CONSUMER ACCESS
TO CREDIT INFORMATION

- Sec. 501. Free reports annually.
- Sec. 502. Disclosure of credit scores.

- Sec. 503. Simpler and easier method for consumers to use notification system.
- Sec. 504. Requirement to disclose communications to a consumer reporting agency.
- Sec. 505. Study of effects of credit scores and credit-based insurance scores on availability and affordability of financial products.
- Sec. 506. GAO study on disparate impact of credit system.
- Sec. 507. Analysis of further restrictions on offers of credit or insurance.
- Sec. 508. Study on the need and the means for improving financial literacy among consumers.
- Sec. 509. Disclosure of increase in APR under certain circumstances.

TITLE VI—PROTECTING EMPLOYEE MISCONDUCT INVESTIGATIONS

- Sec. 601. Certain employee investigation communications excluded from definition of consumer report.

TITLE VII—LIMITING THE USE AND SHARING OF MEDICAL INFORMATION IN THE FINANCIAL SYSTEM

- Sec. 701. Protection of medical information in the financial system.
- Sec. 702. Confidentiality of medical information in credit reports.

1 **SEC. 2. DEFINITIONS.**

2 Section 603 of the Fair Credit Reporting Act (15
3 U.S.C. 1681a) is amended by adding at the end the fol-
4 lowing new subsections:

5 “(r) RESELLER.—The term ‘reseller’ means a con-
6 sumer reporting agency that—

7 “(1) assembles and merges information con-
8 tained in the database of another consumer report-
9 ing agency or multiple consumer reporting agencies
10 concerning any consumer for purposes of furnishing
11 such information to any third party, to the extent of
12 such activities; and

13 “(2) does not maintain a database of the as-
14 sembled or merged information from which new con-
15 sumer reports are produced.

1 “(s) OTHER DEFINITIONS.—

2 “(1) BOARD; CREDIT; CREDITOR; CREDIT
3 CARD.—The terms ‘Board’, ‘credit’, ‘creditor’, and
4 ‘credit card’ have the same meanings as in section
5 103 of the Truth in Lending Act.

6 “(2) COMMISSION.—The term ‘Commission’
7 means the Federal Trade Commission.

8 “(3) DEBIT CARD.—The term ‘debit card’
9 means any card issued by a financial institution to
10 a consumer for use in initiating electronic fund
11 transfers (as defined in section 903(6) of the Elec-
12 tronic Fund Transfer Act) from the account (as de-
13 fined in such Act) of the consumer at such financial
14 institution for the purpose of transferring money be-
15 tween accounts or obtaining money, property, labor,
16 or services.

17 “(4) ELECTRONIC FUND TRANSFER.—The term
18 ‘electronic fund transfer’ has the same meaning as
19 in section 903 of the Electronic Fund Transfer Act.

20 “(5) FEDERAL BANKING AGENCY.—The term
21 ‘Federal banking agency’ has the same meaning as
22 in section 3 of the Federal Deposit Insurance Act.

23 “(6) IDENTITY THEFT.—The term ‘identity
24 theft’ means a fraud committed using another per-
25 son’s identifying information, subject to such further

1 definition as the Commission and the Board may
2 prescribe, jointly, by regulation.

3 “(7) POLICE REPORT.—The term ‘police report’
4 means a copy of any official valid report filed by a
5 consumer with any appropriate Federal, State, or
6 local government law enforcement agency, or any
7 comparable official government document that the
8 Board and the Commission shall jointly prescribe in
9 regulations, that is subject to a criminal penalty for
10 false statements.”.

11 **SEC. 3. EFFECTIVE DATES.**

12 (a) IN GENERAL.—Except as provided in subsections
13 (b) and (c)—

14 (1) before the end of the 2-month period begin-
15 ning on the date of the enactment of this Act, the
16 Board of Governors of the Federal Reserve System
17 and the Federal Trade Commission shall jointly pre-
18 scribe regulations in final form establishing effective
19 dates for each provision of this Act (except as other-
20 wise specified); and

21 (2) the regulations prescribed under paragraph
22 (1) shall establish effective dates that are as early
23 as possible while allowing a reasonable time for the
24 implementation of the provisions of this Act, but in
25 no case shall the effective date be later than 10

1 months after the date of issuance of such regula-
2 tions in final form.

3 (b) IMMEDIATE EFFECTIVE DATE.—The following
4 provisions shall take effect on the date of the enactment
5 of this Act:

6 (1) Title I.

7 (2) Section 201.

8 (3) Section 609(d)(1) of the Fair Credit Re-
9 porting Act (as added by the amendment in section
10 204(a)).

11 (4) Section 305.

12 (5) Section 505.

13 (6) Section 506.

14 (7) Title VI.

15 (c) EFFECTIVE DATE FOR PROTECTION OF MEDICAL
16 INFORMATION IN THE FINANCIAL SYSTEM.—Section 701
17 shall take effect at the end of the 180-day period begin-
18 ning on the date of the enactment of this Act, except that
19 paragraph (2) of section 604(g) of the Fair Credit Report-
20 ing Act (as added by section 701) shall take effect on the
21 later of—

22 (1) the end of the 90-day period beginning on
23 the date the regulations required under paragraph
24 (5)(B) of such section 604(g) (as added by section
25 701) are prescribed in final form; or

1 (2) the date specified in the regulations referred
2 to in paragraph (1).

3 (d) CRITERIA FOR ORDERLY IMPLEMENTATION OF
4 FREE ANNUAL CREDIT REPORT PROVISION.—

5 (1) IN GENERAL.—In developing the regula-
6 tions and effective dates under subsection (a) (and
7 subject to the time limits in paragraph (2) and sub-
8 section (a)), the Federal Trade Commission and the
9 Board of Governors of the Federal Reserve System
10 shall provide a systematic approach for imple-
11 menting the amendment made by section 501 that
12 allows for an orderly transition to the consumer re-
13 port distribution system required by the amendment
14 in a manner that—

15 (A) does not temporarily overwhelm con-
16 sumer reporting agencies with requests for dis-
17 closures of consumer reports beyond their ca-
18 pacity to deliver; and

19 (B) does not deny creditors, other users,
20 and consumers access to consumer credit re-
21 ports on a time-sensitive basis for specific pur-
22 poses, such as home purchases or suspicions of
23 identity theft, during the transition period.

24 (2) PROHIBITION ON EXTENSION OF EFFEC-
25 TIVE DATE.—

1 (A) ONE-TIME AUTHORIZATION.—The
 2 Federal Trade Commission and the Board of
 3 Governors of the Federal Reserve System may
 4 exercise the authority provided under paragraph
 5 (1) only once during the 2-month period re-
 6 ferred to in subsection (a)(1).

7 (B) EXTENSION OF EFFECTIVE DATE PRO-
 8 HIBITED.—No provision of this subsection shall
 9 be construed as extending, or authorizing the
 10 Federal Trade Commission or the Board of
 11 Governors of the Federal Reserve System to ex-
 12 tend, the 2-month period referred to in sub-
 13 section (a)(1) or the 10-month period referred
 14 to in subsection (a)(2) relating to the require-
 15 ments imposed on consumer reporting agencies
 16 by the amendment made by section 501.

17 **TITLE I—UNIFORM NATIONAL**
 18 **CONSUMER PROTECTION**
 19 **STANDARDS**

20 **SEC. 101. UNIFORM NATIONAL CONSUMER PROTECTION**
 21 **STANDARDS MADE PERMANENT.**

22 Section 624(d) of the Fair Credit Reporting Act (15
 23 U.S.C. 1681t(d)) is amended—

24 (1) by striking “Subsections (b) and (c)” and
 25 all that follows through “do not affect any settle-

ment,” and inserting “Subsections (b) and (c) do not affect any settlement,”; and

(2) by striking “Consumer Credit Reporting Reform Act of 1996” and all that follows through the period at the end of paragraph (2) and inserting “Consumer Credit Reporting Reform Act of 1996.”.

TITLE II—IDENTITY THEFT PREVENTION

SEC. 201. INVESTIGATING CHANGES OF ADDRESS AND IN- ACTIVE ACCOUNTS.

(a) IN GENERAL.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended by inserting after subsection (f), the following new subsection:

“(g) ‘RED FLAG’ PATTERNS OF POSSIBLE IDENTITY THEFT.—

“(1) INVESTIGATION OF CHANGES OF ADDRESS.—The Federal banking agencies and the National Credit Union Administration, in carrying out the responsibilities of such agencies and Administration under subsection (k), shall jointly prescribe regulations for credit card and debit card issuers to ensure that, if any such issuer receives a request for an additional or replacement card for an existing account within a short period of time after the issuer has received notification of a change of address for

1 the same account, the issuer will follow reasonable
2 policies and procedures that require, as appropriate,
3 that the issuer not issue the additional or replace-
4 ment card unless the issuer—

5 “(A) notifies the cardholder of the request
6 at the former address of the cardholder and
7 provides to the cardholder a means of promptly
8 reporting incorrect address changes;

9 “(B) notifies the cardholder of the request
10 by such other means of communication as the
11 cardholder and the card issuer previously
12 agreed to; or

13 “(C) uses other means of assessing the va-
14 lidity of the change of address, in accordance
15 with reasonable policies and procedures estab-
16 lished by the card issuer in accordance with the
17 regulations prescribed under subsection (k).

18 “(2) INACTIVE ACCOUNTS.—The Federal bank-
19 ing agencies and the National Credit Union Admin-
20 istration, in carrying out the responsibilities of such
21 agencies and Administration under subsection (k),
22 shall consider including, as a possible ‘red flag’ pat-
23 tern, reasonable guidelines providing that when a
24 transaction occurs with respect to a credit or deposit
25 account that has been inactive for more than 2

1 years, the creditor or depository institution shall fol-
 2 low reasonable policies and procedures that provide
 3 for notice to be given to a consumer in a manner
 4 reasonably designed to reduce the likelihood of iden-
 5 tity theft with respect to such account.”.

6 (b) CLERICAL AMENDMENTS.—

7 (1) The heading for section 605 of the Fair
 8 Credit Reporting Act is amended to read as follows:

9 **“§ 605. Requirements relating to information con-**
 10 **tained in consumer reports and to iden-**
 11 **tity theft prevention”.**

12 (2) The table of sections for title VI of the Con-
 13 sumer Credit Protection Act is amended by striking
 14 the item relating to section 605 and inserting the
 15 following new item:

“605. Requirements relating to information contained in consumer reports and
 to identity theft prevention.”.

16 (3) Section 624(b)(1)(E) of the Fair Credit Re-
 17 porting Act (15 U.S.C. 1681t(b)(1)(E)) is amended
 18 by inserting “(and to specific identity theft preven-
 19 tion subjects covered)” after “consumer reports”.

20 **SEC. 202. FRAUD ALERTS.**

21 Section 605 of the Fair Credit Reporting Act (15
 22 U.S.C. 1681c) is amended by adding at the end the fol-
 23 lowing new subsection:

24 “(i) ONE-CALL FRAUD ALERTS.—

1 “(1) INITIAL ALERTS.—Upon the direct request
2 of a consumer, or an individual acting on behalf of
3 or as a personal representative of a consumer, who
4 asserts, in good faith, a suspicion that the consumer
5 has been or is about to become a victim of fraud or
6 related crime, including identity theft, a consumer
7 reporting agency described in section 603(p) shall, if
8 the agency maintains a file on the consumer who is
9 making the request and has a reasonable belief that
10 the agency knows the identity of the consumer—

11 “(A) include a fraud alert in the file of
12 that consumer for a period of not less than 90
13 days beginning on the date of such request, un-
14 less the consumer specifically requests that such
15 fraud alert be removed before the end of such
16 period;

17 “(B) disclose to the consumer that the con-
18 sumer may request a free copy of the file of the
19 consumer and provide the consumer, upon re-
20 quest, a free disclosure of the consumer’s file
21 (as described in section 609(a)) within 3 busi-
22 ness days after such request;

23 “(C) for 2 years after the date of such re-
24 quest, exclude the consumer from any list of
25 consumers prepared by the agency and provided

1 to any third party to offer credit or insurance
2 to the consumer as part of a transaction that
3 was not initiated by the consumer, unless the
4 consumer subsequently requests that such ex-
5 clusion be rescinded before the end of such pe-
6 riod; and

7 “(D) refer the information regarding the
8 fraud alert to each of the other consumer re-
9 porting agencies described in section 603(p), as
10 required under section 621(f)(1).

11 “(2) EXTENDED ALERTS.—Upon the direct re-
12 quest of a consumer, or an individual acting on be-
13 half of or as a personal representative of a con-
14 sumer, who contacts a consumer reporting agency
15 described in section 603(p) to report details of an
16 identity theft and submits evidence that provides the
17 agency with reasonable cause to believe that such
18 identity theft has occurred, the agency shall, if the
19 agency maintains a file on the consumer who is
20 making the request and has a reasonable belief that
21 the agency knows the identity of the consumer—

22 “(A) include a fraud alert in the file of
23 that consumer and provide an opportunity for
24 the consumer to extend the alert for a period of
25 up to 7 years from the date of such request,

1 unless the consumer subsequently requests that
2 such fraud alert be removed before the end of
3 such period;

4 “(B) provide the consumer with the option
5 of including more complete information in the
6 consumer’s file, including a telephone number
7 or some other reasonable means of communica-
8 tion that any person who requests the con-
9 sumer’s report may utilize for authorization be-
10 fore establishing a new credit plan in the name
11 of the consumer; and

12 “(C) provide the consumer with at least 2
13 free disclosures of the information described in
14 section 609(a) during the 12-month period be-
15 ginning on the date of such request.

16 “(3) ACTIVE DUTY ALERTS.—Upon the direct
17 request of an active duty military consumer, or an
18 individual acting on behalf of or as a personal rep-
19 resentative of an active duty military consumer, who
20 contacts a consumer reporting agency described in
21 section 603(p), the agency shall, if the agency main-
22 tains a file on the consumer who is making the re-
23 quest and has a reasonable belief that the agency
24 knows the identity of the consumer—

1 “(A) include an active duty alert in the file
2 of that consumer during a period of not less
3 than 12 months beginning on the date of the
4 request, unless the consumer requests that such
5 active duty alert be removed before the end of
6 such period;

7 “(B) for 2 years after the date of such re-
8 quest, exclude the consumer from any list of
9 consumers prepared by the agency and provided
10 to any third party to offer credit or insurance
11 to the consumer as part of a transaction that
12 was not initiated by the consumer, unless the
13 consumer subsequently requests that such ex-
14 clusion be rescinded before the end of such pe-
15 riod; and

16 “(C) refer the information regarding the
17 active duty alert to each of the other consumer
18 reporting agencies described in section 603(p),
19 as required under section 621(f)(1).

20 “(4) PROCEDURES.—Each consumer reporting
21 agency described in section 603(p) shall establish
22 policies and procedures to comply with the obliga-
23 tions of paragraphs (1), (2), and (3), including pro-
24 cedures that allow consumers to request initial, ex-

1 tended, or active duty alerts in a simple and easy
2 manner, including by telephone.

3 “(5) NOTICE TO USERS.—No person who ob-
4 tains any information that includes a fraud alert
5 under this section from a file of any consumer from
6 a consumer reporting agency may establish a new
7 credit plan in the name of the consumer for a person
8 other than the consumer without utilizing reasonable
9 policies and procedures described in paragraph (9).

10 “(6) REFERRALS OF FRAUD ALERTS.—Each
11 consumer reporting agency described in section
12 603(p) that receives a referral of a fraud alert from
13 another such agency pursuant to paragraph (1)(D)
14 or (3)(C) shall follow the procedures required under
15 subparagraphs (A), (B), and (C) of paragraph (1),
16 in the case of a referral under paragraph (1)(D),
17 and subparagraphs (A) and (B), in the case of a
18 referral under paragraph (3)(C), as if the agency re-
19 ceived the request from the consumer directly.

20 “(7) DUTY OF RESELLER TO RECONVEY
21 ALERT.—A reseller that is notified of the existence
22 of a fraud alert in a consumer’s consumer report
23 shall communicate to each person procuring a con-
24 sumer report with respect to such consumer the ex-
25 istence of a fraud alert in effect for such consumer.

1 “(8) DUTY OF OTHER CONSUMER REPORTING
2 AGENCIES TO PROVIDE CONTACT INFORMATION.—If
3 a consumer contacts any consumer reporting agency
4 that is not a consumer reporting agency described in
5 section 603(p) to communicate a suspicion that the
6 consumer has been or is about to become a victim
7 of fraud or related crime, including identity theft,
8 the agency shall provide the consumer with informa-
9 tion on how to contact the Commission and the con-
10 sumer reporting agencies described in section 603(p)
11 to obtain more detailed information and request
12 alerts under this subsection.

13 “(9) FRAUD ALERT.—

14 “(A) DEFINITION.—For purposes of this
15 subsection, the term ‘fraud alert’ means, at a
16 minimum, a statement—

17 “(i) in the file of a consumer that the
18 consumer may be a victim of fraud, includ-
19 ing identity theft, or is a consumer de-
20 scribed in paragraph (3); and

21 “(ii) that is transmitted in a manner
22 that facilitates a clear and conspicuous
23 view of the statement by any person re-
24 questing such file.

1 “(B) OTHER INFORMATION.—A fraud alert
2 shall include information that notifies all pro-
3 spective users of a consumer report on the con-
4 sumer to which the alert relates that the con-
5 sumer does not authorize establishing any new
6 credit plan in the name of the consumer, unless
7 the user utilizes reasonable policies and proce-
8 dures to form a reasonable belief that the user
9 knows the identity of the person for whom such
10 new plan is established, which may include ob-
11 taining authorization or preauthorization of the
12 consumer at a telephone number designated by
13 the consumer or by such other reasonable
14 means agreed to.

15 “(10) OTHER DEFINITIONS.—For purposes of
16 this subsection, the following definitions shall apply:

17 “(A) ACTIVE DUTY MILITARY CON-
18 SUMER.—The term ‘active duty military con-
19 sumer’ means a consumer in military service
20 who—

21 “(i) is on active duty (as defined in
22 section 101(d)(1) of title 10, United States
23 Code) or is a reservist performing duty
24 under a call or order to active duty under
25 a provision of law referred to in section

1 101(a)(13) of title 10, United States Code;
2 and

3 “(ii) is assigned to service away from
4 the consumer’s usual duty station.

5 “(B) NEW CREDIT PLAN.—The term ‘new
6 credit plan’ means a new account under an
7 open end credit plan (as defined in section
8 103(i) of this Act) or a new credit transaction
9 not under an open end credit plan.”.

10 **SEC. 203. TRUNCATION OF CREDIT CARD AND DEBIT CARD**
11 **ACCOUNT NUMBERS.**

12 (a) IN GENERAL.—Section 605 of the Fair Credit
13 Reporting Act (15 U.S.C. 1681c) is amended by inserting
14 after subsection (k) (as added by section 206 of this title)
15 the following new subsection:

16 “(l) TRUNCATION OF CREDIT CARD AND DEBIT
17 CARD ACCOUNT NUMBERS.—

18 “(1) IN GENERAL.—Except as provided in this
19 subsection, no person that accepts credit cards or
20 debit cards for the transaction of business shall
21 print the expiration date or more than the last 5
22 digits of the card number upon any receipt provided
23 to the cardholder at the point of the sale or trans-
24 action.

1 “(2) LIMITATION.—This section shall apply
2 only to receipts that are electronically printed, and
3 shall not apply to transactions in which the sole
4 means of recording the person’s credit card or debit
5 card number is by handwriting or by an imprint or
6 copy of the card.”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 subsection (a) shall apply after the end of—

9 (1) the 3-year period beginning on the date of
10 the enactment of this Act, with respect to any cash
11 register or other machine or device that electroni-
12 cally prints receipts for credit card or debit card
13 transactions that is in use before January 1, 2005;
14 and

15 (2) the 1-year period beginning on the date of
16 the enactment of this Act, with respect to any cash
17 register or other machine or device that electroni-
18 cally prints receipts for credit card or debit card
19 transactions that is first put into use on or after
20 January 1, 2005.

21 **SEC. 204. SUMMARY OF RIGHTS OF IDENTITY THEFT VIC-**
22 **TIMS.**

23 (a) IN GENERAL.—Section 609 of the Fair Credit
24 Reporting Act (15 U.S.C. 1681g) is amended by adding
25 at the end the following new subsection:

1 “(d) SUMMARY OF RIGHTS OF IDENTITY THEFT VIC-
2 TIMS.—

3 “(1) IN GENERAL.—The Commission, in con-
4 sultation with the Federal banking agencies and the
5 National Credit Union Administration, shall prepare
6 a model summary of the rights of consumers under
7 this title with respect to the procedures for rem-
8 edying the effects of fraud or identity theft involving
9 credit, electronic fund transfers, or accounts or
10 transactions at or with a financial institution.

11 “(2) SUMMARY OF RIGHTS AND CONTACT IN-
12 FORMATION.—If any consumer contacts a consumer
13 reporting agency and expresses a belief that the con-
14 sumer is a victim of fraud or identity theft involving
15 credit, electronic fund transfers, or accounts or
16 transactions at or with a financial institution, the
17 consumer reporting agency shall, in addition to any
18 other action the agency may take, provide the con-
19 sumer with a summary of rights, or other disclosure,
20 that is the same as or substantially similar to the
21 model summary of rights prepared by the Commis-
22 sion under paragraph (1) and information on how to
23 contact the Commission to obtain more detailed in-
24 formation.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 2 Section 624(b)(3) of the Fair Credit Reporting Act (15
 3 U.S.C. 1681t(b)(3)) is amended by striking “section
 4 609(c)” and inserting “subsection (c) or (d) of section
 5 609”.

6 (c) EFFECTIVE DATE.—Paragraph (2) of section
 7 609(d) of the Fair Credit Reporting Act (as added by sub-
 8 section (a) of this section) shall apply after the end of the
 9 60-day period beginning on the date the model summary
 10 of rights is prescribed in final form by the Federal Trade
 11 Commission pursuant to paragraph (1) of such section
 12 and in accordance with section 3(a) of this Act.

13 **SEC. 205. BLOCKING OF INFORMATION RESULTING FROM**
 14 **IDENTITY THEFT.**

15 Section 605 of the Fair Credit Reporting Act (15
 16 U.S.C. 1681e) is amended by inserting after subsection
 17 (i) (as added by section 202 of this title) the following
 18 new subsection:

19 “(j) BLOCK OF INFORMATION RESULTING FROM
 20 IDENTITY THEFT.—

21 “(1) BLOCK.—Except as provided in paragraph
 22 (3), a consumer reporting agency shall block the re-
 23 porting of any information in the file of a consumer
 24 that the consumer identifies as information that re-
 25 sulted from an alleged identity theft and confirms is

1 not information relating to any transaction by the
2 consumer not later than 5 business days after the
3 date of receipt by such agency of—

4 “(A) appropriate proof of the identity of a
5 consumer;

6 “(B) a police report evidencing the claim
7 of the consumer of identity theft;

8 “(C) the identification of the information
9 by the consumer; and

10 “(D) confirmation by the consumer that
11 the information is not information relating to
12 any transaction by the consumer.

13 “(2) NOTIFICATION.—A consumer reporting
14 agency shall promptly notify the furnisher of infor-
15 mation identified by the consumer under paragraph
16 (1)—

17 “(A) that the information may be a result
18 of identity theft;

19 “(B) that a police report has been filed;

20 “(C) that a block has been requested under
21 this subsection; and

22 “(D) of the effective date of the block.

23 “(3) AUTHORITY TO DECLINE OR RESCIND.—

24 “(A) IN GENERAL.—A consumer reporting
25 agency may decline to block, or may rescind

1 any block, of consumer information under this
2 subsection if the consumer reporting agency
3 reasonably determines that—

4 “(i) the information was blocked in
5 error or a block was requested by the con-
6 sumer in error;

7 “(ii) the information was blocked, or a
8 block was requested by the consumer, on
9 the basis of a misrepresentation of fact by
10 the consumer relevant to the request to
11 block; or

12 “(iii) the consumer knowingly ob-
13 tained possession of goods, services, or
14 moneys as a result of the blocked trans-
15 action or transactions, or the consumer
16 should have known that the consumer ob-
17 tained possession of goods, services, or
18 moneys as a result of the blocked trans-
19 action or transactions.

20 “(B) NOTIFICATION TO CONSUMER.—If
21 the block of information is declined or rescinded
22 under this paragraph, the affected consumer
23 shall be notified promptly, in the same manner
24 as consumers are notified of the reinsertion of
25 information under section 611(a)(5)(B).

1 “(C) SIGNIFICANCE OF BLOCK.—For pur-
2 poses of this paragraph, if a consumer report-
3 ing agency rescinds a block, the presence of in-
4 formation in the file of a consumer prior to the
5 blocking of such information is not evidence of
6 whether the consumer knew or should have
7 known that the consumer obtained possession of
8 any goods, services, or monies as a result of the
9 block.

10 “(4) EXCEPTIONS.—

11 “(A) VERIFICATION COMPANIES.—This
12 subsection shall not apply to—

13 “(i) a check services company, which
14 issues authorizations for the purpose of ap-
15 proving or processing negotiable instru-
16 ments, electronic funds transfers, or simi-
17 lar methods of payments; or

18 “(ii) a deposit account information
19 service company, which issues reports re-
20 garding account closures due to fraud, sub-
21 stantial overdrafts, automated teller ma-
22 chine abuse, or similar negative informa-
23 tion regarding a consumer, to inquiring
24 banks or other financial institutions for
25 use only in reviewing a consumer request

1 for a deposit account at the inquiring bank
2 or financial institution.

3 “(B) RESELLERS.—

4 “(i) NO RESELLER FILE.—This sub-
5 section shall not apply to a consumer re-
6 porting agency if the consumer reporting
7 agency—

8 “(I) is a reseller;

9 “(II) is not, at the time of the re-
10 quest of the consumer under para-
11 graph (1), otherwise furnishing or re-
12 selling a consumer report concerning
13 the information identified by the con-
14 sumer; and

15 “(III) informs the consumer, by
16 any means, that the consumer may re-
17 port the identity theft to the Commis-
18 sion to obtain consumer information
19 regarding identity theft.

20 “(ii) RESELLER WITH FILE.—The
21 sole obligation of the consumer reporting
22 agency under this subsection, with regard
23 to any request of a consumer under this
24 subsection, shall be to block the consumer

1 report maintained by the consumer report-
2 ing agency from any subsequent use if—

3 “(I) the consumer, in accordance
4 with the provisions of paragraph (1),
5 identifies, to a consumer reporting
6 agency, information in the file of the
7 consumer that resulted from identity
8 theft; and

9 “(II) the consumer reporting
10 agency is a reseller of the identified
11 information.

12 “(iii) NOTICE.—In carrying out its
13 obligation under clause (ii), the reseller
14 shall promptly provide a notice to the con-
15 sumer of the decision to block the file.
16 Such notice shall contain the name, ad-
17 dress, and telephone number of each con-
18 sumer reporting agency from which the
19 consumer information was obtained for re-
20 sale.

21 “(5) ACCESS TO BLOCKED INFORMATION BY
22 LAW ENFORCEMENT AGENCIES.—No provision of
23 this subsection shall be construed as requiring a con-
24 sumer reporting agency to prevent a Federal, State,
25 or local law enforcement agency from accessing

1 blocked information in a consumer file to which the
 2 agency could otherwise obtain access under this
 3 title.”.

4 **SEC. 206. ESTABLISHMENT OF PROCEDURES FOR DEPOSI-**
 5 **TORY INSTITUTIONS TO IDENTIFY POSSIBLE**
 6 **INSTANCES OF IDENTITY THEFT.**

7 (a) IN GENERAL.—Section 605 of the Fair Credit
 8 Reporting Act (15 U.S.C. 1681c) is amended by inserting
 9 after subsection (j) (as added by section 205 of this title)
 10 the following new subsection:

11 “(k) ‘RED FLAG’ GUIDELINES REQUIRED.—

12 “(1) IN GENERAL.—The Federal banking agen-
 13 cies and the National Credit Union Administration,
 14 in consultation with the Commission, shall jointly es-
 15 tablish and maintain guidelines for use by insured
 16 depository institutions in identifying patterns, prac-
 17 tices, and specific forms of activity that indicate the
 18 possible existence of identity theft with respect to ac-
 19 counts, and update such guidelines as often as nec-
 20 essary.

21 “(2) REGULATIONS.—The Federal banking
 22 agencies and the National Credit Union Administra-
 23 tion, in consultation with the Commission, shall
 24 jointly prescribe regulations requiring insured depos-
 25 itory institutions to establish and adhere to reason-

1 able policies and procedures for implementing the
2 guidelines established pursuant to paragraph (1) to
3 identify possible risks to customer accounts or to the
4 safety and soundness of the institutions.

5 “(3) CONSISTENCY WITH VERIFICATION RE-
6 QUIREMENTS.—Policies and procedures established
7 pursuant to paragraph (2) shall not be inconsistent
8 with the policies and procedures required under sec-
9 tion 5318(l) of title 31, United States Code.

10 “(4) INSURED DEPOSITORY INSTITUTION DE-
11 FINED.—For purposes of this subsection, the term
12 ‘insured depository institution’—

13 “(A) has the meaning given to such term
14 in section 3 of the Federal Deposit Insurance
15 Act; and

16 “(B) includes an insured credit union (as
17 defined in section 101 of the Federal Credit
18 Union Act).”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall take effect at the end of the 1-year
21 period beginning on the date of the enactment of this Act.

22 **SEC. 207. STUDY ON THE USE OF TECHNOLOGY TO COMBAT**
23 **IDENTITY THEFT.**

24 (a) STUDY REQUIRED.—The Secretary of the Treas-
25 ury shall conduct a study of the use of biometrics and

1 other similar technologies to reduce the incidence and
2 costs of identity theft by providing convincing evidence of
3 who actually performed a given financial transaction.

4 (b) CONSULTATION.—The Secretary of the Treasury
5 shall consult with Federal banking agencies, the Federal
6 Trade Commission, and representatives of financial insti-
7 tutions, consumer reporting agencies, Federal, State, and
8 local government agencies that issue official forms or
9 means of identification, State prosecutors, law enforce-
10 ment agencies, the biometric industry, and the general
11 public in formulating and conducting the study required
12 by subsection (a).

13 (c) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to the Secretary of the
15 Treasury for fiscal year 2004 such sums as may be nec-
16 essary to carry out the provisions of this section.

17 (d) REPORT REQUIRED.—Before the end of the 180-
18 day period beginning on the date of the enactment of this
19 Act, the Secretary shall submit a report to Congress con-
20 taining the findings and conclusions of the study required
21 under subsection (a), together with such recommendations
22 for legislative or administrative actions as may be appro-
23 priate.

1 **TITLE III—IMPROVING RESOLU-**
2 **TION OF CONSUMER DIS-**
3 **PUTES**

4 **SEC. 301. COORDINATION OF CONSUMER COMPLAINT IN-**
5 **VESTIGATIONS.**

6 Section 621 of the Fair Credit Reporting Act (15
7 U.S.C. 1681s) is amended by adding at the end the fol-
8 lowing new subsection:

9 “(f) COORDINATION OF CONSUMER COMPLAINT IN-
10 VESTIGATIONS.—

11 “(1) IN GENERAL.—The consumer reporting
12 agencies described in section 603(p) shall develop
13 and maintain procedures for the referral, to each
14 such agency, of any consumer complaint received by
15 any such agency alleging any identity theft or re-
16 questing a block or a fraud alert.

17 “(2) MODEL FORM AND PROCEDURE FOR RE-
18 PORTING IDENTITY THEFT.—The Commission, in
19 consultation with the Federal banking agencies and
20 the National Credit Union Administration, shall de-
21 velop a model form and model procedures to be used
22 by consumers who are victims of identity theft for
23 contacting and informing creditors and consumer re-
24 porting agencies of the fraud.

1 “(3) ANNUAL SUMMARY REPORTS.—Each con-
2 sumer reporting agency described in section 603(p)
3 shall submit an annual summary report to the Com-
4 mission on consumer complaints received by the
5 agency on identity theft or fraud alerts.”.

6 **SEC. 302. NOTICE OF DISPUTE THROUGH RESELLER.**

7 (a) REQUIREMENT FOR REINVESTIGATION OF DIS-
8 PUTED INFORMATION UPON NOTICE FROM A RE-
9 SELLER.—Section 611(a) of the Fair Credit Reporting
10 Act (15 U.S.C. 1681i(a)(1)(A)) is amended—

11 (1) in subparagraph (A) of paragraph (1)—

12 (A) by striking “If the completeness” and
13 inserting “Subject to subsection (e), if the com-
14 pleteness”;

15 (B) by inserting “, or indirectly through a
16 reseller,” after “notifies the agency directly”;
17 and

18 (C) by inserting “or reseller” before the
19 period at the end of such subparagraph;

20 (2) in subparagraph (A) of paragraph (2)—

21 (A) by inserting “or a reseller” after “dis-
22 pute from any consumer”; and

23 (B) by inserting “or reseller” before the
24 period at the end of such subparagraph; and

1 (3) in subparagraph (B) of paragraph (2), by
 2 inserting “or the reseller” after “from the con-
 3 sumer”.

4 (b) REINVESTIGATION REQUIREMENT APPLICABLE
 5 TO RESELLERS.—Section 611 of the Fair Credit Report-
 6 ing Act (15 U.S.C. 1681i) is amended by adding at the
 7 end the following new subsection:

8 “(e) REINVESTIGATION REQUIREMENT APPLICABLE
 9 TO RESELLERS.—

10 “(1) EXEMPTION FROM GENERAL REINVES-
 11 TIGATION REQUIREMENT.—Except as provided in
 12 paragraph (2), a reseller shall be exempt from the
 13 requirements of this section.

14 “(2) ACTION REQUIRED UPON RECEIVING NO-
 15 TICE OF A DISPUTE.—If a reseller receives a notice
 16 from a consumer of a dispute concerning the com-
 17 pleteness or accuracy of any item of information
 18 contained in a consumer report on such consumer
 19 produced by the reseller, the reseller shall, within 5
 20 business days of receiving the notice and free of
 21 charge—

22 “(A) determine whether the item of infor-
 23 mation is incomplete or inaccurate as a result
 24 of an act or omission of the reseller; and

25 “(B) if—

1 “(i) the reseller determines that the
2 item of information is incomplete or inac-
3 curate as a result of an act or omission of
4 the reseller, correct the information in the
5 consumer report or delete it; or

6 “(ii) if the reseller determines that the
7 item of information is not incomplete or in-
8 accurate as a result of an act or omission
9 of the reseller, convey the notice of the dis-
10 pute, together with all relevant information
11 provided by the consumer, to each con-
12 sumer reporting agency that provided the
13 reseller with the information that is the
14 subject of the dispute, using an address or
15 a notification mechanism specified by the
16 consumer reporting agency for such no-
17 tices.

18 “(3) RESELLER REINVESTIGATIONS.—No provi-
19 sion of this subsection shall be construed as prohib-
20 iting a reseller from conducting a reinvestigation of
21 a consumer dispute directly.”.

22 (c) TECHNICAL AND CONFORMING AMENDMENT.—
23 The heading for paragraph (2)(B) of section 611(a) of the
24 Fair Credit Reporting Act (15 U.S.C. 1681i(a)(2)(B)) is
25 amended by striking “FROM CONSUMER”.

1 **SEC. 303. REASONABLE REINVESTIGATION REQUIRED.**

2 Section 611(a)(1)(A) of the Fair Credit Reporting
3 Act (15 U.S.C. 1681i(a)(1)(A)) is amended by striking
4 “shall reinvestigate free of charge” and inserting “shall,
5 free of charge, conduct a reasonable reinvestigation to de-
6 termine whether the disputed information is inaccurate”.

7 **SEC. 304. DUTIES OF FURNISHERS OF INFORMATION.**

8 (a) IN GENERAL.—Section 623(a) of the Fair Credit
9 Reporting Act (15 U.S.C. 1681s–2(a)) is amended—

10 (1) in paragraph (1)(A), by striking “knows or
11 consciously avoids knowing that the information is
12 inaccurate” and inserting “knows or has reasonable
13 cause to believe that the information is inaccurate”;

14 (2) in paragraph (1)—

15 (A) by redesignating subparagraphs (B)
16 and (C) as subparagraphs (C) and (D), respec-
17 tively;

18 (B) by inserting after subparagraph (A),
19 the following new subparagraph:

20 “(B) REASONABLE PROCEDURES TO EN-
21 SURE ACCURACY.—A person that regularly fur-
22 nishes information relating to consumers to a
23 consumer reporting agency described in section
24 603(p) shall maintain reasonable procedures de-
25 signed to ensure that the information furnished
26 is accurate.”; and

1 (C) by adding at the end the following new
2 subparagraph:

3 “(F) DEFINITION.—For purposes of sub-
4 paragraph (A), the term ‘reasonable cause to
5 believe that the information is inaccurate’
6 means, based on the procedures described in
7 subparagraph (B), has knowledge, other than
8 solely allegations by the consumer, that would
9 cause a reasonable person to have substantial
10 doubts about the accuracy of the information.”;
11 and

12 (3) by adding at the end the following new
13 paragraph:

14 “(6) ABILITY OF CONSUMER TO DISPUTE IN-
15 FORMATION DIRECTLY WITH FURNISHER.—

16 “(A) IN GENERAL.—A consumer may dis-
17 pute directly with a person the accuracy of in-
18 formation that—

19 “(i) is contained in a consumer report
20 on the consumer prepared by a consumer
21 reporting agency described in section
22 603(p); and

23 “(ii) was provided by the person to
24 that consumer reporting agency in accord-
25 ance with paragraph (1)(B).

1 “(B) SUBMITTING A NOTICE OF DIS-
2 PUTE.—A consumer who seeks to dispute the
3 accuracy of information with a person under
4 subparagraph (A) shall provide a dispute notice
5 directly to such person at the address specified
6 by the person for such notices that—

7 “(i) identifies the specific information
8 that is being disputed; and

9 “(ii) explains the basis for the dis-
10 pute.

11 “(C) DUTY OF PERSON AFTER RECEIVING
12 NOTICE OF DISPUTE.—After receiving a notice
13 of dispute from a consumer pursuant to sub-
14 paragraph (B), the person that provided the in-
15 formation in dispute to a consumer reporting
16 agency referred to in subparagraph (A) shall—

17 “(i) conduct an investigation with re-
18 spect to the disputed information;

19 “(ii) review all relevant information
20 provided by the consumer with the notice;

21 “(iii) complete such person’s inves-
22 tigation of the dispute and report the re-
23 sults of the investigation to the consumer
24 before the expiration of the period under
25 section 611(a)(1) within which a consumer

1 reporting agency would be required to com-
2 plete its action if the consumer had elected
3 to dispute the information under that sec-
4 tion; and

5 “(iv) if the investigation finds that the
6 information reported was inaccurate,
7 promptly notify each consumer reporting
8 agency described in section 603(p) to
9 which the person furnished the inaccurate
10 information of that determination and pro-
11 vide to the agency any correction to that
12 information that is necessary to make the
13 information provided by the person accu-
14 rate.

15 “(D) FRIVOLOUS OR IRRELEVANT DIS-
16 PUTE.—

17 “(i) IN GENERAL.—The requirements
18 of this paragraph shall not apply if the
19 person receiving a notice of a dispute from
20 a consumer reasonably determines that the
21 dispute is frivolous or irrelevant, includ-
22 ing—

23 “(I) by reason of the failure of a
24 consumer to provide sufficient infor-

1 mation to investigate the disputed in-
2 formation; or

3 “(II) the submission by a con-
4 sumer of a dispute that is substan-
5 tially the same as a dispute previously
6 submitted by or for the consumer, ei-
7 ther directly to the person under this
8 paragraph or through a consumer re-
9 porting agency under subsection (b),
10 with respect to which the person has
11 already performed the person’s duties
12 under this paragraph or subsection
13 (b), as applicable.

14 “(ii) NOTICE OF DETERMINATION.—
15 Upon making any determination under
16 clause (i) that a dispute is frivolous or ir-
17 relevant, the person shall notify the con-
18 sumer of such determination not later than
19 5 business days after making such deter-
20 mination, by mail or, if authorized by the
21 consumer for that purpose, by any other
22 means available to the person.

23 “(iii) CONTENTS OF NOTICE.—A no-
24 tice under clause (ii) shall include—

1 “(I) the reasons for the deter-
 2 mination under clause (i); and

3 “(II) identification of any infor-
 4 mation required to investigate the dis-
 5 puted information, which may consist
 6 of a standardized form describing the
 7 general nature of such information.”.

8 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

9 (1) Section 621(c)(5)(A) of the Fair Credit Re-
 10 porting Act (15 U.S.C. 1681s(c)(5)(A)) is amended
 11 by striking “section 623(a)(1)” and inserting “para-
 12 graph (1) or (6) of section 623(a)”.

13 (2) The heading for section 621(c)(5) of the
 14 Fair Credit Reporting Act (15 U.S.C. 1681s(c)(5))
 15 is amended by striking “VIOLATION OF SECTION
 16 623(a)(1)” and inserting “CERTAIN VIOLATIONS OF
 17 SECTION 623(a)”.

18 **SEC. 305. PROMPT INVESTIGATION OF DISPUTED CON-**
 19 **SUMER INFORMATION.**

20 (a) STUDY REQUIRED.—The Board of Governors of
 21 the Federal Reserve System and the Federal Trade Com-
 22 mission shall jointly study the extent to which, and the
 23 manner in which, consumer reporting agencies and fur-
 24 nishers of consumer information to consumer reporting
 25 agencies are complying with the procedures, time lines,

1 and requirements under the Fair Credit Reporting Act for
2 the prompt investigation of the disputed accuracy of any
3 consumer information, the completeness of the informa-
4 tion provided to consumer reporting agencies, and the
5 prompt correction or deletion, in accordance with such
6 Act, of any inaccurate or incomplete information or infor-
7 mation that cannot be verified.

8 (b) REPORT REQUIRED.—Before the end of the 6-
9 month period beginning on the date of the enactment of
10 this Act, the Board of Governors of the Federal Reserve
11 System and the Federal Trade Commission shall jointly
12 submit a progress report to the Congress on the results
13 of the study required under subsection (a).

14 (c) RECOMMENDATIONS.—The report under sub-
15 section (b) shall include such recommendations as the
16 Board and the Commission jointly determine to be appro-
17 priate for legislative or administrative action to ensure
18 that—

19 (1) consumer disputes with consumer reporting
20 agencies over the accuracy or completeness of infor-
21 mation in a consumer's file are promptly and fully
22 investigated and any incorrect, incomplete, or un-
23 verifiable information is corrected or deleted imme-
24 diately thereafter;

1 (2) furnishers of information to consumer re-
2 porting agencies maintain full and prompt compli-
3 ance with the duties and responsibilities established
4 under section 623 of the Fair Credit Reporting Act;
5 and

6 (3) consumer reporting agencies establish and
7 maintain appropriate internal controls and manage-
8 ment review procedures for maintaining full and
9 continuous compliance with the procedures, time
10 lines, and requirements under the Fair Credit Re-
11 porting Act for the prompt investigation of the dis-
12 puted accuracy of any consumer information and the
13 prompt correction or deletion, in accordance with
14 such Act, of any inaccurate or incomplete informa-
15 tion or information that cannot be verified.

16 (d) DEFINITIONS.—For purposes of this section, the
17 terms “consumer”, “consumer report”, and “consumer re-
18 porting agency” have the same meaning as in the Fair
19 Credit Reporting Act.

20 **TITLE IV—IMPROVING ACCU-**
21 **RACY OF CONSUMER**
22 **RECORDS**

23 **SEC. 401. RECONCILING ADDRESSES.**

24 Section 605 of the Fair Credit Reporting Act (15
25 U.S.C. 1681e) is amended by inserting after subsection

1 (g) (as added by section 201 of this Act) the following
2 new subsection.

3 “(h) NOTICE OF DISCREPANCY.—

4 “(1) IN GENERAL.—If a person has requested
5 a consumer report relating to a consumer from a
6 consumer reporting agency described in section
7 603(p), the request includes an address for the con-
8 sumer that substantially differs from the addresses
9 in the file of the consumer, and the agency provides
10 a consumer report in response to the request, the
11 consumer reporting agency shall notify the requester
12 of the existence of the discrepancy.

13 “(2) REGULATIONS.—

14 “(A) REGULATIONS REQUIRED.—The Fed-
15 eral banking agencies and the National Credit
16 Union Administration shall jointly prescribe
17 regulations providing guidance regarding rea-
18 sonable policies and procedures a user of a con-
19 sumer report should employ when such user has
20 received a notice of discrepancy under para-
21 graph (1).

22 “(B) POLICIES AND PROCEDURES TO BE
23 INCLUDED.—The regulations prescribed under
24 subparagraph (A) shall describe reasonable poli-

1 cies and procedures for use by a user of a con-
2 sumer report—

3 “(i) to form a reasonable belief that
4 the user knows the identity of the person
5 to whom the consumer report pertains; and

6 “(ii) if the user establishes a con-
7 tinuing relationship with the consumer,
8 and the user regularly and in the ordinary
9 course of business furnishes information to
10 the consumer reporting agency from which
11 the notice of discrepancy pertaining to the
12 consumer was obtained, to reconcile the
13 consumer’s address with the consumer re-
14 porting agency by furnishing such address
15 to such consumer reporting agency as part
16 of information regularly furnished by the
17 user for the period in which the relation-
18 ship is established.”.

19 **SEC. 402. PREVENTION OF REPOLLUTION OF CONSUMER**
20 **REPORTS.**

21 Section 623(a)(1) of the Fair Credit Reporting Act
22 (15 U.S.C. 1681s–2(a)(1)) is amended by inserting after
23 subparagraph (D) (as so redesignated by section
24 304(2)(A)) the following new subparagraph:

1 “(E) INFORMATION ALLEGED TO RESULT
2 FROM IDENTITY THEFT.—If a consumer sub-
3 mits a police report to a person who furnishes
4 information to a consumer reporting agency
5 that states that information maintained by such
6 person that purports to relate to the consumer
7 resulted from identity theft, the person may not
8 furnish such information that purports to relate
9 to the consumer to any consumer reporting
10 agency, unless the person subsequently knows
11 or is informed by the consumer that the infor-
12 mation is correct.”.

13 **SEC. 403. NOTICE BY USERS WITH RESPECT TO FRAUDU-**
14 **LENT INFORMATION.**

15 Section 615 of the Fair Credit Reporting Act (15
16 U.S.C. 1681m) is amended by adding at the end the fol-
17 lowing new subsection:

18 “(e) NOTICE OF FRAUDULENT INFORMATION RE-
19 LATING TO IDENTITY THEFT.—If an agent acting as a
20 debt collector (as defined in title VIII) of a person who
21 furnishes information to any consumer reporting agency
22 uses information contained in a consumer report on any
23 consumer and learns that any such information so used
24 is the result of identity theft or otherwise is fraudulent,
25 the agent shall—

1 “(1) if such information—

2 “(A) originated from the person for whom
3 the debt collector is acting as agent, notify the
4 person of the fraudulent information; or

5 “(B) originated from a person other than
6 the person for whom the debt collector is acting
7 as agent, notify the consumer reporting agency
8 (that provided the consumer report) of the
9 fraudulent information, either directly or
10 through the person for whom the debt collector
11 is acting as agent; and

12 “(2) upon the request of the consumer, provide
13 the consumer with all information which the con-
14 sumer would be entitled to receive if the information
15 related to the consumer other than by reason of
16 identity theft.”.

17 **SEC. 404. DISCLOSURE TO CONSUMERS OF CONTACT IN-**
18 **FORMATION FOR USERS AND FURNISHERS**
19 **OF INFORMATION IN CONSUMER REPORTS.**

20 Section 609(a) of the Fair Credit Reporting Act (15
21 U.S.C. 1681g(a)) is amended—

22 (1) in paragraph (2), by inserting “, including
23 addresses of the sources, and (if provided by the
24 sources of information) the telephone numbers iden-
25 tified for customer service for the sources of infor-

1 mation” after “sources of information” the 1st place
2 such term appears in such paragraph; and

3 (2) in paragraph (3)(B) by striking clause (ii)
4 and inserting the following new clause:

5 “(ii) the address and (if provided) the
6 telephone numbers identified for customer
7 service of the person.”.

8 **SEC. 405. FTC STUDY OF THE ACCURACY OF CONSUMER RE-**
9 **PORTS.**

10 (a) **STUDY REQUIRED.**—Until the final report is sub-
11 mitted under subsection (b)(2), the Federal Trade Com-
12 mission shall conduct an ongoing study of the accuracy
13 and completeness of information contained in consumer
14 reports prepared or maintained by consumer reporting
15 agencies and methods for improving the accuracy and
16 completeness of such information.

17 (b) **BIENNIAL REPORTS REQUIRED.**—

18 (1) **INTERIM REPORTS.**—The Federal Trade
19 Commission shall submit an interim report to the
20 Congress on the study conducted under subsection
21 (a) at the end of the 6-month period beginning on
22 the date of the enactment of this Act and biennially
23 thereafter for 8 years.

24 (2) **FINAL REPORT.**—The Federal Trade Com-
25 mission shall submit a final report to the Congress

1 on the study conducted under subsection (a) at the
2 end of the 2-year period beginning on the date the
3 final interim report is submitted to the Congress
4 under paragraph (1).

5 (3) CONTENTS.—Each report submitted under
6 this subsection shall contain a detailed summary of
7 the findings and conclusions of the Commission with
8 respect to the study required under subsection (a)
9 and such recommendations for legislative and ad-
10 ministrative action as the Commission may deter-
11 mine to be appropriate.

12 **TITLE V—IMPROVEMENTS IN**
13 **USE OF AND CONSUMER AC-**
14 **CESS TO CREDIT INFORMA-**
15 **TION**

16 **SEC. 501. FREE REPORTS ANNUALLY.**

17 Section 612 of the Fair Credit Reporting Act (15
18 U.S.C. 1681j) is amended by adding at the end the fol-
19 lowing new subsection:

20 “(e) FREE ANNUAL DISCLOSURE.—Upon the direct
21 request of the consumer, a consumer reporting agency
22 that compiles and maintains files on consumers on a na-
23 tionwide or regional basis shall make all disclosures pursu-
24 ant to section 609 once during any 12-month period with-
25 out charge to the consumer.”.

1 **SEC. 502. DISCLOSURE OF CREDIT SCORES.**

2 (a) STATEMENT ON AVAILABILITY OF CREDIT
3 SCORES.—Section 609(a) of the Fair Credit Reporting
4 Act (15 U.S.C. 1681g(a)) is amended by adding at the
5 end the following new paragraph:

6 “(6) If the consumer requests the credit file
7 and not the credit score, a statement that the con-
8 sumer may request and obtain a credit score.”.

9 (b) DISCLOSURE OF CREDIT SCORES.—Section 609
10 of the Fair Credit Reporting Act (15 U.S.C. 1681g) is
11 amended by inserting after subsection (d) (as added by
12 section 204 of this Act) the following new subsection:

13 “(e) DISCLOSURE OF CREDIT SCORES.—

14 “(1) IN GENERAL.—Upon the consumer’s re-
15 quest for a credit score, a consumer reporting agen-
16 cy shall supply to a consumer a statement indicating
17 that the information and credit scoring model may
18 be different than the credit score that may be used
19 by the lender, and a notice which shall include the
20 following information:

21 “(A) The consumer’s current credit score
22 or the consumer’s most recent credit score that
23 was previously calculated by the credit report-
24 ing agency for a purpose related to the exten-
25 sion of credit.

1 “(B) The range of possible credit scores
2 under the model used.

3 “(C) All the key factors that adversely af-
4 fected the consumer’s credit score in the model
5 used, the total number of which shall not ex-
6 ceed four, subject to paragraph (9).

7 “(D) The date the credit score was cre-
8 ated.

9 “(E) The name of the person or entity
10 that provided the credit score or credit file upon
11 which the credit score was created.

12 “(2) DEFINITIONS.—For purposes of this sec-
13 tion, the following definitions shall apply:

14 “(A) CREDIT SCORE.—The term ‘credit
15 score’—

16 “(i) means a numerical value or a cat-
17 egorization derived from a statistical tool
18 or modeling system used by a person who
19 makes or arranges a loan to predict the
20 likelihood of certain credit behaviors, in-
21 cluding default (and the numerical value or
22 the categorization derived from this anal-
23 ysis may also be referred to as a ‘risk pre-
24 dictor’ or ‘risk score’); and

25 “(ii) does not include—

1 “(I) any mortgage score or rating
2 of an automated underwriting system
3 that considers one or more factors in
4 addition to credit information, includ-
5 ing the loan to value ratio, the
6 amount of down payment, or a con-
7 sumer’s financial assets; or

8 “(II) any other elements of the
9 underwriting process or underwriting
10 decision.

11 “(B) KEY FACTORS.—The term ‘key fac-
12 tors’ means all relevant elements or reasons ad-
13 versely affecting the credit score for the par-
14 ticular individual listed in the order of their im-
15 portance based on their effect on the credit
16 score.

17 “(3) TIMEFRAME AND MANNER OF DISCLO-
18 SURE.—The information required by this subsection
19 shall be provided in the same timeframe and manner
20 as the information described in subsection (a).

21 “(4) APPLICABILITY TO CERTAIN USES.—This
22 subsection shall not be construed so as to compel a
23 consumer reporting agency to develop or disclose a
24 score if the agency does not—

1 “(A) distribute scores that are used in con-
2 nection with residential real property loans; or

3 “(B) develop scores that assist credit pro-
4 viders in understanding a consumer’s general
5 credit behavior and predicting the future credit
6 behavior of the consumer.

7 “(5) APPLICABILITY TO CREDIT SCORES DE-
8 VELOPED BY ANOTHER PERSON.—

9 “(A) IN GENERAL.—This subsection shall
10 not be construed to require a consumer report-
11 ing agency that distributes credit scores devel-
12 oped by another person or entity to provide a
13 further explanation of them, or to process a dis-
14 pute arising pursuant to section 611, except
15 that the consumer reporting agency shall pro-
16 vide the consumer with the name and address
17 and website for contacting the person or entity
18 who developed the score or developed the meth-
19 odology of the score.

20 “(B) EXCEPTION.—This paragraph shall
21 not apply to a consumer reporting agency that
22 develops or modifies scores that are developed
23 by another person or entity.

24 “(6) MAINTENANCE OF CREDIT SCORES NOT
25 REQUIRED.—This subsection shall not be construed

1 to require a consumer reporting agency to maintain
2 credit scores in its files.

3 “(7) COMPLIANCE IN CERTAIN CASES.—In com-
4 plying with this subsection, a consumer reporting
5 agency shall—

6 “(A) supply the consumer with a credit
7 score that is derived from a credit scoring
8 model that is widely distributed to users by that
9 consumer reporting agency in connection with
10 residential real property loans or with a credit
11 score that assists the consumer in under-
12 standing the credit scoring assessment of the
13 credit behavior of the consumer and predictions
14 about the future credit behavior of the con-
15 sumer; and

16 “(B) a statement indicating that the infor-
17 mation and credit scoring model may be dif-
18 ferent than that used by the lender.

19 “(8) REASONABLE FEE.—A consumer reporting
20 agency may charge a reasonable fee for providing
21 the information required under this subsection.

22 “(9) USE OF ENQUIRIES AS A KEY FACTOR.—
23 If a key factor that adversely affects a consumer’s
24 credit score consists of the number of enquiries
25 made with respect to a consumer report, that factor

1 shall be included in the disclosure pursuant to para-
2 graph (1)(C) without regard to the numerical limita-
3 tion in such paragraph.”.

4 (c) DISCLOSURE OF CREDIT SCORES BY CERTAIN
5 MORTGAGE LENDERS.—Section 609 of the Fair Credit
6 Reporting Act (15 U.S.C. 1681g) is amended by inserting
7 after subsection (e) (as added by subsection (b) of this
8 section) the following new subsection:

9 “(f) DISCLOSURE OF CREDIT SCORES BY CERTAIN
10 MORTGAGE LENDERS.—

11 “(1) IN GENERAL.—Any person who makes or
12 arranges loans and who uses a consumer credit score
13 as defined in subsection (e) in connection with an
14 application initiated or sought by a consumer for a
15 closed end loan or establishment of an open end loan
16 for a consumer purpose that is secured by 1 to 4
17 units of residential real property (hereafter in this
18 subsection referred to as the ‘lender’) shall provide
19 the following to the consumer as soon as reasonably
20 practicable:

21 “(A) INFORMATION REQUIRED UNDER
22 SUBSECTION (e).—

23 “(i) IN GENERAL.—A copy of the in-
24 formation identified in subsection (e) that
25 was obtained from a consumer reporting

1 agency or was developed and used by the
2 user of the information.

3 “(ii) NOTICE UNDER SUBPARAGRAPH
4 (D).—In addition to the information pro-
5 vided to it by a third party that provided
6 the credit score or scores, a lender is only
7 required to provide the notice contained in
8 subparagraph (D).

9 “(B) DISCLOSURES IN CASE OF AUTO-
10 MATED UNDERWRITING SYSTEM.—

11 “(i) IN GENERAL.—If a person who is
12 subject to this section uses an automated
13 underwriting system to underwrite a loan,
14 that person may satisfy the obligation to
15 provide a credit score by disclosing a credit
16 score and associated key factors supplied
17 by a consumer reporting agency.

18 “(ii) NUMERICAL CREDIT SCORE.—
19 However, if a numerical credit score is
20 generated by an automated underwriting
21 system used by an enterprise, and that
22 score is disclosed to the person, the score
23 shall be disclosed to the consumer con-
24 sistent with subparagraph (C).

1 “(iii) ENTERPRISE DEFINED.—For
2 purposes of this subparagraph, the term
3 ‘enterprise’ shall have the same meaning
4 as in paragraph (6) of section 1303 of the
5 Federal Housing Enterprises Financial
6 Safety and Soundness Act of 1992.

7 “(C) DISCLOSURES OF CREDIT SCORES
8 NOT OBTAINED FROM A CONSUMER REPORTING
9 AGENCY.—A person subject to the provisions of
10 this subsection who uses a credit score other
11 than a credit score provided by a consumer re-
12 porting agency may satisfy the obligation to
13 provide a credit score by disclosing a credit
14 score and associated key factors supplied by a
15 consumer reporting agency.

16 “(D) NOTICE TO HOME LOAN APPLI-
17 CANTS.—A copy of the following notice, which
18 shall include the name, address, and telephone
19 number of each consumer reporting agency pro-
20 viding a credit score that was used:

21 “‘NOTICE TO THE HOME LOAN APPLICANT

22 “‘In connection with your application for a home
23 loan, the lender must disclose to you the score that a con-
24 sumer reporting agency distributed to users and the lender

1 used in connection with your home loan, and the key fac-
2 tors affecting your credit scores.

3 “‘The credit score is a computer generated summary
4 calculated at the time of the request and based on infor-
5 mation a consumer reporting agency or lender has on file.
6 The scores are based on data about your credit history
7 and payment patterns. Credit scores are important be-
8 cause they are used to assist the lender in determining
9 whether you will obtain a loan. They may also be used
10 to determine what interest rate you may be offered on the
11 mortgage. Credit scores can change over time, depending
12 on your conduct, how your credit history and payment pat-
13 terns change, and how credit scoring technologies change.

14 “‘Because the score is based on information in your
15 credit history, it is very important that you review the
16 credit-related information that is being furnished to make
17 sure it is accurate. Credit records may vary from one com-
18 pany to another.

19 “‘If you have questions about your credit score or
20 the credit information that is furnished to you, contact
21 the consumer reporting agency at the address and tele-
22 phone number provided with this notice, or contact the
23 lender, if the lender developed or generated the credit
24 score. The consumer reporting agency plays no part in the
25 decision to take any action on the loan application and

1 is unable to provide you with specific reasons for the deci-
2 sion on a loan application.

3 “‘If you have questions concerning the terms of
4 the loan, contact the lender.’.

5 “(E) ACTIONS NOT REQUIRED UNDER THIS
6 SUBSECTION.—This subsection shall not require
7 any person to do any of the following:

8 “(i) Explain the information provided
9 pursuant to subsection (e).

10 “(ii) Disclose any information other
11 than a credit score or key factor, as de-
12 fined in subsection (e).

13 “(iii) Disclose any credit score or re-
14 lated information obtained by the user
15 after a loan has closed.

16 “(iv) Provide more than 1 disclosure
17 per loan transaction.

18 “(v) Provide the disclosure required
19 by this subsection when another person has
20 made the disclosure to the consumer for
21 that loan transaction.

22 “(F) NO OBLIGATION FOR CONTENT.—

23 “(i) IN GENERAL.—Any person’s obli-
24 gation pursuant to this subsection shall be
25 limited solely to providing a copy of the in-

1 formation that was received from the con-
2 sumer reporting agency.

3 “(ii) LIMIT ON LIABILITY.—No person
4 has liability under this subsection for the
5 content of that information or for the
6 omission of any information within the re-
7 port provided by the consumer reporting
8 agency.

9 “(G) PERSON DEFINED AS EXCLUDING EN-
10 TERPRISE.—As used in this subsection, the
11 term ‘person’ does not include an enterprise (as
12 defined in paragraph (6) of section 1303 of the
13 Federal Housing Enterprises Financial Safety
14 and Soundness Act of 1992).

15 “(2) PROHIBITION ON DISCLOSURE CLAUSES
16 NULL AND VOID.—

17 “(A) IN GENERAL.—Any provision in a
18 contract that prohibits the disclosure of a credit
19 score by a person who makes or arranges loans
20 or a consumer reporting agency is void.

21 “(B) NO LIABILITY FOR DISCLOSURE
22 UNDER THIS SUBSECTION.—A lender shall not
23 have liability under any contractual provision
24 for disclosure of a credit score pursuant to this
25 subsection.”.

1 (d) INCLUSION OF KEY FACTOR IN CREDIT SCORE
2 INFORMATION IN CONSUMER REPORT.—Section 605(d) of
3 the Fair Credit Reporting Act (15 U.S.C. 1681e(d)) is
4 amended—

5 (1) by striking “DISCLOSED.—Any consumer
6 reporting agency” and inserting “DISCLOSED.—

7 “(1) TITLE 11 INFORMATION.—Any consumer
8 reporting agency”; and

9 (2) by adding at the end the following new
10 paragraph:

11 “(2) KEY FACTOR IN CREDIT SCORE INFORMA-
12 TION.—Any consumer reporting agency that fur-
13 nishes a consumer report that contains any credit
14 score or any other risk score or predictor on any
15 consumer shall include in the report a clear and con-
16 spicuous statement that a key factor (as defined in
17 section 609(e)(2)(B)) that adversely affected such
18 score or predictor was the number of enquiries, if
19 such a predictor was in fact a key factor that ad-
20 versely affected such score. This paragraph shall not
21 apply to a person described in subsection
22 (j)(4)(A)(i), but only to the extent that such person
23 is engaged in activities described in such sub-
24 section.”.

1 (e) TECHNICAL AND CONFORMING AMENDMENT.—
2 Section 624(b) of the Fair Credit Reporting Act (15
3 U.S.C. 1681t(b)(3)) (as amended by section 204(b) of this
4 Act) is amended—

5 (1) by striking “or” at the end of paragraph
6 (2); and

7 (2) by striking paragraph (3) and inserting the
8 following new paragraphs:

9 “(3) with respect to the form and content of
10 any disclosure required to be made under subsection
11 (c), (d), (e), or (f) of section 609, except that this
12 paragraph shall not apply—

13 “(A) with respect to sections 1785.10,
14 1785.16 and 1785.20.2 of the California Civil
15 Code (as in effect on the date of enactment of
16 the Fair and Accurate Credit Transactions Act
17 of 2003) and section 1785.15 through section
18 1785.15.2 of such Code (as in effect on such
19 date) and

20 “(B) with respect to section 12–14.3–
21 104.3 of the Colorado Revised Statutes (as in
22 effect on the date of enactment of the Fair and
23 Accurate Credit Transactions Act of 2003); and

1 “(4) with respect to the frequency of any disclo-
2 sure under section 612(e), except that this para-
3 graph shall not apply—

4 “(A) with respect to section 12–14.3–
5 105(1)(d) of the Colorado Revised Statutes (as
6 in effect on the date of enactment of the Fair
7 and Accurate Credit Transactions Act of 2003);

8 “(B) with respect to section 10–1–
9 393(29)(C) of the Georgia Code (as in effect on
10 the date of enactment of the Fair and Accurate
11 Credit Transactions Act of 2003);

12 “(C) with respect to section 1316.2–B of
13 title 10 of the Maine Revised Statutes (as in ef-
14 fect on the date of enactment of the Fair and
15 Accurate Credit Transactions Act of 2003);

16 “(D) with respect to sections 14–
17 1209(a)(1) and 14–1209(b)(1)(i) of the Com-
18 mercial Law Article of the Code of Maryland
19 (as in effect on the date of enactment of the
20 Fair and Accurate Credit Transactions Act of
21 2003);

22 “(E) with respect to section 59(d) and sec-
23 tion 59(e) of chapter 93 of the General Laws
24 of Massachusetts (as in effect on the date of

1 enactment of the Fair and Accurate Credit
2 Transactions Act of 2003);

3 “(F) with respect to section 56:11–
4 37.10(a)(1) of the New Jersey Revised Statutes
5 (as in effect on the date of enactment of the
6 Fair and Accurate Credit Transactions Act of
7 2003); and

8 “(G) with respect to section 2480c(a)(1) of
9 the Vermont Statutes Annotated (as in effect
10 on the date of enactment of the Fair and Accu-
11 rate Credit Transactions Act of 2003).”.

12 **SEC. 503. SIMPLER AND EASIER METHOD FOR CONSUMERS**
13 **TO USE NOTIFICATION SYSTEM.**

14 (a) IN GENERAL.—Section 604(e)(5)(A)(i) of the
15 Fair Credit Reporting Act (15 U.S.C. 1681b(e)(5)(A)(i))
16 is amended by inserting “in a simple and easy manner
17 and” after “notify the agency,”.

18 (b) SIMPLIFIED NOTICE AND RESPONSE FORMAT
19 FOR USERS.—Section 615(d) of the Fair Credit Reporting
20 Act (15 U.S.C. 1681m(d)) is amended—

21 (1) by redesignating paragraphs (2), (3), and
22 (4), as paragraphs (3), (4) and (5); and

23 (2) by inserting after paragraph (1) the fol-
24 lowing new paragraph:

1 “(2) SIMPLE AND EASY NOTIFICATION.—Any
2 statement given the consumer under paragraph
3 (1)(E) shall be in a simple and easy to understand
4 format and shall describe the simple and easy meth-
5 od established under section 604(e)(5)(A)(i) for the
6 consumer to respond.”.

7 **SEC. 504. REQUIREMENT TO DISCLOSE COMMUNICATIONS**
8 **TO A CONSUMER REPORTING AGENCY.**

9 (a) IN GENERAL.—Section 623(a) of the Fair Credit
10 Reporting Act (15 U.S.C. 1681s–2(a)) is amended by in-
11 serting after paragraph (6) (as added by section 304(3))
12 the following new paragraph:

13 “(7) NEGATIVE INFORMATION.—

14 “(A) NOTICE TO CONSUMER REQUIRED.—

15 “(i) IN GENERAL.—If any financial
16 institution that extends credit and regu-
17 larly and in the ordinary course of business
18 furnishes information to a consumer re-
19 porting agency described in section 603(p)
20 furnishes negative information to such an
21 agency regarding credit extended to a cus-
22 tomer, the financial institution shall pro-
23 vide a notice of such furnishing of negative
24 information, in writing, to the customer.

1 “(ii) NOTICE EFFECTIVE FOR SUBSE-
2 QUENT SUBMISSIONS.—After providing
3 such notice, the financial institution may
4 submit additional negative information to a
5 consumer reporting agency described in
6 section 603(p) with respect to the same
7 transaction, extension of credit, account, or
8 customer without providing additional no-
9 tice to the customer.

10 “(B) TIME OF NOTICE.—

11 “(i) IN GENERAL.—The notice re-
12 quired under subparagraph (A) shall be
13 provided to the customer prior to, or no
14 later than 30 days after, furnishing the
15 negative information to a consumer report-
16 ing agency described in section 603(p).

17 “(ii) COORDINATION WITH NEW AC-
18 COUNT DISCLOSURES.—If the notice is
19 provided to the customer prior to fur-
20 nishing the negative information to a con-
21 sumer reporting agency, the notice may
22 not be included in the initial disclosures
23 provided under section 127(a) of the Truth
24 in Lending Act.

1 “(C) COORDINATION WITH OTHER DISCLO-
2 SURES.—The notice required under subpara-
3 graph (A)—

4 “(i) may be included on or with any
5 notice of default, any billing statement, or
6 any other materials provided to the cus-
7 tomer; and

8 “(ii) must be clear and conspicuous.

9 “(D) MODEL DISCLOSURE.—

10 “(i) DUTY OF BOARD TO PREPARE.—
11 The Board shall prescribe a brief model
12 disclosure a financial institution may use
13 to comply with subparagraph (A), which
14 shall not exceed 30 words.

15 “(ii) USE OF MODEL NOT RE-
16 QUIRED.—No provision of this paragraph
17 shall be construed as requiring a financial
18 institution to use any such model form pre-
19 scribed by the Board.

20 “(iii) COMPLIANCE USING MODEL.—A
21 financial institution shall be deemed to be
22 in compliance with subparagraph (A) if the
23 financial institution uses any such model
24 form prescribed by the Board, or the fi-

1 nancial institution uses any such model
2 form and rearranges its format.

3 “(E) USE OF NOTICE WITHOUT SUBMIT-
4 TING NEGATIVE INFORMATION.—No provision
5 of this paragraph shall be construed as requir-
6 ing a financial institution that has provided a
7 customer with a notice described in subpara-
8 graph (A) to furnish negative information about
9 the customer to a consumer reporting agency.

10 “(F) SAFE HARBOR.—A financial institu-
11 tion shall not be liable for failure to perform
12 the duties required by this paragraph if, at the
13 time of the failure, the financial institution
14 maintained reasonable policies and procedures
15 to comply with this paragraph or the financial
16 institution reasonably believed that the institu-
17 tion is prohibited, by law, from contacting the
18 consumer.

19 “(G) DEFINITIONS.—For purposes of this
20 paragraph, the following definitions shall apply:

21 “(i) NEGATIVE INFORMATION.—The
22 term ‘negative information’ means infor-
23 mation concerning a customer’s delin-
24 quencies, late payments, insolvency, or any
25 form of default.

1 “(ii) CUSTOMER; FINANCIAL INSTITU-
 2 TION.—The terms ‘customer’ and ‘finan-
 3 cial institution’ have the same meaning as
 4 in section 509 of the Gramm-Leach-Bliley
 5 Act.”.

6 (b) MODEL DISCLOSURE FORM.—Before the end of
 7 the 6-month period beginning on the date of the enact-
 8 ment of this Act, the Board of Governors of the Federal
 9 Reserve System shall adopt the model disclosure required
 10 under the amendment made by subsection (a) after notice
 11 duly given in the Federal Register and an opportunity for
 12 public comment in accordance with section 553 of title 5,
 13 United States Code.

14 **SEC. 505. STUDY OF EFFECTS OF CREDIT SCORES AND**
 15 **CREDIT-BASED INSURANCE SCORES ON**
 16 **AVAILABILITY AND AFFORDABILITY OF FI-**
 17 **NANCIAL PRODUCTS.**

18 (a) STUDY REQUIRED.—The Federal Trade Commis-
 19 sion, in consultation with the Office of Fair Housing and
 20 Equal Opportunity of the Department of Housing and
 21 Urban Development, shall conduct a study of—

22 (1) the effects of the use of credit scores and
 23 credit-based insurance scores on the availability and
 24 affordability of financial products and services, in-

1 including credit cards, mortgages, auto loans, and
2 property and casualty insurance;

3 (2) the degree of causality between the factors
4 considered by credit score systems and the quantifi-
5 able risks and actual losses experienced by busi-
6 nesses, including the extent to which, if any, each of
7 the factors considered or otherwise taken into ac-
8 count by such systems are accurate predictors of
9 risk or loss, and where the means square error of a
10 scoring model's predictions are considered in the
11 evaluation of accuracy;

12 (3) the extent to which, if any, the use of credit
13 scoring models, credit scores and credit-based insur-
14 ance scores result in disparate impact by geography,
15 income, ethnicity, race, color, religion, national ori-
16 gin, age, sex or marital status, and creed, including
17 the extent to which the consideration or lack of con-
18 sideration of certain factors by credit scoring sys-
19 tems could result in disparate effects and the extent
20 to which, if any, the use of underwriting systems re-
21 lying on these models could achieve comparable re-
22 sults through the use of factors with less disparate
23 impact; and

24 (4) the extent to which credit scoring systems
25 are used by businesses, the factors considered by

1 such systems, and the effects of variables which are
2 not considered by such systems.

3 (b) PUBLIC PARTICIPATION.—The Commission shall
4 seek public input about the prescribed methodology and
5 research design of the study required in subsection (a).

6 (c) REPORT REQUIRED.—

7 (1) IN GENERAL.—Before the end of the 18-
8 month period beginning on the date of the enact-
9 ment of this Act, the Federal Trade Commission
10 shall submit a detailed report on the study con-
11 ducted pursuant to subsection (a) to the Committee
12 on Financial Services of the House of Representa-
13 tives and the Committee on Banking, Housing, and
14 Urban Affairs of the Senate.

15 (2) CONTENTS OF REPORT.—The report sub-
16 mitted under paragraph (1) shall include the find-
17 ings and conclusions of the Commission, together
18 with such recommendations for legislative or admin-
19 istrative action as the Commission may determine to
20 be necessary to ensure that credit and credit-based
21 insurances score are used appropriately and fairly to
22 avoid disparate effects.

23 (d) CREDIT SCORE DEFINED.—For purposes of this
24 section, the term “credit score” means a numerical value
25 or a categorization derived from a statistical tool or mod-

1 eling system used to predict the likelihood of certain credit
2 or insurance behaviors, including default.

3 **SEC. 506. GAO STUDY ON DISPARATE IMPACT OF CREDIT**
4 **SYSTEM.**

5 (a) STUDY REQUIRED.—The Comptroller General
6 shall conduct a study of the credit system to determine
7 the extent to which, if any, discrimination exists with re-
8 gard to the availability and the terms of credit which has
9 a disparate impact on the basis of race, color, income and
10 education level, geographic location, age, sex, sexual ori-
11 entation, national origin, or marital status and the nature
12 of any such discriminatory effect.

13 (b) REPORT REQUIRED.—Before the end of the 2-
14 year period beginning on the date of the enactment of this
15 Act, the Comptroller General shall submit a report to the
16 Congress on the findings and conclusions of the Comp-
17 troller General pursuant to the study conducted under
18 subsection (a), together with such recommendations for
19 legislative or administrative action as the Comptroller
20 General may determine to be appropriate.

21 **SEC. 507. ANALYSIS OF FURTHER RESTRICTIONS ON OF-**
22 **FERS OF CREDIT OR INSURANCE.**

23 (a) IN GENERAL.—The Board of Governors of the
24 Federal Reserve System shall conduct a study of—

1 (1) the ability of consumers to avoid receiving
2 written offers of credit or insurance in connection
3 with transactions not initiated by the consumer; and

4 (2) the potential impact any further restrictions
5 on providing consumers with such written offers of
6 credit or insurance would have on consumers.

7 (b) REPORT.—The Board of Governors of the Fed-
8 eral Reserve System shall submit a report summarizing
9 the results of the study required under subsection (a) to
10 the Congress no later than 12 months after the date of
11 the enactment of this Act, together with such
12 recommendatioons for legislative or administrative action
13 as the Board may determine to be appropriate.

14 (c) CONTENT OF REPORT.—The report described in
15 subsection (b) shall address the following issues:

16 (1) The current statutory or voluntary mecha-
17 nisms that are available to a consumer to notify
18 lenders and insurance providers that the consumer
19 does not wish to receive written offers of credit or
20 insurance.

21 (2) The extent to which consumers are cur-
22 rently utilizing existing statutory and voluntary
23 mechanisms to avoid receiving offers of credit or in-
24 surance.

1 (3) The benefits provided to consumers as a re-
2 sult of receiving written offers of credit or insurance.

3 (4) Whether consumers incur significant costs
4 or are otherwise adversely affected by the receipt of
5 written offers of credit or insurance.

6 (5) Whether further restricting the ability of
7 lenders and insurers to provide written offers of
8 credit or insurance to consumers would affect—

9 (A) the cost consumers pay to obtain credit
10 or insurance;

11 (B) the availability of credit or insurance;

12 (C) consumers' knowledge about new or al-
13 ternative products and services;

14 (D) the ability of lenders or insurers to
15 compete with one another; and

16 (E) the ability to offer credit or insurance
17 products to consumers who have been tradition-
18 ally underserved.

19 **SEC. 508. STUDY ON THE NEED AND THE MEANS FOR IM-**
20 **PROVING FINANCIAL LITERACY AMONG CON-**
21 **SUMERS.**

22 (a) **STUDY REQUIRED.**—The Comptroller General
23 shall conduct a study to assess the extent of consumers'
24 knowledge and awareness of credit reports, credit scores,

1 and the dispute resolution process, and on methods for
2 improving financial literacy among consumers.

3 (b) FACTORS TO BE INCLUDED.—The study re-
4 quired under subsection (a) shall include the following
5 issues:

6 (1) The number of consumers who view their
7 credit reports.

8 (2) Under what conditions and for what pur-
9 poses do consumers primarily obtain a copy of their
10 consumer report (such as for the purpose of ensur-
11 ing the completeness and accuracy of the contents,
12 to protect against fraud, in response to an adverse
13 action based on the report, or in response to sus-
14 pected identity theft) and approximately what per-
15 centage of the total number of consumers who ob-
16 tain a copy of their consumer report do so for each
17 such primary purpose.

18 (3) The extent of consumers' knowledge of the
19 data collection process.

20 (4) The extent to which consumers know how to
21 get a copy of a consumer report.

22 (5) The extent to which consumers know and
23 understand the factors that positively or negatively
24 impact credit scores.

1 (c) REPORT REQUIRED.—Before the end of the 9-
 2 month period beginning on the date of the enactment of
 3 this Act, the Comptroller General shall submit a report
 4 to the Congress on the findings and conclusions of the
 5 Comptroller General pursuant to the study conducted
 6 under subsection (a), together with such recommendations
 7 for legislative or administrative action as the Comptroller
 8 General may determine to be appropriate, including rec-
 9 ommendations on methods for improving financial literacy
 10 among consumers.

11 **SEC. 509. DISCLOSURE OF INCREASE IN APR UNDER CER-**
 12 **TAIN CIRCUMSTANCES.**

13 Section 609 of the Fair Credit Reporting Act (15
 14 U.S.C. 1681m) is amended by inserting after subsection
 15 (f) (as added by section 502(c) of this title) the following
 16 new subsection:

17 “(g) DISCLOSURE TO CONSUMER.—

18 “(1) IN GENERAL.—The ability of a credit card
 19 issuer to increase any annual percentage rate appli-
 20 cable to a credit card account, or to remove or in-
 21 crease any introductory annual percentage rate of
 22 interest applicable to such account, for reasons other
 23 than actions or omissions of the card holder that are
 24 directly related to such account shall be clearly and
 25 conspicuously disclosed to the consumer by the cred-

1 it card issuer in any disclosure or statement required
 2 to be made to the consumer under this title in con-
 3 nection with a credit card solicitation that is not ini-
 4 tiated by the consumer.

5 “(2) REGULATIONS AND MODEL STATE-
 6 MENTS.—The Board, in consultation with the Fed-
 7 eral banking agencies and the National Credit Union
 8 Administration, shall develop such guidelines in reg-
 9 ulations as necessary to assure that the information
 10 to be disclosed to consumers pursuant to paragraph
 11 (1) is clearly and conspicuously provided in a promi-
 12 nent location in any credit card solicitation that is
 13 not initiated by the consumer, and shall include
 14 model disclosure statements to be used by credit
 15 card issuers in making the disclosures required to be
 16 provided to the consumer by paragraph (1).”.

17 **TITLE VI—PROTECTING EM-**
 18 **PLOYEE MISCONDUCT INVES-**
 19 **TIGATIONS**

20 **SEC. 601. CERTAIN EMPLOYEE INVESTIGATION COMMU-**
 21 **NICATIONS EXCLUDED FROM DEFINITION OF**
 22 **CONSUMER REPORT.**

23 (a) IN GENERAL.—Section 603 of the Fair Credit
 24 Reporting Act (15 U.S.C. 1681a) is amended by inserting
 25 after subsection (p) the following new subsection:

1 “(q) EXCLUSION OF CERTAIN COMMUNICATIONS FOR
2 EMPLOYEE INVESTIGATIONS.—

3 “(1) COMMUNICATIONS DESCRIBED IN THIS
4 SUBSECTION.—A communication is described in this
5 subsection if—

6 “(A) but for subsection (d)(2)(D), the
7 communication would be a consumer report;

8 “(B) the communication is made to an em-
9 ployer in connection with an investigation of—

10 “(i) suspected misconduct relating to
11 employment; or

12 “(ii) compliance with Federal, State,
13 or local laws and regulations, the rules of
14 a self-regulatory organization, or any pre-
15 existing written policies of the employer;

16 “(C) the communication is not made for
17 the purpose of investigating a consumer’s credit
18 worthiness, credit standing, or credit capacity;
19 and

20 “(D) the communication is not provided to
21 any person except—

22 “(i) to the employer or an agent of
23 the employer;

24 “(ii) to any Federal or State officer,
25 agency, or department, or any officer,

1 agency, or department of a unit of general
2 local government;

3 “(iii) to any self-regulatory organiza-
4 tion with regulatory authority over the ac-
5 tivities of the employer or employee;

6 “(iv) as otherwise required by law; or

7 “(v) pursuant to section 608.

8 “(2) SUBSEQUENT DISCLOSURE.—After taking
9 any adverse action based in whole or in part on a
10 communication described in paragraph (1), the em-
11 ployer shall disclose to the consumer a summary
12 containing the nature and substance of the commu-
13 nication upon which the adverse action is based, ex-
14 cept that the sources of information acquired solely
15 for use in preparing what would be but for sub-
16 section (d)(2)(D) an investigative consumer report
17 need not be disclosed.

18 “(3) SELF-REGULATORY ORGANIZATION DE-
19 FINED.—For purposes of this subsection, the term
20 ‘self-regulatory organization’ includes any self-regu-
21 latory organization (as defined in section 3(a)(26) of
22 the Securities Exchange Act of 1934), any entity es-
23 tablished under title I of the Sarbanes-Oxley Act of
24 2002, any board of trade designated by the Com-

1 modity Futures Trading Commission, and any fu-
 2 tures association registered with such Commission.”.

3 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 4 Section 603(d)(2)(D) of the Fair Credit Reporting Act (15
 5 U.S.C. 1681a(d)(2)(D)) is amended by inserting “or (q)”
 6 after “subsection (o)”.

7 **TITLE VII—LIMITING THE USE**
 8 **AND SHARING OF MEDICAL**
 9 **INFORMATION IN THE FINAN-**
 10 **CIAL SYSTEM**

11 **SEC. 701. PROTECTION OF MEDICAL INFORMATION IN THE**
 12 **FINANCIAL SYSTEM.**

13 (a) IN GENERAL.—Section 604(g) of the Fair Credit
 14 Reporting Act (15 U.S.C. 1681b(g)) is amended to read
 15 as follows:

16 “(g) PROTECTION OF MEDICAL INFORMATION.—

17 “(1) LIMITATION ON CONSUMER REPORTING
 18 AGENCIES.—A consumer reporting agency shall not
 19 furnish for employment purposes, or in connection
 20 with a credit or insurance transaction, a consumer
 21 report that contains medical information about a
 22 consumer, unless—

23 “(A) if furnished in connection with an in-
 24 surance transaction, the consumer affirmatively
 25 consents to the furnishing of the report;

1 “(B) if furnished for employment purposes
2 or in connection with a credit transaction—

3 “(i) the information to be furnished is
4 relevant to process or effect the employ-
5 ment or credit transaction; and

6 “(ii) the consumer provides specific
7 written consent for the furnishing of the
8 report that describes in clear and con-
9 spicuous language the use for which the in-
10 formation will be furnished; or

11 “(C) the information to be furnished per-
12 tains solely to transactions, accounts, or bal-
13 ances relating to debts arising from the receipt
14 of medical services, products, or devices, where
15 such information, other than account status or
16 amounts, is restricted or reported using codes
17 that do not identify, or do not provide informa-
18 tion sufficient to infer, the specific provider or
19 the nature of such services, products, or de-
20 vices, as provided in section 605(a)(6)).

21 “(2) LIMITATION ON CREDITORS.—Except as
22 permitted pursuant to paragraph (3)(C) or regula-
23 tions prescribed under paragraph (5)(A), a creditor
24 shall not obtain or use medical information per-
25 taining to a consumer in connection with any deter-

1 mination of the consumer’s eligibility, or continued
2 eligibility, for credit.

3 “(3) ACTIONS AUTHORIZED BY FEDERAL LAW,
4 INSURANCE ACTIVITIES AND REGULATORY DETER-
5 MINATIONS.—Section 603(d)(3) shall not be con-
6 strued so as to treat information or any communica-
7 tion of information as a consumer report if the in-
8 formation or communication is disclosed—

9 “(A) in connection with the business of in-
10 surance or annuities, including the activities de-
11 scribed in section 18B of the model Privacy of
12 Consumer Financial and Health Information
13 Regulation issued by the National Association
14 of Insurance Commissioners (as in effect on
15 January 1, 2003);

16 “(B) for any purpose permitted without
17 authorization under the Standards for Individ-
18 ually Identifiable Health Information promul-
19 gated by the Department of Health and Human
20 Services pursuant to the Health Insurance
21 Portability and Accountability Act of 1996, or
22 referred to under section 1179 of such Act, or
23 described in section 502(e) of Public Law 106–
24 102; or

“(C) as otherwise determined to be necessary and appropriate, by regulation or order and subject to paragraph (6), by the Commission, any Federal banking agency or the National Credit Union Administration (with respect to any financial institution subject to the jurisdiction of such agency or Administration under paragraph (1), (2), or (3) of section 621(b), or the applicable State insurance authority (with respect to any person engaged in providing insurance or annuities).

“(4) LIMITATION ON REDISCLOSURE OF MEDICAL INFORMATION.—Any person that receives medical information pursuant to paragraphs (1) or (3) shall not disclose such information to any other person except as necessary to carry out the purposes for which the information was initially disclosed, or as otherwise permitted by statute, regulation, or order.

“(5) REGULATIONS AND EFFECTIVE DATE FOR PARAGRAPH (2).—

“(A) REGULATIONS REQUIRED.—Each Federal banking agency and the National Credit Union Administration shall, subject to paragraph (6) and after notice and opportunity for comment, prescribe regulations that permit

1 transactions under paragraph (2) that are de-
2 termined to be necessary and appropriate to
3 protect legitimate operational, transactional,
4 risk, consumer, and other needs (and which
5 shall include permitting actions necessary for
6 administrative verification purposes), consistent
7 with the intent of paragraph (2) to restrict the
8 use of medical information for inappropriate
9 purposes.

10 “(B) FINAL REGULATIONS REQUIRED.—

11 The Federal banking agencies and the National
12 Credit Union Administration shall prescribe the
13 regulations required under subparagraph (A) in
14 final form before the end of the 6-month period
15 beginning on the date of the enactment of the
16 Fair and Accurate Credit Transactions Act of
17 2003.

18 “(6) COORDINATION WITH OTHER LAWS.—No

19 provision of this subsection shall be construed as al-
20 tering, affecting, or superseding the applicability of
21 any other provision of Federal law relating to med-
22 ical confidentiality.”.

23 (b) RESTRICTION ON SHARING OF MEDICAL INFOR-

24 MATION.—Section 603(d) of the Fair Credit Reporting
25 Act (15 U.S.C. 1681a(d)) is amended—

1 (1) in paragraph (2), by striking “The term”
 2 and inserting “Except as provided in paragraph (3),
 3 the term”; and

4 (2) by adding at the end the following new
 5 paragraph:

6 “(3) RESTRICTION ON SHARING OF MEDICAL
 7 INFORMATION.—Except for information or any com-
 8 munication of information disclosed as provided in
 9 section 604(g)(3), the exclusions in paragraph (2)
 10 shall not apply with respect to information disclosed
 11 to any person related by common ownership or affili-
 12 ated by corporate control if—

13 “(A) the information is medical informa-
 14 tion; or

15 “(B) the information is an individualized
 16 list or description based on a consumer’s pay-
 17 ment transactions for medical products or serv-
 18 ices, or an aggregate list of identified con-
 19 sumers based on payment transactions for med-
 20 ical products or services.”.

21 **SEC. 702. CONFIDENTIALITY OF MEDICAL CONTACT INFOR-**
 22 **MATION IN CREDIT REPORTS.**

23 (a) DUTIES OF MEDICAL INFORMATION FUR-
 24 NISHERS.—Section 623(a) of the Fair Credit Reporting
 25 Act (15 U.S.C. 1681s–2(a)) is amended by inserting after

1 paragraph (7) (as added by section 504(a)) the following
2 new paragraph:

3 “(8) DUTY TO PROVIDE NOTICE OF STATUS AS
4 MEDICAL INFORMATION FURNISHER.—A person
5 whose primary business is providing medical serv-
6 ices, products, or devices, or the person’s agent or
7 assignee, who furnishes information to a consumer
8 reporting agency on a consumer shall be considered
9 a medical information furnisher for the purposes of
10 this title and shall notify the agency of such sta-
11 tus.”.

12 (b) RESTRICTION OF DISSEMINATION OF MEDICAL
13 CONTACT INFORMATION.—Section 605(a) of the Fair
14 Credit Reporting Act (15 U.S.C. 1681c(a)) is amended by
15 adding the following new paragraph:

16 “(6) The name, address, and telephone number
17 of any medical information furnisher that has noti-
18 fied the agency of its status, unless—

19 “(A) such name, address, and telephone
20 number are restricted or reported using codes
21 that do not identify, or provide information suf-
22 ficient to infer, the specific provider or the na-
23 ture of such services, products, or devices to a
24 person other than the consumer; or

1 “(B) the report is being provided to an in-
2 surance company for a purpose relating to en-
3 gaging in the business of insurance other than
4 property and casualty insurance.”.

5 (c) NO EXCEPTIONS ALLOWED FOR DOLLAR
6 AMOUNTS.—Section 605(b) of the Fair Credit Reporting
7 Act (15 U.S.C. 1681c(b)) is amended by striking “The
8 provisions of subsection (a)” and inserting “The provi-
9 sions of paragraphs (1) through (5) of subsection (a)”.

10 (d) COORDINATION WITH OTHER LAWS.—No provi-
11 sion of any amendment made by this section shall be con-
12 strued as altering, affecting, or superseding the applica-
13 bility of any other provision of Federal law relating to
14 medical confidentiality.

15 (e) FTC REGULATION OF CODING OF TRADE
16 NAMES.—Section 621 of the Fair Credit Reporting Act
17 (15 U.S.C. 1681s) is amended by inserting after sub-
18 section (f) (as added by section 301 of this Act) the fol-
19 lowing new subsection:

20 “(g) FTC REGULATION OF CODING OF TRADE
21 NAMES.—If the Commission determines that a person de-
22 scribed in paragraph (8) of section 623(a) has not met
23 the requirements of such paragraph, the Commission shall
24 take action to ensure the person’s compliance with such
25 paragraph, which may include issuing model guidance or

1 prescribing reasonable policies and procedures as nec-
 2 essary to ensure that such person complies with such para-
 3 graph.”.

4 (f) TECHNICAL AND CONFORMING AMENDMENTS.—
 5 Section 604(g) of the Fair Credit Reporting Act (15
 6 U.S.C. 1681b(g)) (as amended by section 701) is amend-
 7 ed—

8 (1) in paragraph (1) by inserting “(other than
 9 medical contact information treated in the manner
 10 required under section 605(a)(6))” after “a con-
 11 sumer report that contains medical information”;
 12 and

13 (2) in paragraph (2) by inserting “(other than
 14 medical information treated in the manner required
 15 under section 605(a)(6))” after “a creditor shall not
 16 obtain or use medical information”.

17 (g) EFFECTIVE DATE.—The amendments made by
 18 this section shall take effect at the end of the 15-month
 19 period beginning on the date of the enactment of this Act.

Passed the House of Representatives September 10,
 2003.

Attest:

JEFF TRANDAHL,

Clerk.