

111TH CONGRESS  
2D SESSION

# S. 3987

To amend the Fair Credit Reporting Act with respect to the applicability of identity theft guidelines to creditors.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 30, 2010

Mr. THUNE (for himself and Mr. BEGICH) introduced the following bill; which was read twice, considered, read the third time, and passed

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## A BILL

To amend the Fair Credit Reporting Act with respect to the applicability of identity theft guidelines to creditors.

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.**

4 This Act may be cited as the “Red Flag Program  
5 Clarification Act of 2010”.

6 **SEC. 2. SCOPE OF CERTAIN CREDITOR REQUIREMENTS.**

7 (a) AMENDMENT TO FCRA.—Section 615(e) of the  
8 Fair Credit Reporting Act (15 U.S.C. 1681m(e)) is  
9 amended by adding at the end the following:

1           “(4) DEFINITIONS.—As used in this subsection,  
2 the term ‘creditor’—

3           “(A) means a creditor, as defined in sec-  
4 tion 702 of the Equal Credit Opportunity Act  
5 (15 U.S.C. 1691a), that regularly and in the  
6 ordinary course of business—

7           “(i) obtains or uses consumer reports,  
8 directly or indirectly, in connection with a  
9 credit transaction;

10           “(ii) furnishes information to con-  
11 sumer reporting agencies, as described in  
12 section 623, in connection with a credit  
13 transaction; or

14           “(iii) advances funds to or on behalf  
15 of a person, based on an obligation of the  
16 person to repay the funds or repayable  
17 from specific property pledged by or on be-  
18 half of the person;

19           “(B) does not include a creditor described  
20 in subparagraph (A)(iii) that advances funds on  
21 behalf of a person for expenses incidental to a  
22 service provided by the creditor to that person;  
23 and

24           “(C) includes any other type of creditor, as  
25 defined in that section 702, as the agency de-

1           scribed in paragraph (1) having authority over  
2           that creditor may determine appropriate by rule  
3           promulgated by that agency, based on a deter-  
4           mination that such creditor offers or maintains  
5           accounts that are subject to a reasonably fore-  
6           seeable risk of identity theft.”.

7           (b) EFFECTIVE DATE.—The amendment made by  
8 this section shall become effective on the date of enact-  
9 ment of this Act.

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