

FAIR AND ACCURATE CREDIT TRANSACTIONS ACT, 2003

NOVEMBER 21, 2003.—Ordered to be printed

Mr. OXLEY, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 2622]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2622), 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, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

(b) *TABLE OF CONTENTS.*—*The table of contents for this Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Effective dates.

TITLE I—IDENTITY THEFT PREVENTION AND CREDIT HISTORY RESTORATION

Subtitle A—Identity Theft Prevention

Sec. 111. Amendment to definitions.

Sec. 112. Fraud alerts and active duty alerts.

Sec. 113. Truncation of credit card and debit card account numbers.

Sec. 114. Establishment of procedures for the identification of possible instances of identity theft.

Sec. 115. Authority to truncate social security numbers.

Subtitle B—Protection and Restoration of Identity Theft Victim Credit History

- Sec. 151. *Summary of rights of identity theft victims.*
 Sec. 152. *Blocking of information resulting from identity theft.*
 Sec. 153. *Coordination of identity theft complaint investigations.*
 Sec. 154. *Prevention of repollution of consumer reports.*
 Sec. 155. *Notice by debt collectors with respect to fraudulent information.*
 Sec. 156. *Statute of limitations.*
 Sec. 157. *Study on the use of technology to combat identity theft.*

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

- Sec. 211. *Free consumer reports.*
 Sec. 212. *Disclosure of credit scores.*
 Sec. 213. *Enhanced disclosure of the means available to opt out of prescreened lists.*
 Sec. 214. *Affiliate sharing.*
 Sec. 215. *Study of effects of credit scores and credit-based insurance scores on availability and affordability of financial products.*
 Sec. 216. *Disposal of consumer report information and records.*
 Sec. 217. *Requirement to disclose communications to a consumer reporting agency.*

TITLE III—ENHANCING THE ACCURACY OF CONSUMER REPORT INFORMATION

- Sec. 311. *Risk-based pricing notice.*
 Sec. 312. *Procedures to enhance the accuracy and integrity of information furnished to consumer reporting agencies.*
 Sec. 313. *FTC and consumer reporting agency action concerning complaints.*
 Sec. 314. *Improved disclosure of the results of reinvestigation.*
 Sec. 315. *Reconciling addresses.*
 Sec. 316. *Notice of dispute through reseller.*
 Sec. 317. *Reasonable reinvestigation required.*
 Sec. 318. *FTC study of issues relating to the Fair Credit Reporting Act.*
 Sec. 319. *FTC study of the accuracy of consumer reports.*

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

- Sec. 411. *Protection of medical information in the financial system.*
 Sec. 412. *Confidentiality of medical contact information in consumer reports.*

TITLE V—FINANCIAL LITERACY AND EDUCATION IMPROVEMENT

- Sec. 511. *Short title.*
 Sec. 512. *Definitions.*
 Sec. 513. *Establishment of Financial Literacy and Education Commission.*
 Sec. 514. *Duties of the Commission.*
 Sec. 515. *Powers of the Commission.*
 Sec. 516. *Commission personnel matters.*
 Sec. 517. *Studies by the Comptroller General.*
 Sec. 518. *The national public service multimedia campaign to enhance the state of financial literacy.*
 Sec. 519. *Authorization of appropriations.*

TITLE VI—PROTECTING EMPLOYEE MISCONDUCT INVESTIGATIONS

- Sec. 611. *Certain employee investigation communications excluded from definition of consumer report.*

TITLE VII—RELATION TO STATE LAWS

- Sec. 711. *Relation to State laws.*

TITLE VIII—MISCELLANEOUS

- Sec. 811. *Clerical amendments.*

SEC. 2. DEFINITIONS.

As used in this Act—

(1) the term “Board” means the Board of Governors of the Federal Reserve System;

(2) the term “Commission”, other than as used in title V, means the Federal Trade Commission;

(3) the terms “consumer”, “consumer report”, “consumer reporting agency”, “creditor”, “Federal banking agencies”, and “financial institution” have the same meanings as in section 603 of the Fair Credit Reporting Act, as amended by this Act; and

(4) the term “affiliates” means persons that are related by common ownership or affiliated by corporate control.

SEC. 3. EFFECTIVE DATES.

Except as otherwise specifically provided in this Act and the amendments made by this Act—

(1) before the end of the 2-month period beginning on the date of enactment of this Act, the Board and the Commission shall jointly prescribe regulations in final form establishing effective dates for each provision of this Act; and

(2) the regulations prescribed under paragraph (1) shall establish effective dates that are as early as possible, while allowing a reasonable time for the implementation of the provisions of this Act, but in no case shall any such effective date be later than 10 months after the date of issuance of such regulations in final form.

**TITLE I—IDENTITY THEFT PREVENTION
AND CREDIT HISTORY RESTORATION**

Subtitle A—Identity Theft Prevention

SEC. 111. AMENDMENT TO DEFINITIONS.

Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended by adding at the end the following:

“(q) DEFINITIONS RELATING TO FRAUD ALERTS.—

“(1) ACTIVE DUTY MILITARY CONSUMER.—The term ‘active duty military consumer’ means a consumer in military service who—

“(A) is on active duty (as defined in section 101(d)(1) of title 10, United States Code) or is a reservist performing duty under a call or order to active duty under a provision of law referred to in section 101(a)(13) of title 10, United States Code; and

“(B) is assigned to service away from the usual duty station of the consumer.

“(2) FRAUD ALERT; ACTIVE DUTY ALERT.—The terms ‘fraud alert’ and ‘active duty alert’ mean a statement in the file of a consumer that—

“(A) notifies all prospective users of a consumer report relating to the consumer that the consumer may be a victim of fraud, including identity theft, or is an active duty military consumer, as applicable; and

“(B) is presented in a manner that facilitates a clear and conspicuous view of the statement described in subparagraph (A) by any person requesting such consumer report.

“(3) IDENTITY THEFT.—The term ‘identity theft’ means a fraud committed using the identifying information of another

person, subject to such further definition as the Commission may prescribe, by regulation.

“(4) **IDENTITY THEFT REPORT.**—The term ‘identity theft report’ has the meaning given that term by rule of the Commission, and means, at a minimum, a report—

“(A) that alleges an identity theft;

“(B) that is a copy of an official, valid report filed by a consumer with an appropriate Federal, State, or local law enforcement agency, including the United States Postal Inspection Service, or such other government agency deemed appropriate by the Commission; and

“(C) the filing of which subjects the person filing the report to criminal penalties relating to the filing of false information if, in fact, the information in the report is false.

“(5) **NEW CREDIT PLAN.**—The term ‘new credit plan’ means a new account under an open end credit plan (as defined in section 103(i) of the Truth in Lending Act) or a new credit transaction not under an open end credit plan.

“(r) **CREDIT AND DEBIT RELATED TERMS.**—

“(1) **CARD ISSUER.**—The term ‘card issuer’ means—

“(A) a credit card issuer, in the case of a credit card; and

“(B) a debit card issuer, in the case of a debit card.

“(2) **CREDIT CARD.**—The term ‘credit card’ has the same meaning as in section 103 of the Truth in Lending Act.

“(3) **DEBIT CARD.**—The term ‘debit card’ means any card issued by a financial institution to a consumer for use in initiating an electronic fund transfer from the account of the consumer at such financial institution, for the purpose of transferring money between accounts or obtaining money, property, labor, or services.

“(4) **ACCOUNT AND ELECTRONIC FUND TRANSFER.**—The terms ‘account’ and ‘electronic fund transfer’ have the same meanings as in section 903 of the Electronic Fund Transfer Act.

“(5) **CREDIT AND CREDITOR.**—The terms ‘credit’ and ‘creditor’ have the same meanings as in section 702 of the Equal Credit Opportunity Act.

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

“(t) **FINANCIAL INSTITUTION.**—The term ‘financial institution’ means a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person that, directly or indirectly, holds a transaction account (as defined in section 19(b) of the Federal Reserve Act) belonging to a consumer.

“(u) **RESELLER.**—The term ‘reseller’ means a consumer reporting agency that—

“(1) assembles and merges information contained in the database of another consumer reporting agency or multiple consumer reporting agencies concerning any consumer for purposes of furnishing such information to any third party, to the extent of such activities; and

“(2) does not maintain a database of the assembled or merged information from which new consumer reports are produced.

“(v) COMMISSION.—The term ‘Commission’ means the Federal Trade Commission.

“(w) NATIONWIDE SPECIALTY CONSUMER REPORTING AGENCY.—The term ‘nationwide specialty consumer reporting agency’ means a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis relating to—

“(1) medical records or payments;

“(2) residential or tenant history;

“(3) check writing history;

“(4) employment history; or

“(5) insurance claims.”.

SEC. 112. FRAUD ALERTS AND ACTIVE DUTY ALERTS.

(a) FRAUD ALERTS.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after section 605 the following:

“§ 605A. Identity theft prevention; fraud alerts and active duty alerts

“(a) ONE-CALL FRAUD ALERTS.—

“(1) INITIAL ALERTS.—Upon the direct request of a consumer, or an individual acting on behalf of or as a personal representative of a consumer, who asserts in good faith a suspicion that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, a consumer reporting agency described in section 603(p) that maintains a file on the consumer and has received appropriate proof of the identity of the requester shall—

“(A) include a fraud alert in the file of that consumer, and also provide that alert along with any credit score generated in using that file, for a period of not less than 90 days, beginning on the date of such request, unless the consumer or such representative requests that such fraud alert be removed before the end of such period, and the agency has received appropriate proof of the identity of the requester for such purpose; and

“(B) refer the information regarding the fraud alert under this paragraph to each of the other consumer reporting agencies described in section 603(p), in accordance with procedures developed under section 621(f).

“(2) ACCESS TO FREE REPORTS.—In any case in which a consumer reporting agency includes a fraud alert in the file of a consumer pursuant to this subsection, the consumer reporting agency shall—

“(A) disclose to the consumer that the consumer may request a free copy of the file of the consumer pursuant to section 612(d); and

“(B) provide to the consumer all disclosures required to be made under section 609, without charge to the consumer, not later than 3 business days after any request described in subparagraph (A).

“(b) EXTENDED ALERTS.—

“(1) IN GENERAL.—Upon the direct request of a consumer, or an individual acting on behalf of or as a personal represent-

ative of a consumer, who submits an identity theft report to a consumer reporting agency described in section 603(p) that maintains a file on the consumer, if the agency has received appropriate proof of the identity of the requester, the agency shall—

“(A) include a fraud alert in the file of that consumer, and also provide that alert along with any credit score generated in using that file, during the 7-year period beginning on the date of such request, unless the consumer or such representative requests that such fraud alert be removed before the end of such period and the agency has received appropriate proof of the identity of the requester for such purpose;

“(B) during the 5-year period beginning on the date of such request, exclude the consumer from any list of consumers prepared by the consumer reporting agency and provided to any third party to offer credit or insurance to the consumer as part of a transaction that was not initiated by the consumer, unless the consumer or such representative requests that such exclusion be rescinded before the end of such period; and

“(C) refer the information regarding the extended fraud alert under this paragraph to each of the other consumer reporting agencies described in section 603(p), in accordance with procedures developed under section 621(f).

“(2) ACCESS TO FREE REPORTS.—In any case in which a consumer reporting agency includes a fraud alert in the file of a consumer pursuant to this subsection, the consumer reporting agency shall—

“(A) disclose to the consumer that the consumer may request 2 free copies of the file of the consumer pursuant to section 612(d) during the 12-month period beginning on the date on which the fraud alert was included in the file; and

“(B) provide to the consumer all disclosures required to be made under section 609, without charge to the consumer, not later than 3 business days after any request described in subparagraph (A).

“(c) ACTIVE DUTY ALERTS.—Upon the direct request of an active duty military consumer, or an individual acting on behalf of or as a personal representative of an active duty military consumer, a consumer reporting agency described in section 603(p) that maintains a file on the active duty military consumer and has received appropriate proof of the identity of the requester shall—

“(1) include an active duty alert in the file of that active duty military consumer, and also provide that alert along with any credit score generated in using that file, during a period of not less than 12 months, or such longer period as the Commission shall determine, by regulation, beginning on the date of the request, unless the active duty military consumer or such representative requests that such fraud alert be removed before the end of such period, and the agency has received appropriate proof of the identity of the requester for such purpose;

“(2) during the 2-year period beginning on the date of such request, exclude the active duty military consumer from any list of consumers prepared by the consumer reporting agency and

provided to any third party to offer credit or insurance to the consumer as part of a transaction that was not initiated by the consumer, unless the consumer requests that such exclusion be rescinded before the end of such period; and

“(3) refer the information regarding the active duty alert to each of the other consumer reporting agencies described in section 603(p), in accordance with procedures developed under section 621(f).

“(d) PROCEDURES.—Each consumer reporting agency described in section 603(p) shall establish policies and procedures to comply with this section, including procedures that inform consumers of the availability of initial, extended, and active duty alerts and procedures that allow consumers and active duty military consumers to request initial, extended, or active duty alerts (as applicable) in a simple and easy manner, including by telephone.

“(e) REFERRALS OF ALERTS.—Each consumer reporting agency described in section 603(p) that receives a referral of a fraud alert or active duty alert from another consumer reporting agency pursuant to this section shall, as though the agency received the request from the consumer directly, follow the procedures required under—

“(1) paragraphs (1)(A) and (2) of subsection (a), in the case of a referral under subsection (a)(1)(B);

“(2) paragraphs (1)(A), (1)(B), and (2) of subsection (b), in the case of a referral under subsection (b)(1)(C); and

“(3) paragraphs (1) and (2) of subsection (c), in the case of a referral under subsection (c)(3).

“(f) DUTY OF RESELLER TO RECONVEY ALERT.—A reseller shall include in its report any fraud alert or active duty alert placed in the file of a consumer pursuant to this section by another consumer reporting agency.

“(g) DUTY OF OTHER CONSUMER REPORTING AGENCIES TO PROVIDE CONTACT INFORMATION.—If a consumer contacts any consumer reporting agency that is not described in section 603(p) to communicate a suspicion that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, the agency shall provide information to the consumer on how to contact the Commission and the consumer reporting agencies described in section 603(p) to obtain more detailed information and request alerts under this section.

“(h) LIMITATIONS ON USE OF INFORMATION FOR CREDIT EXTENSIONS.—

“(1) REQUIREMENTS FOR INITIAL AND ACTIVE DUTY ALERTS.—

“(A) NOTIFICATION.—Each initial fraud alert and active duty alert under this section shall include information that notifies all prospective users of a consumer report on the consumer to which the alert relates that the consumer does not authorize the establishment of any new credit plan or extension of credit, other than under an open-end credit plan (as defined in section 103(i)), in the name of the consumer, or issuance of an additional card on an existing credit account requested by a consumer, or any increase in credit limit on an existing credit account requested by a consumer, except in accordance with subparagraph (B).

“(B) LIMITATION ON USERS.—

“(i) *IN GENERAL.*—No prospective user of a consumer report that includes an initial fraud alert or an active duty alert in accordance with this section may establish a new credit plan or extension of credit, other than under an open-end credit plan (as defined in section 103(i)), in the name of the consumer, or issue an additional card on an existing credit account requested by a consumer, or grant any increase in credit limit on an existing credit account requested by a consumer, unless the user utilizes reasonable policies and procedures to form a reasonable belief that the user knows the identity of the person making the request.

“(ii) *VERIFICATION.*—If a consumer requesting the alert has specified a telephone number to be used for identity verification purposes, before authorizing any new credit plan or extension described in clause (i) in the name of such consumer, a user of such consumer report shall contact the consumer using that telephone number or take reasonable steps to verify the consumer’s identity and confirm that the application for a new credit plan is not the result of identity theft.

“(2) *REQUIREMENTS FOR EXTENDED ALERTS.*—

“(A) *NOTIFICATION.*—Each extended alert under this section shall include information that provides all prospective users of a consumer report relating to a consumer with—

“(i) notification that the consumer does not authorize the establishment of any new credit plan or extension of credit described in clause (i), other than under an open-end credit plan (as defined in section 103(i)), in the name of the consumer, or issuance of an additional card on an existing credit account requested by a consumer, or any increase in credit limit on an existing credit account requested by a consumer, except in accordance with subparagraph (B); and

“(ii) a telephone number or other reasonable contact method designated by the consumer.

“(B) *LIMITATION ON USERS.*—No prospective user of a consumer report or of a credit score generated using the information in the file of a consumer that includes an extended fraud alert in accordance with this section may establish a new credit plan or extension of credit, other than under an open-end credit plan (as defined in section 103(i)), in the name of the consumer, or issue an additional card on an existing credit account requested by a consumer, or any increase in credit limit on an existing credit account requested by a consumer, unless the user contacts the consumer in person or using the contact method described in subparagraph (A)(ii) to confirm that the application for a new credit plan or increase in credit limit, or request for an additional card is not the result of identity theft.”.

(b) *RULEMAKING.*—The Commission shall prescribe regulations to define what constitutes appropriate proof of identity for purposes of sections 605A, 605B, and 609(a)(1) of the Fair Credit Reporting Act, as amended by this Act.

SEC. 113. TRUNCATION OF CREDIT CARD AND DEBIT CARD ACCOUNT NUMBERS.

Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended by adding at the end the following:

“(g) TRUNCATION OF CREDIT CARD AND DEBIT CARD NUMBERS.—

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

“(2) LIMITATION.—This subsection shall apply only to receipts that are electronically printed, and shall not apply to transactions in which the sole means of recording a credit card or debit card account number is by handwriting or by an imprint or copy of the card.

“(3) EFFECTIVE DATE.—This subsection shall become effective—

“(A) 3 years after the date of enactment of this subsection, with respect to any cash register or other machine or device that electronically prints receipts for credit card or debit card transactions that is in use before January 1, 2005; and

“(B) 1 year after the date of enactment of this subsection, with respect to any cash register or other machine or device that electronically prints receipts for credit card or debit card transactions that is first put into use on or after January 1, 2005.”.

SEC. 114. ESTABLISHMENT OF PROCEDURES FOR THE IDENTIFICATION OF POSSIBLE INSTANCES OF IDENTITY THEFT.

Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended—

(1) by striking “(e)” at the end; and

(2) by adding at the end the following:

“(e) RED FLAG GUIDELINES AND REGULATIONS REQUIRED.—

“(1) GUIDELINES.—The Federal banking agencies, the National Credit Union Administration, and the Commission shall jointly, with respect to the entities that are subject to their respective enforcement authority under section 621—

“(A) establish and maintain guidelines for use by each financial institution and each creditor regarding identity theft with respect to account holders at, or customers of, such entities, and update such guidelines as often as necessary;

“(B) prescribe regulations requiring each financial institution and each creditor to establish reasonable policies and procedures for implementing the guidelines established pursuant to subparagraph (A), to identify possible risks to account holders or customers or to the safety and soundness of the institution or customers; and

“(C) prescribe regulations applicable to card issuers to ensure that, if a card issuer receives notification of a change of address for an existing account, and within a short period of time (during at least the first 30 days after

such notification is received) receives a request for an additional or replacement card for the same account, the card issuer may not issue the additional or replacement card, unless the card issuer, in accordance with reasonable policies and procedures—

“(i) notifies the cardholder of the request at the former address of the cardholder and provides to the cardholder a means of promptly reporting incorrect address changes;

“(ii) notifies the cardholder of the request by such other means of communication as the cardholder and the card issuer previously agreed to; or

“(iii) uses other means of assessing the validity of the change of address, in accordance with reasonable policies and procedures established by the card issuer in accordance with the regulations prescribed under subparagraph (B).

“(2) CRITERIA.—

“(A) *IN GENERAL.*—In developing the guidelines required by paragraph (1)(A), the agencies described in paragraph (1) shall identify patterns, practices, and specific forms of activity that indicate the possible existence of identity theft.

“(B) *INACTIVE ACCOUNTS.*—In developing the guidelines required by paragraph (1)(A), the agencies described in paragraph (1) shall consider including reasonable guidelines providing that when a transaction occurs with respect to a credit or deposit account that has been inactive for more than 2 years, the creditor or financial institution shall follow reasonable policies and procedures that provide for notice to be given to a consumer in a manner reasonably designed to reduce the likelihood of identity theft with respect to such account.

“(3) *CONSISTENCY WITH VERIFICATION REQUIREMENTS.*—Guidelines established pursuant to paragraph (1) shall not be inconsistent with the policies and procedures required under section 5318(l) of title 31, United States Code.”.

SEC. 115. AUTHORITY TO TRUNCATE SOCIAL SECURITY NUMBERS.

Section 609(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)(1)) is amended by striking “except that nothing” and inserting the following: “except that—

“(A) if the consumer to whom the file relates requests that the first 5 digits of the social security number (or similar identification number) of the consumer not be included in the disclosure and the consumer reporting agency has received appropriate proof of the identity of the requester, the consumer reporting agency shall so truncate such number in such disclosure; and

“(B) nothing”.

Subtitle B—Protection and Restoration of Identity Theft Victim Credit History

SEC. 151. SUMMARY OF RIGHTS OF IDENTITY THEFT VICTIMS.

(a) IN GENERAL.—

(1) SUMMARY.—Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended by adding at the end the following:

“(d) SUMMARY OF RIGHTS OF IDENTITY THEFT VICTIMS.—

“(1) IN GENERAL.—The Commission, in consultation with the Federal banking agencies and the National Credit Union Administration, shall prepare a model summary of the rights of consumers under this title with respect to the procedures for remedying the effects of fraud or identity theft involving credit, an electronic fund transfer, or an account or transaction at or with a financial institution or other creditor.

“(2) SUMMARY OF RIGHTS AND CONTACT INFORMATION.—Beginning 60 days after the date on which the model summary of rights is prescribed in final form by the Commission pursuant to paragraph (1), if any consumer contacts a consumer reporting agency and expresses a belief that the consumer is a victim of fraud or identity theft involving credit, an electronic fund transfer, or an account or transaction at or with a financial institution or other creditor, the consumer reporting agency shall, in addition to any other action that the agency may take, provide the consumer with a summary of rights that contains all of the information required by the Commission under paragraph (1), and information on how to contact the Commission to obtain more detailed information.

“(e) INFORMATION AVAILABLE TO VICTIMS.—

“(1) IN GENERAL.—For the purpose of documenting fraudulent transactions resulting from identity theft, not later than 30 days after the date of receipt of a request from a victim in accordance with paragraph (3), and subject to verification of the identity of the victim and the claim of identity theft in accordance with paragraph (2), a business entity that has provided credit to, provided for consideration products, goods, or services to, accepted payment from, or otherwise entered into a commercial transaction for consideration with, a person who has allegedly made unauthorized use of the means of identification of the victim, shall provide a copy of application and business transaction records in the control of the business entity, whether maintained by the business entity or by another person on behalf of the business entity, evidencing any transaction alleged to be a result of identity theft to—

“(A) the victim;

“(B) any Federal, State, or local government law enforcement agency or officer specified by the victim in such a request; or

“(C) any law enforcement agency investigating the identity theft and authorized by the victim to take receipt of records provided under this subsection.

“(2) VERIFICATION OF IDENTITY AND CLAIM.—Before a business entity provides any information under paragraph (1), un-

less the business entity, at its discretion, otherwise has a high degree of confidence that it knows the identity of the victim making a request under paragraph (1), the victim shall provide to the business entity—

“(A) as proof of positive identification of the victim, at the election of the business entity—

“(i) the presentation of a government-issued identification card;

“(ii) personally identifying information of the same type as was provided to the business entity by the unauthorized person; or

“(iii) personally identifying information that the business entity typically requests from new applicants or for new transactions, at the time of the victim’s request for information, including any documentation described in clauses (i) and (ii); and

“(B) as proof of a claim of identity theft, at the election of the business entity—

“(i) a copy of a police report evidencing the claim of the victim of identity theft; and

“(ii) a properly completed—

“(I) copy of a standardized affidavit of identity theft developed and made available by the Commission; or

“(II) an affidavit of fact that is acceptable to the business entity for that purpose.

“(3) PROCEDURES.—The request of a victim under paragraph (1) shall—

“(A) be in writing;

“(B) be mailed to an address specified by the business entity, if any; and

“(C) if asked by the business entity, include relevant information about any transaction alleged to be a result of identity theft to facilitate compliance with this section including—

“(i) if known by the victim (or if readily obtainable by the victim), the date of the application or transaction; and

“(ii) if known by the victim (or if readily obtainable by the victim), any other identifying information such as an account or transaction number.

“(4) NO CHARGE TO VICTIM.—Information required to be provided under paragraph (1) shall be so provided without charge.

“(5) AUTHORITY TO DECLINE TO PROVIDE INFORMATION.—A business entity may decline to provide information under paragraph (1) if, in the exercise of good faith, the business entity determines that—

“(A) this subsection does not require disclosure of the information;

“(B) after reviewing the information provided pursuant to paragraph (2), the business entity does not have a high degree of confidence in knowing the true identity of the individual requesting the information;

“(C) the request for the information is based on a misrepresentation of fact by the individual requesting the information relevant to the request for information; or

“(D) the information requested is Internet navigational data or similar information about a person’s visit to a website or online service.

“(6) *LIMITATION ON LIABILITY.*—Except as provided in section 621, sections 616 and 617 do not apply to any violation of this subsection.

“(7) *LIMITATION ON CIVIL LIABILITY.*—No business entity may be held civilly liable under any provision of Federal, State, or other law for disclosure, made in good faith pursuant to this subsection.

“(8) *NO NEW RECORDKEEPING OBLIGATION.*—Nothing in this subsection creates an obligation on the part of a business entity to obtain, retain, or maintain information or records that are not otherwise required to be obtained, retained, or maintained in the ordinary course of its business or under other applicable law.

“(9) *RULE OF CONSTRUCTION.*—

“(A) *IN GENERAL.*—No provision of subtitle A of title V of Public Law 106–102, prohibiting the disclosure of financial information by a business entity to third parties shall be used to deny disclosure of information to the victim under this subsection.

“(B) *LIMITATION.*—Except as provided in subparagraph (A), nothing in this subsection permits a business entity to disclose information, including information to law enforcement under subparagraphs (B) and (C) of paragraph (1), that the business entity is otherwise prohibited from disclosing under any other applicable provision of Federal or State law.

“(10) *AFFIRMATIVE DEFENSE.*—In any civil action brought to enforce this subsection, it is an affirmative defense (which the defendant must establish by a preponderance of the evidence) for a business entity to file an affidavit or answer stating that—

“(A) the business entity has made a reasonably diligent search of its available business records; and

“(B) the records requested under this subsection do not exist or are not reasonably available.

“(11) *DEFINITION OF VICTIM.*—For purposes of this subsection, the term ‘victim’ means a consumer whose means of identification or financial information has been used or transferred (or has been alleged to have been used or transferred) without the authority of that consumer, with the intent to commit, or to aid or abet, an identity theft or a similar crime.

“(12) *EFFECTIVE DATE.*—This subsection shall become effective 180 days after the date of enactment of this subsection.

“(13) *EFFECTIVENESS STUDY.*—Not later than 18 months after the date of enactment of this subsection, the Comptroller General of the United States shall submit a report to Congress assessing the effectiveness of this provision.”.

(2) *RELATION TO STATE LAWS.*—Section 625(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)(1), as so redesignated)

is amended by adding at the end the following new subparagraph:

“(G) section 609(e), relating to information available to victims under section 609(e).”

(b) **PUBLIC CAMPAIGN TO PREVENT IDENTITY THEFT.**—Not later than 2 years after the date of enactment of this Act, the Commission shall establish and implement a media and distribution campaign to teach the public how to prevent identity theft. Such campaign shall include existing Commission education materials, as well as radio, television, and print public service announcements, video cassettes, interactive digital video discs (DVD’s) or compact audio discs (CD’s), and Internet resources.

SEC. 152. BLOCKING OF INFORMATION RESULTING FROM IDENTITY THEFT.

(a) **IN GENERAL.**—The Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*) is amended by inserting after section 605A, as added by this Act, the following:

“§ 605B. Block of information resulting from identity theft

“(a) **BLOCK.**—Except as otherwise provided in this section, a consumer reporting agency shall block the reporting of any information in the file of a consumer that the consumer identifies as information that resulted from an alleged identity theft, not later than 4 business days after the date of receipt by such agency of—

“(1) appropriate proof of the identity of the consumer;

“(2) a copy of an identity theft report;

“(3) the identification of such information by the consumer;

and

“(4) a statement by the consumer that the information is not information relating to any transaction by the consumer.

“(b) **NOTIFICATION.**—A consumer reporting agency shall promptly notify the furnisher of information identified by the consumer under subsection (a)—

“(1) that the information may be a result of identity theft;

“(2) that an identity theft report has been filed;

“(3) that a block has been requested under this section; and

“(4) of the effective dates of the block.

“(c) **AUTHORITY TO DECLINE OR RESCIND.**—

“(1) **IN GENERAL.**—A consumer reporting agency may decline to block, or may rescind any block, of information relating to a consumer under this section, if the consumer reporting agency reasonably determines that—

“(A) the information was blocked in error or a block was requested by the consumer in error;

“(B) the information was blocked, or a block was requested by the consumer, on the basis of a material misrepresentation of fact by the consumer relevant to the request to block; or

“(C) the consumer obtained possession of goods, services, or money as a result of the blocked transaction or transactions.

“(2) **NOTIFICATION TO CONSUMER.**—If a block of information is declined or rescinded under this subsection, the affected consumer shall be notified promptly, in the same manner as

consumers are notified of the reinsertion of information under section 611(a)(5)(B).

“(3) SIGNIFICANCE OF BLOCK.—For purposes of this subsection, if a consumer reporting agency rescinds a block, the presence of information in the file of a consumer prior to the blocking of such information is not evidence of whether the consumer knew or should have known that the consumer obtained possession of any goods, services, or money as a result of the block.

“(d) EXCEPTION FOR RESELLERS.—

“(1) NO RESELLER FILE.—This section shall not apply to a consumer reporting agency, if the consumer reporting agency—

“(A) is a reseller;

“(B) is not, at the time of the request of the consumer under subsection (a), otherwise furnishing or reselling a consumer report concerning the information identified by the consumer; and

“(C) informs the consumer, by any means, that the consumer may report the identity theft to the Commission to obtain consumer information regarding identity theft.

“(2) RESELLER WITH FILE.—The sole obligation of the consumer reporting agency under this section, with regard to any request of a consumer under this section, shall be to block the consumer report maintained by the consumer reporting agency from any subsequent use, if—

“(A) the consumer, in accordance with the provisions of subsection (a), identifies, to a consumer reporting agency, information in the file of the consumer that resulted from identity theft; and

“(B) the consumer reporting agency is a reseller of the identified information.

“(3) NOTICE.—In carrying out its obligation under paragraph (2), the reseller shall promptly provide a notice to the consumer of the decision to block the file. Such notice shall contain the name, address, and telephone number of each consumer reporting agency from which the consumer information was obtained for resale.

“(e) EXCEPTION FOR VERIFICATION COMPANIES.—The provisions of this section do not apply to a check services company, acting as such, which issues authorizations for the purpose of approving or processing negotiable instruments, electronic fund transfers, or similar methods of payments, except that, beginning 4 business days after receipt of information described in paragraphs (1) through (3) of subsection (a), a check services company shall not report to a national consumer reporting agency described in section 603(p), any information identified in the subject identity theft report as resulting from identity theft.

“(f) ACCESS TO BLOCKED INFORMATION BY LAW ENFORCEMENT AGENCIES.—No provision of this section shall be construed as requiring a consumer reporting agency to prevent a Federal, State, or local law enforcement agency from accessing blocked information in a consumer file to which the agency could otherwise obtain access under this title.”.

(b) *CLERICAL AMENDMENT.*—The table of sections for the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after the item relating to section 605 the following new items:

“605A. Identity theft prevention; fraud alerts and active duty alerts.

“605B. Block of information resulting from identity theft.”

SEC. 153. COORDINATION OF IDENTITY THEFT COMPLAINT INVESTIGATIONS.

Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended by adding at the end the following:

“(f) **COORDINATION OF CONSUMER COMPLAINT INVESTIGATIONS.**—

“(1) **IN GENERAL.**—Each consumer reporting agency described in section 603(p) shall develop and maintain procedures for the referral to each other such agency of any consumer complaint received by the agency alleging identity theft, or requesting a fraud alert under section 605A or a block under section 605B.

“(2) **MODEL FORM AND PROCEDURE FOR REPORTING IDENTITY THEFT.**—The Commission, in consultation with the Federal banking agencies and the National Credit Union Administration, shall develop a model form and model procedures to be used by consumers who are victims of identity theft for contacting and informing creditors and consumer reporting agencies of the fraud.

“(3) **ANNUAL SUMMARY REPORTS.**—Each consumer reporting agency described in section 603(p) shall submit an annual summary report to the Commission on consumer complaints received by the agency on identity theft or fraud alerts.”

SEC. 154. PREVENTION OF REPOLLUTION OF CONSUMER REPORTS.

(a) **PREVENTION OF REINSERTION OF ERRONEOUS INFORMATION.**—Section 623(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)) is amended by adding at the end the following:

“(6) **DUTIES OF FURNISHERS UPON NOTICE OF IDENTITY THEFT-RELATED INFORMATION.**—

“(A) **REASONABLE PROCEDURES.**—A person that furnishes information to any consumer reporting agency shall have in place reasonable procedures to respond to any notification that it receives from a consumer reporting agency under section 605B relating to information resulting from identity theft, to prevent that person from refurnishing such blocked information.

“(B) **INFORMATION ALLEGED TO RESULT FROM IDENTITY THEFT.**—If a consumer submits an identity theft report to a person who furnishes information to a consumer reporting agency at the address specified by that person for receiving such reports stating that information maintained by such person that purports to relate to the consumer resulted from identity theft, the person may not furnish such information that purports to relate to the consumer to any consumer reporting agency, unless the person subsequently knows or is informed by the consumer that the information is correct.”

(b) **PROHIBITION ON SALE OR TRANSFER OF DEBT CAUSED BY IDENTITY THEFT.**—Section 615 of the Fair Credit Reporting Act (15

U.S.C. 1681m), as amended by this Act, is amended by adding at the end the following:

“(f) PROHIBITION ON SALE OR TRANSFER OF DEBT CAUSED BY IDENTITY THEFT.—

“(1) IN GENERAL.—No person shall sell, transfer for consideration, or place for collection a debt that such person has been notified under section 605B has resulted from identity theft.

“(2) APPLICABILITY.—The prohibitions of this subsection shall apply to all persons collecting a debt described in paragraph (1) after the date of a notification under paragraph (1).

“(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit—

“(A) the repurchase of a debt in any case in which the assignee of the debt requires such repurchase because the debt has resulted from identity theft;

“(B) the securitization of a debt or the pledging of a portfolio of debt as collateral in connection with a borrowing; or

“(C) the transfer of debt as a result of a merger, acquisition, purchase and assumption transaction, or transfer of substantially all of the assets of an entity.”.

SEC. 155. NOTICE BY DEBT COLLECTORS WITH RESPECT TO FRAUDULENT INFORMATION.

Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m), as amended by this Act, is amended by adding at the end the following:

“(g) DEBT COLLECTOR COMMUNICATIONS CONCERNING IDENTITY THEFT.—If a person acting as a debt collector (as that term is defined in title VIII) on behalf of a third party that is a creditor or other user of a consumer report is notified that any information relating to a debt that the person is attempting to collect may be fraudulent or may be the result of identity theft, that person shall—

“(1) notify the third party that the information may be fraudulent or may be the result of identity theft; and

“(2) upon request of the consumer to whom the debt purportedly relates, provide to the consumer all information to which the consumer would otherwise be entitled if the consumer were not a victim of identity theft, but wished to dispute the debt under provisions of law applicable to that person.”.

SEC. 156. STATUTE OF LIMITATIONS.

Section 618 of the Fair Credit Reporting Act (15 U.S.C. 1681p) is amended to read as follows:

“§ 618. Jurisdiction of courts; limitation of actions

“An action to enforce any liability created under this title may be brought in any appropriate United States district court, without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than the earlier of—

“(1) 2 years after the date of discovery by the plaintiff of the violation that is the basis for such liability; or

“(2) 5 years after the date on which the violation that is the basis for such liability occurs.”.

SEC. 157. STUDY ON THE USE OF TECHNOLOGY TO COMBAT IDENTITY THEFT.

(a) *STUDY REQUIRED.*—The Secretary of the Treasury shall conduct a study of the use of biometrics and other similar technologies to reduce the incidence and costs to society of identity theft by providing convincing evidence of who actually performed a given financial transaction.

(b) *CONSULTATION.*—The Secretary of the Treasury shall consult with Federal banking agencies, the Commission, and representatives of financial institutions, consumer reporting agencies, Federal, State, and local government agencies that issue official forms or means of identification, State prosecutors, law enforcement agencies, the biometric industry, and the general public in formulating and conducting the study required by subsection (a).

(c) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated to the Secretary of the Treasury for fiscal year 2004, such sums as may be necessary to carry out the provisions of this section.

(d) *REPORT REQUIRED.*—Before the end of the 180-day period beginning on the date of enactment of this Act, the Secretary shall submit a report to Congress containing the findings and conclusions of the study required under subsection (a), together with such recommendations for legislative or administrative actions as may be appropriate.

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

SEC. 211. FREE CONSUMER REPORTS.

(a) *IN GENERAL.*—Section 612 of the Fair Credit Reporting Act (15 U.S.C. 1681j) is amended—

(1) by redesignating subsection (a) as subsection (f), and transferring it to the end of the section;

(2) by inserting before subsection (b) the following:

“(a) **FREE ANNUAL DISCLOSURE.**—

“(1) **NATIONWIDE CONSUMER REPORTING AGENCIES.**—

“(A) *IN GENERAL.*—All consumer reporting agencies described in subsections (p) and (w) of section 603 shall make all disclosures pursuant to section 609 once during any 12-month period upon request of the consumer and without charge to the consumer.

“(B) *CENTRALIZED SOURCE.*—Subparagraph (A) shall apply with respect to a consumer reporting agency described in section 603(p) only if the request from the consumer is made using the centralized source established for such purpose in accordance with section 211(c) of the Fair and Accurate Credit Transactions Act of 2003.

“(C) **NATIONWIDE SPECIALTY CONSUMER REPORTING AGENCY.**—

“(i) *IN GENERAL.*—The Commission shall prescribe regulations applicable to each consumer reporting agency described in section 603(w) to require the establishment of a streamlined process for consumers to re-

quest consumer reports under subparagraph (A), which shall include, at a minimum, the establishment by each such agency of a toll-free telephone number for such requests.

“(ii) *CONSIDERATIONS.*—In prescribing regulations under clause (i), the Commission shall consider—

“(I) the significant demands that may be placed on consumer reporting agencies in providing such consumer reports;

“(II) appropriate means to ensure that consumer reporting agencies can satisfactorily meet those demands, including the efficacy of a system of staggering the availability to consumers of such consumer reports; and

“(III) the ease by which consumers should be able to contact consumer reporting agencies with respect to access to such consumer reports.

“(iii) *DATE OF ISSUANCE.*—The Commission shall issue the regulations required by this subparagraph in final form not later than 6 months after the date of enactment of the Fair and Accurate Credit Transactions Act of 2003.

“(iv) *CONSIDERATION OF ABILITY TO COMPLY.*—The regulations of the Commission under this subparagraph shall establish an effective date by which each nationwide specialty consumer reporting agency (as defined in section 603(w)) shall be required to comply with subsection (a), which effective date—

“(I) shall be established after consideration of the ability of each nationwide specialty consumer reporting agency to comply with subsection (a); and

“(II) shall be not later than 6 months after the date on which such regulations are issued in final form (or such additional period not to exceed 3 months, as the Commission determines appropriate).

“(2) *TIMING.*—A consumer reporting agency shall provide a consumer report under paragraph (1) not later than 15 days after the date on which the request is received under paragraph (1).

“(3) *REINVESTIGATIONS.*—Notwithstanding the time periods specified in section 611(a)(1), a reinvestigation under that section by a consumer reporting agency upon a request of a consumer that is made after receiving a consumer report under this subsection shall be completed not later than 45 days after the date on which the request is received.

“(4) *EXCEPTION FOR FIRST 12 MONTHS OF OPERATION.*—This subsection shall not apply to a consumer reporting agency that has not been furnishing consumer reports to third parties on a continuing basis during the 12-month period preceding a request under paragraph (1), with respect to consumers residing nationwide.”;

(3) by redesignating subsection (d) as subsection (e);

(4) by inserting before subsection (e), as redesignated, the following:

“(d) **FREE DISCLOSURES IN CONNECTION WITH FRAUD ALERTS.**—Upon the request of a consumer, a consumer reporting agency described in section 603(p) shall make all disclosures pursuant to section 609 without charge to the consumer, as provided in subsections (a)(2) and (b)(2) of section 605A, as applicable.”;

(5) in subsection (e), as redesignated, by striking “subsection (a)” and inserting “subsection (f)”; and

(6) in subsection (f), as redesignated, by striking “Except as provided in subsections (b), (c), and (d), a” and inserting “In the case of a request from a consumer other than a request that is covered by any of subsections (a) through (d), a”.

(b) **CIRCUMVENTION PROHIBITED.**—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding after section 628, as added by section 216 of this Act, the following new section:

“§ 629. Corporate and technological circumvention prohibited

“The Commission shall prescribe regulations, to become effective not later than 90 days after the date of enactment of this section, to prevent a consumer reporting agency from circumventing or evading treatment as a consumer reporting agency described in section 603(p) for purposes of this title, including—

“(1) by means of a corporate reorganization or restructuring, including a merger, acquisition, dissolution, divestiture, or asset sale of a consumer reporting agency; or

“(2) by maintaining or merging public record and credit account information in a manner that is substantially equivalent to that described in paragraphs (1) and (2) of section 603(p), in the manner described in section 603(p).”.

(c) **SUMMARY OF RIGHTS TO OBTAIN AND DISPUTE INFORMATION IN CONSUMER REPORTS AND TO OBTAIN CREDIT SCORES.**—Section 609(c) of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended to read as follows:

“(c) **SUMMARY OF RIGHTS TO OBTAIN AND DISPUTE INFORMATION IN CONSUMER REPORTS AND TO OBTAIN CREDIT SCORES.**—

“(1) **COMMISSION SUMMARY OF RIGHTS REQUIRED.**—

“(A) **IN GENERAL.**—The Commission shall prepare a model summary of the rights of consumers under this title.

“(B) **CONTENT OF SUMMARY.**—The summary of rights prepared under subparagraph (A) shall include a description of—

“(i) the right of a consumer to obtain a copy of a consumer report under subsection (a) from each consumer reporting agency;

“(ii) the frequency and circumstances under which a consumer is entitled to receive a consumer report without charge under section 612;

“(iii) the right of a consumer to dispute information in the file of the consumer under section 611;

“(iv) the right of a consumer to obtain a credit score from a consumer reporting agency, and a description of how to obtain a credit score;

“(v) the method by which a consumer can contact, and obtain a consumer report from, a consumer reporting agency without charge, as provided in the regulations of the Commission prescribed under section 211(c) of the Fair and Accurate Credit Transactions Act of 2003; and

“(vi) the method by which a consumer can contact, and obtain a consumer report from, a consumer reporting agency described in section 603(w), as provided in the regulations of the Commission prescribed under section 612(a)(1)(C).

“(C) AVAILABILITY OF SUMMARY OF RIGHTS.—The Commission shall—

“(i) actively publicize the availability of the summary of rights prepared under this paragraph;

“(ii) conspicuously post on its Internet website the availability of such summary of rights; and

“(iii) promptly make such summary of rights available to consumers, on request.

“(2) SUMMARY OF RIGHTS REQUIRED TO BE INCLUDED WITH AGENCY DISCLOSURES.—A consumer reporting agency shall provide to a consumer, with each written disclosure by the agency to the consumer under this section—

“(A) the summary of rights prepared by the Commission under paragraph (1);

“(B) in the case of a consumer reporting agency described in section 603(p), a toll-free telephone number established by the agency, at which personnel are accessible to consumers during normal business hours;

“(C) a list of all Federal agencies responsible for enforcing any provision of this title, and the address and any appropriate phone number of each such agency, in a form that will assist the consumer in selecting the appropriate agency;

“(D) a statement that the consumer may have additional rights under State law, and that the consumer may wish to contact a State or local consumer protection agency or a State attorney general (or the equivalent thereof) to learn of those rights; and

“(E) a statement that a consumer reporting agency is not required to remove accurate derogatory information from the file of a consumer, unless the information is outdated under section 605 or cannot be verified.”.

(d) RULEMAKING REQUIRED.—

(1) IN GENERAL.—The Commission shall prescribe regulations applicable to consumer reporting agencies described in section 603(p) of the Fair Credit Reporting Act, to require the establishment of—

(A) a centralized source through which consumers may obtain a consumer report from each such consumer reporting agency, using a single request, and without charge to the consumer, as provided in section 612(a) of the Fair Credit Reporting Act (as amended by this section); and

(B) a standardized form for a consumer to make such a request for a consumer report by mail or through an Internet website.

(2) *CONSIDERATIONS.*—In prescribing regulations under paragraph (1), the Commission shall consider—

(A) the significant demands that may be placed on consumer reporting agencies in providing such consumer reports;

(B) appropriate means to ensure that consumer reporting agencies can satisfactorily meet those demands, including the efficacy of a system of staggering the availability to consumers of such consumer reports; and

(C) the ease by which consumers should be able to contact consumer reporting agencies with respect to access to such consumer reports.

(3) *CENTRALIZED SOURCE.*—The centralized source for a request for a consumer report from a consumer required by this subsection shall provide for—

(A) a toll-free telephone number for such purpose;

(B) use of an Internet website for such purpose; and

(C) a process for requests by mail for such purpose.

(4) *TRANSITION.*—The regulations of the Commission under paragraph (1) shall provide for an orderly transition by consumer reporting agencies described in section 603(p) of the Fair Credit Reporting Act to the centralized source for consumer report distribution required by section 612(a)(1)(B), as amended by this section, in a manner that—

(A) does not temporarily overwhelm such consumer reporting agencies with requests for disclosures of consumer reports beyond their capacity to deliver; and

(B) does not deny creditors, other users, and consumers access to consumer reports on a time-sensitive basis for specific purposes, such as home purchases or suspicions of identity theft, during the transition period.

(5) *TIMING.*—Regulations required by this subsection shall—

(A) be issued in final form not later than 6 months after the date of enactment of this Act; and

(B) become effective not later than 6 months after the date on which they are issued in final form.

(6) *SCOPE OF REGULATIONS.*—

(A) *IN GENERAL.*—The Commission shall, by rule, determine whether to require a consumer reporting agency that compiles and maintains files on consumers on substantially a nationwide basis, other than one described in section 603(p) of the Fair Credit Reporting Act, to make free consumer reports available upon consumer request, and if so, whether such consumer reporting agencies should make such free reports available through the centralized source described in paragraph (1)(A).

(B) *CONSIDERATIONS.*—Before making any determination under subparagraph (A), the Commission shall consider—

(i) the number of requests for consumer reports to, and the number of consumer reports generated by, the

consumer reporting agency, in comparison with consumer reporting agencies described in subsections (p) and (w) of section 603 of the Fair Credit Reporting Act;

(ii) the overall scope of the operations of the consumer reporting agency;

(iii) the needs of consumers for access to consumer reports provided by consumer reporting agencies free of charge;

(iv) the costs of providing access to consumer reports by consumer reporting agencies free of charge; and

(v) the effects on the ongoing competitive viability of such consumer reporting agencies if such free access is required.

SEC. 212. DISCLOSURE OF CREDIT SCORES.

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

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

(b) **DISCLOSURE OF CREDIT SCORES.**—Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g), as amended by this Act, is amended by adding at the end the following:

“(f) **DISCLOSURE OF CREDIT SCORES.**—

“(1) **IN GENERAL.**—Upon the request of a consumer for a credit score, a consumer reporting agency shall supply to the consumer a statement indicating that the information and credit scoring model may be different than the credit score that may be used by the lender, and a notice which shall include—

“(A) the current credit score of the consumer or the most recent credit score of the consumer that was previously calculated by the credit reporting agency for a purpose related to the extension of credit;

“(B) the range of possible credit scores under the model used;

“(C) all of the key factors that adversely affected the credit score of the consumer in the model used, the total number of which shall not exceed 4, subject to paragraph (9);

“(D) the date on which the credit score was created;

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

“(2) **DEFINITIONS.**—For purposes of this subsection, the following definitions shall apply:

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

“(i) means a numerical value or a categorization derived from a statistical tool or modeling system used by a person who makes or arranges a loan to predict the likelihood of certain credit behaviors, including default (and the numerical value or the categorization derived from such analysis may also be referred to as a ‘risk predictor’ or ‘risk score’); and

“(ii) does not include—

“(I) any mortgage score or rating of an automated underwriting system that considers one or more factors in addition to credit information, including the loan to value ratio, the amount of down payment, or the financial assets of a consumer; or

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

“(B) KEY FACTORS.—The term ‘key factors’ means all relevant elements or reasons adversely affecting the credit score for the particular individual, listed in the order of their importance based on their effect on the credit score.

“(3) TIMEFRAME AND MANNER OF DISCLOSURE.—The information required by this subsection shall be provided in the same timeframe and manner as the information described in subsection (a).

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

“(A) distribute scores that are used in connection with residential real property loans; or

“(B) develop scores that assist credit providers in understanding the general credit behavior of a consumer and predicting the future credit behavior of the consumer.

“(5) APPLICABILITY TO CREDIT SCORES DEVELOPED BY ANOTHER PERSON.—

“(A) IN GENERAL.—This subsection shall not be construed to require a consumer reporting agency that distributes credit scores developed by another person or entity to provide a further explanation of them, or to process a dispute arising pursuant to section 611, except that the consumer reporting agency shall provide the consumer with the name and address and website for contacting the person or entity who developed the score or developed the methodology of the score.

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

“(6) MAINTENANCE OF CREDIT SCORES NOT REQUIRED.—This subsection shall not be construed to require a consumer reporting agency to maintain credit scores in its files.

“(7) COMPLIANCE IN CERTAIN CASES.—In complying with this subsection, a consumer reporting agency shall—

“(A) supply the consumer with a credit score that is derived from a credit scoring model that is widely distributed to users by that consumer reporting agency in connection with residential real property loans or with a credit score that assists the consumer in understanding the credit scoring assessment of the credit behavior of the consumer and predictions about the future credit behavior of the consumer; and

“(B) a statement indicating that the information and credit scoring model may be different than that used by the lender.

“(8) *FAIR AND REASONABLE FEE.*—A consumer reporting agency may charge a fair and reasonable fee, as determined by the Commission, for providing the information required under this subsection.

“(9) *USE OF ENQUIRIES AS A KEY FACTOR.*—If a key factor that adversely affects the credit score of a consumer consists of the number of enquiries made with respect to a consumer report, that factor shall be included in the disclosure pursuant to paragraph (1)(C) without regard to the numerical limitation in such paragraph.”

(c) *DISCLOSURE OF CREDIT SCORES BY CERTAIN MORTGAGE LENDERS.*—Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g), as amended by this Act, is amended by adding at the end the following:

“(g) *DISCLOSURE OF CREDIT SCORES BY CERTAIN MORTGAGE LENDERS.*—

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

“(A) *INFORMATION REQUIRED UNDER SUBSECTION (f).*—

“(i) *IN GENERAL.*—A copy of the information identified in subsection (f) that was obtained from a consumer reporting agency or was developed and used by the user of the information.

“(ii) *NOTICE UNDER SUBPARAGRAPH (D).*—In addition to the information provided to it by a third party that provided the credit score or scores, a lender is only required to provide the notice contained in subparagraph (D).

“(B) *DISCLOSURES IN CASE OF AUTOMATED UNDERWRITING SYSTEM.*—

“(i) *IN GENERAL.*—If a person that is subject to this subsection uses an automated underwriting system to underwrite a loan, that person may satisfy the obligation to provide a credit score by disclosing a credit score and associated key factors supplied by a consumer reporting agency.

“(ii) *NUMERICAL CREDIT SCORE.*—However, if a numerical credit score is generated by an automated underwriting system used by an enterprise, and that score is disclosed to the person, the score shall be disclosed to the consumer consistent with subparagraph (C).

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

“(C) *DISCLOSURES OF CREDIT SCORES NOT OBTAINED FROM A CONSUMER REPORTING AGENCY.*—A person that is subject to the provisions of this subsection and that uses a

credit score, other than a credit score provided by a consumer reporting agency, may satisfy the obligation to provide a credit score by disclosing a credit score and associated key factors supplied by a consumer reporting agency.

“(D) NOTICE TO HOME LOAN APPLICANTS.—A copy of the following notice, which shall include the name, address, and telephone number of each consumer reporting agency providing a credit score that was used:

“NOTICE TO THE HOME LOAN APPLICANT

“In connection with your application for a home loan, the lender must disclose to you the score that a consumer reporting agency distributed to users and the lender used in connection with your home loan, and the key factors affecting your credit scores.

“The credit score is a computer generated summary calculated at the time of the request and based on information that a consumer reporting agency or lender has on file. The scores are based on data about your credit history and payment patterns. Credit scores are important because they are used to assist the lender in determining whether you will obtain a loan. They may also be used to determine what interest rate you may be offered on the mortgage. Credit scores can change over time, depending on your conduct, how your credit history and payment patterns change, and how credit scoring technologies change.

“Because the score is based on information in your credit history, it is very important that you review the credit-related information that is being furnished to make sure it is accurate. Credit records may vary from one company to another.

“If you have questions about your credit score or the credit information that is furnished to you, contact the consumer reporting agency at the address and telephone number provided with this notice, or contact the lender, if the lender developed or generated the credit score. The consumer reporting agency plays no part in the decision to take any action on the loan application and is unable to provide you with specific reasons for the decision on a loan application.

“If you have questions concerning the terms of the loan, contact the lender.”

“(E) ACTIONS NOT REQUIRED UNDER THIS SUBSECTION.—This subsection shall not require any person to—

“(i) explain the information provided pursuant to subsection (f);

“(ii) disclose any information other than a credit score or key factors, as defined in subsection (f);

“(iii) disclose any credit score or related information obtained by the user after a loan has closed;

“(iv) provide more than 1 disclosure per loan transaction; or

“(v) provide the disclosure required by this subsection when another person has made the disclosure to the consumer for that loan transaction.

“(F) NO OBLIGATION FOR CONTENT.—

“(i) IN GENERAL.—The obligation of any person pursuant to this subsection shall be limited solely to

providing a copy of the information that was received from the consumer reporting agency.

“(ii) *LIMIT ON LIABILITY.*—No person has liability under this subsection for the content of that information or for the omission of any information within the report provided by the consumer reporting agency.

“(G) *PERSON DEFINED AS EXCLUDING ENTERPRISE.*—As used in this subsection, the term ‘person’ does not include an enterprise (as defined in paragraph (6) of section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992).

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

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

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

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

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

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

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

“(2) *KEY FACTOR IN CREDIT SCORE INFORMATION.*—Any consumer reporting agency that furnishes a consumer report that contains any credit score or any other risk score or predictor on any consumer shall include in the report a clear and conspicuous statement that a key factor (as defined in section 609(f)(2)(B)) that adversely affected such score or predictor was the number of enquiries, if such a predictor was in fact a key factor that adversely affected such score. This paragraph shall not apply to a check services company, acting as such, which issues authorizations for the purpose of approving or processing negotiable instruments, electronic fund transfers, or similar methods of payments, but only to the extent that such company is engaged in such activities.”.

(e) *TECHNICAL AND CONFORMING AMENDMENTS.*—Section 625(b) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)), as so designated by section 214 of this Act, is amended—

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

(2) by striking paragraph (3) and inserting the following:

“(3) with respect to the disclosures required to be made under subsection (c), (d), (e), or (g) of section 609, or subsection (f) of section 609 relating to the disclosure of credit scores for credit granting purposes, except that this paragraph—

“(A) shall not apply with respect to sections 1785.10, 1785.16, and 1785.20.2 of the California Civil Code (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003) and section 1785.15

through section 1785.15.2 of such Code (as in effect on such date);

“(B) shall not apply with respect to sections 5–3–106(2) and 212–14.3–104.3 of the Colorado Revised Statutes (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003); and

“(C) shall not be construed as limiting, annulling, affecting, or superseding any provision of the laws of any State regulating the use in an insurance activity, or regulating disclosures concerning such use, of a credit-based insurance score of a consumer by any person engaged in the business of insurance;

“(4) with respect to the frequency of any disclosure under section 612(a), except that this paragraph shall not apply—

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

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

“(C) with respect to section 1316.2 of title 10 of the Maine Revised Statutes (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003);

“(D) with respect to sections 14–1209(a)(1) and 14–1209(b)(1)(i) of the Commercial Law Article of the Code of Maryland (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003);

“(E) with respect to section 59(d) and section 59(e) of chapter 93 of the General Laws of Massachusetts (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003);

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

“(G) with respect to section 2480c(a)(1) of title 9 of the Vermont Statutes Annotated (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003); or”.

SEC. 213. ENHANCED DISCLOSURE OF THE MEANS AVAILABLE TO OPT OUT OF PRESCREENED LISTS.

(a) NOTICE AND RESPONSE FORMAT FOR USERS OF REPORTS.—Section 615(d)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681m(d)(2)) is amended to read as follows:

“(2) DISCLOSURE OF ADDRESS AND TELEPHONE NUMBER; FORMAT.—A statement under paragraph (1) shall—

“(A) include the address and toll-free telephone number of the appropriate notification system established under section 604(e); and

“(B) be presented in such format and in such type size and manner as to be simple and easy to understand, as established by the Commission, by rule, in consultation with

the Federal banking agencies and the National Credit Union Administration.”.

(b) *RULEMAKING SCHEDULE.—Regulations required by section 615(d)(2) of the Fair Credit Reporting Act, as amended by this section, shall be issued in final form not later than 1 year after the date of enactment of this Act.*

(c) *DURATION OF ELECTIONS.—Section 604(e) of the Fair Credit Reporting Act (15 U.S.C. 1681b(e)) is amended in each of paragraphs (3)(A) and (4)(B)(i), by striking “2-year period” each place that term appears and inserting “5-year period”.*

(d) *PUBLIC AWARENESS CAMPAIGN.—The Commission shall actively publicize and conspicuously post on its website any address and the toll-free telephone number established as part of a notification system for opting out of prescreening under section 604(e) of the Fair Credit Reporting Act (15 U.S.C. 1681b(e)), and otherwise take measures to increase public awareness regarding the availability of the right to opt out of prescreening.*

(e) *ANALYSIS OF FURTHER RESTRICTIONS ON OFFERS OF CREDIT OR INSURANCE.—*

(1) *IN GENERAL.—The Board shall conduct a study of—*

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

(B) *the potential impact that any further restrictions on providing consumers with such written offers of credit or insurance would have on consumers.*

(2) *REPORT.—The Board shall submit a report summarizing the results of the study required under paragraph (1) to the Congress not later than 12 months after the date of enactment of this Act, together with such recommendations for legislative or administrative action as the Board may determine to be appropriate.*

(3) *CONTENT OF REPORT.—The report described in paragraph (2) shall address the following issues:*

(A) *The current statutory or voluntary mechanisms that are available to a consumer to notify lenders and insurance providers that the consumer does not wish to receive written offers of credit or insurance.*

(B) *The extent to which consumers are currently utilizing existing statutory and voluntary mechanisms to avoid receiving offers of credit or insurance.*

(C) *The benefits provided to consumers as a result of receiving written offers of credit or insurance.*

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

(E) *Whether further restricting the ability of lenders and insurers to provide written offers of credit or insurance to consumers would affect—*

(i) *the cost consumers pay to obtain credit or insurance;*

(ii) *the availability of credit or insurance;*

(iii) *consumers’ knowledge about new or alternative products and services;*

- (iv) the ability of lenders or insurers to compete with one another; and
- (v) the ability to offer credit or insurance products to consumers who have been traditionally underserved.

SEC. 214. AFFILIATE SHARING.

(a) *LIMITATION.*—The Fair Credit Reporting Act (15 U.S.C. 1601 *et seq.*) is amended—

(1) by redesignating sections 624 (15 U.S.C. 1681t), 625 (15 U.S.C. 1681u), and 626 (15 U.S.C. 6181v) as sections 625, 626, and 627, respectively; and

(2) by inserting after section 623 the following:

“§ 624. Affiliate sharing

“(a) *SPECIAL RULE FOR SOLICITATION FOR PURPOSES OF MARKETING.*—

“(1) *NOTICE.*—Any person that receives from another person related to it by common ownership or affiliated by corporate control a communication of information that would be a consumer report, but for clauses (i), (ii), and (iii) of section 603(d)(2)(A), may not use the information to make a solicitation for marketing purposes to a consumer about its products or services, unless—

“(A) it is clearly and conspicuously disclosed to the consumer that the information may be communicated among such persons for purposes of making such solicitations to the consumer; and

“(B) the consumer is provided an opportunity and a simple method to prohibit the making of such solicitations to the consumer by such person.

“(2) *CONSUMER CHOICE.*—

“(A) *IN GENERAL.*—The notice required under paragraph (1) shall allow the consumer the opportunity to prohibit all solicitations referred to in such paragraph, and may allow the consumer to choose from different options when electing to prohibit the sending of such solicitations, including options regarding the types of entities and information covered, and which methods of delivering solicitations the consumer elects to prohibit.

“(B) *FORMAT.*—Notwithstanding subparagraph (A), the notice required under paragraph (1) shall be clear, conspicuous, and concise, and any method provided under paragraph (1)(B) shall be simple. The regulations prescribed to implement this section shall provide specific guidance regarding how to comply with such standards.

“(3) *DURATION.*—

“(A) *IN GENERAL.*—The election of a consumer pursuant to paragraph (1)(B) to prohibit the making of solicitations shall be effective for at least 5 years, beginning on the date on which the person receives the election of the consumer, unless the consumer requests that such election be revoked.

“(B) *NOTICE UPON EXPIRATION OF EFFECTIVE PERIOD.*—At such time as the election of a consumer pursuant to paragraph (1)(B) is no longer effective, a person may not use information that the person receives in the manner described in paragraph (1) to make any solicitation for mar-

keting purposes to the consumer, unless the consumer receives a notice and an opportunity, using a simple method, to extend the opt-out for another period of at least 5 years, pursuant to the procedures described in paragraph (1).

“(4) SCOPE.—This section shall not apply to a person—

“(A) using information to make a solicitation for marketing purposes to a consumer with whom the person has a pre-existing business relationship;

“(B) using information to facilitate communications to an individual for whose benefit the person provides employee benefit or other services pursuant to a contract with an employer related to and arising out of the current employment relationship or status of the individual as a participant or beneficiary of an employee benefit plan;

“(C) using information to perform services on behalf of another person related by common ownership or affiliated by corporate control, except that this subparagraph shall not be construed as permitting a person to send solicitations on behalf of another person, if such other person would not be permitted to send the solicitation on its own behalf as a result of the election of the consumer to prohibit solicitations under paragraph (1)(B);

“(D) using information in response to a communication initiated by the consumer;

“(E) using information in response to solicitations authorized or requested by the consumer; or

“(F) if compliance with this section by that person would prevent compliance by that person with any provision of State insurance laws pertaining to unfair discrimination in any State in which the person is lawfully doing business.

“(5) NO RETROACTIVITY.—This subsection shall not prohibit the use of information to send a solicitation to a consumer if such information was received prior to the date on which persons are required to comply with regulations implementing this subsection.

“(b) NOTICE FOR OTHER PURPOSES PERMISSIBLE.—A notice or other disclosure under this section may be coordinated and consolidated with any other notice required to be issued under any other provision of law by a person that is subject to this section, and a notice or other disclosure that is equivalent to the notice required by subsection (a), and that is provided by a person described in subsection (a) to a consumer together with disclosures required by any other provision of law, shall satisfy the requirements of subsection (a).

“(c) USER REQUIREMENTS.—Requirements with respect to the use by a person of information received from another person related to it by common ownership or affiliated by corporate control, such as the requirements of this section, constitute requirements with respect to the exchange of information among persons affiliated by common ownership or common corporate control, within the meaning of section 625(b)(2).

“(d) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

“(1) *PRE-EXISTING BUSINESS RELATIONSHIP.*—The term ‘pre-existing business relationship’ means a relationship between a person, or a person’s licensed agent, and a consumer, based on—

“(A) a financial contract between a person and a consumer which is in force;

“(B) the purchase, rental, or lease by the consumer of that person’s goods or services, or a financial transaction (including holding an active account or a policy in force or having another continuing relationship) between the consumer and that person during the 18-month period immediately preceding the date on which the consumer is sent a solicitation covered by this section;

“(C) an inquiry or application by the consumer regarding a product or service offered by that person, during the 3-month period immediately preceding the date on which the consumer is sent a solicitation covered by this section; or

“(D) any other pre-existing customer relationship defined in the regulations implementing this section.

“(2) *SOLICITATION.*—The term ‘solicitation’ means the marketing of a product or service initiated by a person to a particular consumer that is based on an exchange of information described in subsection (a), and is intended to encourage the consumer to purchase such product or service, but does not include communications that are directed at the general public or determined not to be a solicitation by the regulations prescribed under this section.”

(b) *RULEMAKING REQUIRED.*—

(1) *IN GENERAL.*—The Federal banking agencies, the National Credit Union Administration, and the Commission, with respect to the entities that are subject to their respective enforcement authority under section 621 of the Fair Credit Reporting Act and the Securities and Exchange Commission, and in coordination as described in paragraph (2), shall prescribe regulations to implement section 624 of the Fair Credit Reporting Act, as added by this section.

(2) *COORDINATION.*—Each agency required to prescribe regulations under paragraph (1) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

(3) *CONSIDERATIONS.*—In promulgating regulations under this subsection, each agency referred to in paragraph (1) shall—

(A) ensure that affiliate sharing notification methods provide a simple means for consumers to make determinations and choices under section 624 of the Fair Credit Reporting Act, as added by this section;

(B) consider the affiliate sharing notification practices employed on the date of enactment of this Act by persons that will be subject to that section 624; and

(C) ensure that notices and disclosures may be coordinated and consolidated, as provided in subsection (b) of that section 624.

(4) *TIMING.*—Regulations required by this subsection shall—

(A) be issued in final form not later than 9 months after the date of enactment of this Act; and

(B) become effective not later than 6 months after the date on which they are issued in final form.

(c) *TECHNICAL AND CONFORMING AMENDMENTS.*—

(1) *DEFINITIONS.*—Section 603(d)(2)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681(d)(2)(A)) is amended by inserting “subject to section 624,” after “(A)”.

(2) *RELATION TO STATE LAWS.*—Section 625(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)(1)), as so designated by subsection (a) of this section, is amended—

(A) by striking “or” after the semicolon at the end of subparagraph (E); and

(B) by adding at the end the following new subparagraph:

“(H) section 624, relating to the exchange and use of information to make a solicitation for marketing purposes; or”.

(3) *CROSS REFERENCE CORRECTION.*—Section 627(d) of the Fair Credit Reporting Act (15 U.S.C. 1681v(d)), as so designated by subsection (a) of this section, is amended by striking “section 625” and inserting “section 626”.

(4) *TABLE OF SECTIONS.*—The table of sections for title VI of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by striking the items relating to sections 624 through 626 and inserting the following:

“624. Affiliate sharing.

“625. Relation to State laws.

“626. Disclosures to FBI for counterintelligence purposes.

“627. Disclosures to governmental agencies for counterintelligence purposes.”

(e) *STUDIES OF INFORMATION SHARING PRACTICES.*—

(1) *IN GENERAL.*—The Federal banking agencies, the National Credit Union Administration, and the Commission shall jointly conduct regular studies of the consumer information sharing practices by financial institutions and other persons that are creditors or users of consumer reports with their affiliates.

(2) *MATTERS FOR STUDY.*—In conducting the studies required by paragraph (1), the agencies described in paragraph (1) shall—

(A) identify—

(i) the purposes for which financial institutions and other creditors and users of consumer reports share consumer information;

(ii) the types of information shared by such entities with their affiliates;

(iii) the number of choices provided to consumers with respect to the control of such sharing, and the degree to and manner in which consumers exercise such choices, if at all; and

(iv) whether such entities share or may share personally identifiable transaction or experience information with affiliates for purposes—

(I) that are related to employment or hiring, including whether the person that is the subject of such information is given notice of such sharing, and the specific uses of such shared information;

or

(II) of general publication of such information;

and

(B) specifically examine the information sharing practices that financial institutions and other creditors and users of consumer reports and their affiliates employ for the purpose of making underwriting decisions or credit evaluations of consumers.

(3) **REPORTS.**—

(A) **INITIAL REPORT.**—Not later than 3 years after the date of enactment of this Act, the Federal banking agencies, the National Credit Union Administration, and the Commission shall jointly submit a report to the Congress on the results of the initial study conducted in accordance with this subsection, together with any recommendations for legislative or regulatory action.

(B) **FOLLOWUP REPORTS.**—The Federal banking agencies, the National Credit Union Administration, and the Commission shall, not less frequently than once every 3 years following the date of submission of the initial report under subparagraph (A), jointly submit a report to the Congress that, together with any recommendations for legislative or regulatory action—

(i) documents any changes in the areas of study referred to in paragraph (2)(A) occurring since the date of submission of the previous report;

(ii) identifies any changes in the practices of financial institutions and other creditors and users of consumer reports in sharing consumer information with their affiliates for the purpose of making underwriting decisions or credit evaluations of consumers occurring since the date of submission of the previous report; and

(iii) examines the effects that changes described in clause (ii) have had, if any, on the degree to which such affiliate sharing practices reduce the need for financial institutions, creditors, and other users of consumer reports to rely on consumer reports for such decisions.

SEC. 215. STUDY OF EFFECTS OF CREDIT SCORES AND CREDIT-BASED INSURANCE SCORES ON AVAILABILITY AND AFFORDABILITY OF FINANCIAL PRODUCTS.

(a) **STUDY REQUIRED.**—The Commission and the Board, in consultation with the Office of Fair Housing and Equal Opportunity of the Department of Housing and Urban Development, shall conduct a study of—

(1) the effects of the use of credit scores and credit-based insurance scores on the availability and affordability of financial products and services, including credit cards, mortgages, auto loans, and property and casualty insurance;

(2) the statistical relationship, utilizing a multivariate analysis that controls for prohibited factors under the Equal

Credit Opportunity Act and other known risk factors, between credit scores and credit-based insurance scores and the quantifiable risks and actual losses experienced by businesses;

(3) the extent to which, if any, the use of credit scoring models, credit scores, and credit-based insurance scores impact on the availability and affordability of credit and insurance to the extent information is currently available or is available through proxies, by geography, income, ethnicity, race, color, religion, national origin, age, sex, marital status, and creed, including the extent to which the consideration or lack of consideration of certain factors by credit scoring systems could result in negative or differential treatment of protected classes under the Equal Credit Opportunity Act, and the extent to which, if any, the use of underwriting systems relying on these models could achieve comparable results through the use of factors with less negative impact; and

(4) the extent to which credit scoring systems are used by businesses, the factors considered by such systems, and the effects of variables which are not considered by such systems.

(b) PUBLIC PARTICIPATION.—The Commission shall seek public input about the prescribed methodology and research design of the study described in subsection (a), including from relevant Federal regulators, State insurance regulators, community, civil rights, consumer, and housing groups.

(c) REPORT REQUIRED.—

(1) IN GENERAL.—Before the end of the 24-month period beginning on the date of enactment of this Act, the Commission shall submit a detailed report on the study conducted pursuant to subsection (a) to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) CONTENTS OF REPORT.—The report submitted under paragraph (1) shall include the findings and conclusions of the Commission, recommendations to address specific areas of concerns addressed in the study, and recommendations for legislative or administrative action that the Commission may determine to be necessary to ensure that credit and credit-based insurance scores are used appropriately and fairly to avoid negative effects.

SEC. 216. DISPOSAL OF CONSUMER REPORT INFORMATION AND RECORDS.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by this Act, is amended by adding at the end the following:

“§ 628. Disposal of records

“(a) REGULATIONS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Federal banking agencies, the National Credit Union Administration, and the Commission with respect to the entities that are subject to their respective enforcement authority under section 621, and the Securities and Exchange Commission, and in coordination as described in paragraph (2), shall issue final regulations requiring any person that maintains or otherwise possesses consumer information, or

any compilation of consumer information, derived from consumer reports for a business purpose to properly dispose of any such information or compilation.

“(2) COORDINATION.—Each agency required to prescribe regulations under paragraph (1) shall—

“(A) consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such agency are consistent and comparable with the regulations by each such other agency; and

“(B) ensure that such regulations are consistent with the requirements and regulations issued pursuant to Public Law 106–102 and other provisions of Federal law.

“(3) EXEMPTION AUTHORITY.—In issuing regulations under this section, the Federal banking agencies, the National Credit Union Administration, the Commission, and the Securities and Exchange Commission may exempt any person or class of persons from application of those regulations, as such agency deems appropriate to carry out the purpose of this section.

“(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

“(1) to require a person to maintain or destroy any record pertaining to a consumer that is not imposed under other law; or

“(2) to alter or affect any requirement imposed under any other provision of law to maintain or destroy such a record.”.

(b) CLERICAL AMENDMENT.—The table of sections for title VI of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by inserting after the item relating to section 627, as added by section 214 of this Act, the following:

“628. Disposal of records.

“629. Corporate and technological circumvention prohibited.”.

SEC. 217. REQUIREMENT TO DISCLOSE COMMUNICATIONS TO A CONSUMER REPORTING AGENCY.

(a) IN GENERAL.—Section 623(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)) as amended by this Act, is amended by inserting after paragraph (6), the following new paragraph:

“(7) NEGATIVE INFORMATION.—

“(A) NOTICE TO CONSUMER REQUIRED.—

“(i) IN GENERAL.—If any financial institution that extends credit and regularly and in the ordinary course of business furnishes information to a consumer reporting agency described in section 603(p) furnishes negative information to such an agency regarding credit extended to a customer, the financial institution shall provide a notice of such furnishing of negative information, in writing, to the customer.

“(ii) NOTICE EFFECTIVE FOR SUBSEQUENT SUBMISSIONS.—After providing such notice, the financial institution may submit additional negative information to a consumer reporting agency described in section 603(p) with respect to the same transaction, extension of credit, account, or customer without providing additional notice to the customer.

“(B) TIME OF NOTICE.—

“(i) *IN GENERAL.*—The notice required under subparagraph (A) shall be provided to the customer prior to, or no later than 30 days after, furnishing the negative information to a consumer reporting agency described in section 603(p).

“(ii) *COORDINATION WITH NEW ACCOUNT DISCLOSURES.*—If the notice is provided to the customer prior to furnishing the negative information to a consumer reporting agency, the notice may not be included in the initial disclosures provided under section 127(a) of the Truth in Lending Act.

“(C) *COORDINATION WITH OTHER DISCLOSURES.*—The notice required under subparagraph (A)—

“(i) may be included on or with any notice of default, any billing statement, or any other materials provided to the customer; and

“(ii) must be clear and conspicuous.

“(D) *MODEL DISCLOSURE.*—

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

“(ii) *USE OF MODEL NOT REQUIRED.*—No provision of this paragraph shall be construed as requiring a financial institution to use any such model form prescribed by the Board.

“(iii) *COMPLIANCE USING MODEL.*—A financial institution shall be deemed to be in compliance with subparagraph (A) if the financial institution uses any such model form prescribed by the Board, or the financial institution uses any such model form and rearranges its format.

“(E) *USE OF NOTICE WITHOUT SUBMITTING NEGATIVE INFORMATION.*—No provision of this paragraph shall be construed as requiring a financial institution that has provided a customer with a notice described in subparagraph (A) to furnish negative information about the customer to a consumer reporting agency.

“(F) *SAFE HARBOR.*—A financial institution shall not be liable for failure to perform the duties required by this paragraph if, at the time of the failure, the financial institution maintained reasonable policies and procedures to comply with this paragraph or the financial institution reasonably believed that the institution is prohibited, by law, from contacting the consumer.

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

“(i) *NEGATIVE INFORMATION.*—The term ‘negative information’ means information concerning a customer’s delinquencies, late payments, insolvency, or any form of default.

“(ii) *CUSTOMER; FINANCIAL INSTITUTION.*—The terms ‘customer’ and ‘financial institution’ have the same meanings as in section 509 Public Law 106–102.”

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

TITLE III—ENHANCING THE ACCURACY OF CONSUMER REPORT INFORMATION

SEC. 311. RISK-BASED PRICING NOTICE.

(a) *DUTIES OF USERS.*—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m), as amended by this Act, is amended by adding at the end the following:

“(h) *DUTIES OF USERS IN CERTAIN CREDIT TRANSACTIONS.*—

“(1) *IN GENERAL.*—Subject to rules prescribed as provided in paragraph (6), if any person uses a consumer report in connection with an application for, or a grant, extension, or other provision of, credit on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that person, based in whole or in part on a consumer report, the person shall provide an oral, written, or electronic notice to the consumer in the form and manner required by regulations prescribed in accordance with this subsection.

“(2) *TIMING.*—The notice required under paragraph (1) may be provided at the time of an application for, or a grant, extension, or other provision of, credit or the time of communication of an approval of an application for, or grant, extension, or other provision of, credit, except as provided in the regulations prescribed under paragraph (6).

“(3) *EXCEPTIONS.*—No notice shall be required from a person under this subsection if—

“(A) the consumer applied for specific material terms and was granted those terms, unless those terms were initially specified by the person after the transaction was initiated by the consumer and after the person obtained a consumer report; or

“(B) the person has provided or will provide a notice to the consumer under subsection (a) in connection with the transaction.

“(4) *OTHER NOTICE NOT SUFFICIENT.*—A person that is required to provide a notice under subsection (a) cannot meet that requirement by providing a notice under this subsection.

“(5) *CONTENT AND DELIVERY OF NOTICE.*—A notice under this subsection shall, at a minimum—

“(A) include a statement informing the consumer that the terms offered to the consumer are set based on information from a consumer report;

“(B) identify the consumer reporting agency furnishing the report;

“(C) include a statement informing the consumer that the consumer may obtain a copy of a consumer report from that consumer reporting agency without charge; and

“(D) include the contact information specified by that consumer reporting agency for obtaining such consumer reports (including a toll-free telephone number established by the agency in the case of a consumer reporting agency described in section 603(p)).

“(6) RULEMAKING.—

“(A) RULES REQUIRED.—The Commission and the Board shall jointly prescribe rules.

“(B) CONTENT.—Rules required by subparagraph (A) shall address, but are not limited to—

“(i) the form, content, time, and manner of delivery of any notice under this subsection;

“(ii) clarification of the meaning of terms used in this subsection, including what credit terms are material, and when credit terms are materially less favorable;

“(iii) exceptions to the notice requirement under this subsection for classes of persons or transactions regarding which the agencies determine that notice would not significantly benefit consumers;

“(iv) a model notice that may be used to comply with this subsection; and

“(v) the timing of the notice required under paragraph (1), including the circumstances under which the notice must be provided after the terms offered to the consumer were set based on information from a consumer report.

“(7) COMPLIANCE.—A person shall not be liable for failure to perform the duties required by this section if, at the time of the failure, the person maintained reasonable policies and procedures to comply with this section.

“(8) ENFORCEMENT.—

“(A) NO CIVIL ACTIONS.—Sections 616 and 617 shall not apply to any failure by any person to comply with this section.

“(B) ADMINISTRATIVE ENFORCEMENT.—This section shall be enforced exclusively under section 621 by the Federal agencies and officials identified in that section.”.

(b) RELATION TO STATE LAWS.—Section 625(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)(1)), as so designated by section 214 of this Act, is amended by adding at the end the following:

“(I) section 615(h), relating to the duties of users of consumer reports to provide notice with respect to terms in certain credit transactions;”.

SEC. 312. PROCEDURES TO ENHANCE THE ACCURACY AND INTEGRITY OF INFORMATION FURNISHED TO CONSUMER REPORTING AGENCIES.

(a) ACCURACY GUIDELINES AND REGULATIONS.—Section 623 of the Fair Credit Reporting Act (15 U.S.C. 15 U.S.C. 1681s-2) is amended by adding at the end the following:

“(e) ACCURACY GUIDELINES AND REGULATIONS REQUIRED.—

“(1) GUIDELINES.—The Federal banking agencies, the National Credit Union Administration, and the Commission shall, with respect to the entities that are subject to their respective

enforcement authority under section 621, and in coordination as described in paragraph (2)—

“(A) establish and maintain guidelines for use by each person that furnishes information to a consumer reporting agency regarding the accuracy and integrity of the information relating to consumers that such entities furnish to consumer reporting agencies, and update such guidelines as often as necessary; and

“(B) prescribe regulations requiring each person that furnishes information to a consumer reporting agency to establish reasonable policies and procedures for implementing the guidelines established pursuant to subparagraph (A).

“(2) COORDINATION.—Each agency required to prescribe regulations under paragraph (1) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

“(3) CRITERIA.—In developing the guidelines required by paragraph (1)(A), the agencies described in paragraph (1) shall—

“(A) identify patterns, practices, and specific forms of activity that can compromise the accuracy and integrity of information furnished to consumer reporting agencies;

“(B) review the methods (including technological means) used to furnish information relating to consumers to consumer reporting agencies;

“(C) determine whether persons that furnish information to consumer reporting agencies maintain and enforce policies to assure the accuracy and integrity of information furnished to consumer reporting agencies; and

“(D) examine the policies and processes that persons that furnish information to consumer reporting agencies employ to conduct reinvestigations and correct inaccurate information relating to consumers that has been furnished to consumer reporting agencies.”.

(b) DUTY OF FURNISHERS TO PROVIDE ACCURATE INFORMATION.—Section 623(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681s-2(a)(1)) is amended—

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

(2) by adding at the end the following:

“(D) DEFINITION.—For purposes of subparagraph (A), the term ‘reasonable cause to believe that the information is inaccurate’ means having specific knowledge, other than solely allegations by the consumer, that would cause a reasonable person to have substantial doubts about the accuracy of the information.”.

(c) ABILITY OF CONSUMER TO DISPUTE INFORMATION DIRECTLY WITH FURNISHER.—Section 623(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s-2(a)), as amended by this Act, is amended by adding at the end the following:

“(8) ABILITY OF CONSUMER TO DISPUTE INFORMATION DIRECTLY WITH FURNISHER.—

“(A) IN GENERAL.—The Federal banking agencies, the National Credit Union Administration, and the Commission shall jointly prescribe regulations that shall identify the circumstances under which a furnisher shall be required to reinvestigate a dispute concerning the accuracy of information contained in a consumer report on the consumer, based on a direct request of a consumer.

“(B) CONSIDERATIONS.—In prescribing regulations under subparagraph (A), the agencies shall weigh—

“(i) the benefits to consumers with the costs on furnishers and the credit reporting system;

“(ii) the impact on the overall accuracy and integrity of consumer reports of any such requirements;

“(iii) whether direct contact by the consumer with the furnisher would likely result in the most expeditious resolution of any such dispute; and

“(iv) the potential impact on the credit reporting process if credit repair organizations, as defined in section 403(3), including entities that would be a credit repair organization, but for section 403(3)(B)(i), are able to circumvent the prohibition in subparagraph (G).

“(C) APPLICABILITY.—Subparagraphs (D) through (G) shall apply in any circumstance identified under the regulations promulgated under subparagraph (A).

“(D) SUBMITTING A NOTICE OF DISPUTE.—A consumer who seeks to dispute the accuracy of information shall provide a dispute notice directly to such person at the address specified by the person for such notices that—

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

“(ii) explains the basis for the dispute; and

“(iii) includes all supporting documentation required by the furnisher to substantiate the basis of the dispute.

“(E) DUTY OF PERSON AFTER RECEIVING NOTICE OF DISPUTE.—After receiving a notice of dispute from a consumer pursuant to subparagraph (D), the person that provided the information in dispute to a consumer reporting agency shall—

“(i) conduct an investigation with respect to the disputed information;

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

“(iii) complete such person’s investigation of the dispute and report the results of the investigation to the consumer before the expiration of the period under section 611(a)(1) within which a consumer reporting agency would be required to complete its action if the consumer had elected to dispute the information under that section; and

“(iv) if the investigation finds that the information reported was inaccurate, promptly notify each con-

sumer reporting agency to which the person furnished the inaccurate information of that determination and provide to the agency any correction to that information that is necessary to make the information provided by the person accurate.

“(F) FRIVOLOUS OR IRRELEVANT DISPUTE.—

“(i) IN GENERAL.—This paragraph shall not apply if the person receiving a notice of a dispute from a consumer reasonably determines that the dispute is frivolous or irrelevant, including—

“(I) by reason of the failure of a consumer to provide sufficient information to investigate the disputed information; or

“(II) the submission by a consumer of a dispute that is substantially the same as a dispute previously submitted by or for the consumer, either directly to the person or through a consumer reporting agency under subsection (b), with respect to which the person has already performed the person’s duties under this paragraph or subsection (b), as applicable.

“(ii) NOTICE OF DETERMINATION.—Upon making any determination under clause (i) that a dispute is frivolous or irrelevant, the person shall notify the consumer of such determination not later than 5 business days after making such determination, by mail or, if authorized by the consumer for that purpose, by any other means available to the person.

“(iii) CONTENTS OF NOTICE.—A notice under clause (ii) shall include—

“(I) the reasons for the determination under clause (i); and

“(II) identification of any information required to investigate the disputed information, which may consist of a standardized form describing the general nature of such information.

“(G) EXCLUSION OF CREDIT REPAIR ORGANIZATIONS.—This paragraph shall not apply if the notice of the dispute is submitted by, is prepared on behalf of the consumer by, or is submitted on a form supplied to the consumer by, a credit repair organization, as defined in section 403(3), or an entity that would be a credit repair organization, but for section 403(3)(B)(i).”

(d) FURNISHER LIABILITY EXCEPTION.—Section 623(a)(5) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)(5)) is amended—

(1) by striking “A person” and inserting the following:

“(A) IN GENERAL.—A person”;

(2) by inserting “date of delinquency on the account, which shall be the” before “month”;

(3) by inserting “on the account” before “that immediately preceded”; and

(4) by adding at the end the following:

“(B) RULE OF CONSTRUCTION.—For purposes of this paragraph only, and provided that the consumer does not dispute the information, a person that furnishes informa-

tion on a delinquent account that is placed for collection, charged for profit or loss, or subjected to any similar action, complies with this paragraph, if—

“(i) the person reports the same date of delinquency as that provided by the creditor to which the account was owed at the time at which the commencement of the delinquency occurred, if the creditor previously reported that date of delinquency to a consumer reporting agency;

“(ii) the creditor did not previously report the date of delinquency to a consumer reporting agency, and the person establishes and follows reasonable procedures to obtain the date of delinquency from the creditor or another reliable source and reports that date to a consumer reporting agency as the date of delinquency; or

“(iii) the creditor did not previously report the date of delinquency to a consumer reporting agency and the date of delinquency cannot be reasonably obtained as provided in clause (ii), the person establishes and follows reasonable procedures to ensure the date reported as the date of delinquency precedes the date on which the account is placed for collection, charged to profit or loss, or subjected to any similar action, and reports such date to the credit reporting agency.”.

(e) **LIABILITY AND ENFORCEMENT.**—

(1) **CIVIL LIABILITY.**—Section 623 of the Fair Credit Reporting Act (15 U.S.C. 1681s–2) is amended by striking subsections (c) and (d) and inserting the following:

“(c) **LIMITATION ON LIABILITY.**—Except as provided in section 621(c)(1)(B), sections 616 and 617 do not apply to any violation of—

“(1) subsection (a) of this section, including any regulations issued thereunder;

“(2) subsection (e) of this section, except that nothing in this paragraph shall limit, expand, or otherwise affect liability under section 616 or 617, as applicable, for violations of subsection (b) of this section; or

“(3) subsection (e) of section 615.

“(d) **LIMITATION ON ENFORCEMENT.**—The provisions of law described in paragraphs (1) through (3) of subsection (c) (other than with respect to the exception described in paragraph (2) of subsection (c)) shall be enforced exclusively as provided under section 621 by the Federal agencies and officials and the State officials identified in section 621.”.

(2) **STATE ACTIONS.**—Section 621(c) of the Fair Credit Reporting Act (15 U.S.C. 1681s(c)) is amended—

(A) in paragraph (1)(B)(ii), by striking “of section 623(a)” and inserting “described in any of paragraphs (1) through (3) of section 623(c)”; and

(B) in paragraph (5)—

(i) in each of subparagraphs (A) and (B), by striking “of section 623(a)(1)” each place that term appears and inserting “described in any of paragraphs (1) through (3) of section 623(c)”; and

(ii) by amending the paragraph heading to read as follows:

“(5) LIMITATIONS ON STATE ACTIONS FOR CERTAIN VIOLATIONS.—”

(f) *RULE OF CONSTRUCTION.*—Nothing in this section, the amendments made by this section, or any other provision of this Act shall be construed to affect any liability under section 616 or 617 of the Fair Credit Reporting Act (15 U.S.C. 1681n, 1681o) that existed on the day before the date of enactment of this Act.

SEC. 313. FTC AND CONSUMER REPORTING AGENCY ACTION CONCERNING COMPLAINTS.

(a) *IN GENERAL.*—Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i) is amended by adding at the end the following:

“(e) *TREATMENT OF COMPLAINTS AND REPORT TO CONGRESS.*—

“(1) *IN GENERAL.*—The Commission shall—

“(A) compile all complaints that it receives that a file of a consumer that is maintained by a consumer reporting agency described in section 603(p) contains incomplete or inaccurate information, with respect to which, the consumer appears to have disputed the completeness or accuracy with the consumer reporting agency or otherwise utilized the procedures provided by subsection (a); and

“(B) transmit each such complaint to each consumer reporting agency involved.

“(2) *EXCLUSION.*—Complaints received or obtained by the Commission pursuant to its investigative authority under the Federal Trade Commission Act shall not be subject to paragraph (1).

“(3) *AGENCY RESPONSIBILITIES.*—Each consumer reporting agency described in section 603(p) that receives a complaint transmitted by the Commission pursuant to paragraph (1) shall—

“(A) review each such complaint to determine whether all legal obligations imposed on the consumer reporting agency under this title (including any obligation imposed by an applicable court or administrative order) have been met with respect to the subject matter of the complaint;

“(B) provide reports on a regular basis to the Commission regarding the determinations of and actions taken by the consumer reporting agency, if any, in connection with its review of such complaints; and

“(C) maintain, for a reasonable time period, records regarding the disposition of each such complaint that is sufficient to demonstrate compliance with this subsection.

“(4) *RULEMAKING AUTHORITY.*—The Commission may prescribe regulations, as appropriate to implement this subsection.

“(5) *ANNUAL REPORT.*—The Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives an annual report regarding information gathered by the Commission under this subsection.”

(b) *PROMPT INVESTIGATION OF DISPUTED CONSUMER INFORMATION.*—

(1) *STUDY REQUIRED.*—The Board and the Commission shall jointly study the extent to which, and the manner in which, consumer reporting agencies and furnishers of consumer information to consumer reporting agencies are complying with

the procedures, time lines, and requirements under the Fair Credit Reporting Act for the prompt investigation of the disputed accuracy of any consumer information, the completeness of the information provided to consumer reporting agencies, and the prompt correction or deletion, in accordance with such Act, of any inaccurate or incomplete information or information that cannot be verified.

(2) *REPORT REQUIRED.*—*Before the end of the 12-month period beginning on the date of enactment of this Act, the Board and the Commission shall jointly submit a progress report to the Congress on the results of the study required under paragraph (1).*

(3) *CONSIDERATIONS.*—*In preparing the report required under paragraph (2), the Board and the Commission shall consider information relating to complaints compiled by the Commission under section 611(e) of the Fair Credit Reporting Act, as added by this section.*

(4) *RECOMMENDATIONS.*—*The report required under paragraph (2) shall include such recommendations as the Board and the Commission jointly determine to be appropriate for legislative or administrative action, to ensure that—*

(A) *consumer disputes with consumer reporting agencies over the accuracy or completeness of information in a consumer's file are promptly and fully investigated and any incorrect, incomplete, or unverifiable information is corrected or deleted immediately thereafter;*

(B) *furnishers of information to consumer reporting agencies maintain full and prompt compliance with the duties and responsibilities established under section 623 of the Fair Credit Reporting Act; and*

(C) *consumer reporting agencies establish and maintain appropriate internal controls and management review procedures for maintaining full and continuous compliance with the procedures, time lines, and requirements under the Fair Credit Reporting Act for the prompt investigation of the disputed accuracy of any consumer information and the prompt correction or deletion, in accordance with such Act, of any inaccurate or incomplete information or information that cannot be verified.*

SEC. 314. IMPROVED DISCLOSURE OF THE RESULTS OF REINVESTIGATION.

(a) *IN GENERAL.*—*Section 611(a)(5)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)(5)(A)) is amended by striking “shall” and all that follows through the end of the subparagraph, and inserting the following: “shall—*

“(i) promptly delete that item of information from the file of the consumer, or modify that item of information, as appropriate, based on the results of the re-investigation; and

“(ii) promptly notify the furnisher of that information that the information has been modified or deleted from the file of the consumer.”.

(b) *FURNISHER REQUIREMENTS RELATING TO INACCURATE, INCOMPLETE, OR UNVERIFIABLE INFORMATION.*—*Section 623(b)(1) of*

the Fair Credit Reporting Act (15 U.S.C. 1681s-2(b)(1)) is amended—

(1) in subparagraph (C), by striking “and” at the end; and
 (2) in subparagraph (D), by striking the period at the end
 and inserting the following: “; and

“(E) if an item of information disputed by a consumer
 is found to be inaccurate or incomplete or cannot be verified
 after any reinvestigation under paragraph (1), for purposes
 of reporting to a consumer reporting agency only, as appro-
 priate, based on the results of the reinvestigation prompt-
 ly—

“(i) modify that item of information;

“(ii) delete that item of information; or

“(iii) permanently block the reporting of that item
 of information.”.

SEC. 315. RECONCILING ADDRESSES.

Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c),
 as amended by this Act, is amended by adding at the end the fol-
 lowing:

“(h) NOTICE OF DISCREPANCY IN ADDRESS.—

“(1) IN GENERAL.—If a person has requested a consumer re-
 port relating to a consumer from a consumer reporting agency
 described in section 603(p), the request includes an address for
 the consumer that substantially differs from the addresses in
 the file of the consumer, and the agency provides a consumer
 report in response to the request, the consumer reporting agency
 shall notify the requester of the existence of the discrepancy.

“(2) REGULATIONS.—

“(A) REGULATIONS REQUIRED.—The Federal banking
 agencies, the National Credit Union Administration, and
 the Commission shall jointly, with respect to the entities
 that are subject to their respective enforcement authority
 under section 621, prescribe regulations providing guidance
 regarding reasonable policies and procedures that a user of
 a consumer report should employ when such user has re-
 ceived a notice of discrepancy under paragraph (1).

“(B) POLICIES AND PROCEDURES TO BE INCLUDED.—The
 regulations prescribed under subparagraph (A) shall de-
 scribe reasonable policies and procedures for use by a user
 of a consumer report—

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

“(ii) if the user establishes a continuing relation-
 ship with the consumer, and the user regularly and in
 the ordinary course of business furnishes information
 to the consumer reporting agency from which the notice
 of discrepancy pertaining to the consumer was ob-
 tained, to reconcile the address of the consumer with
 the consumer reporting agency by furnishing such ad-
 dress to such consumer reporting agency as part of in-
 formation regularly furnished by the user for the pe-
 riod in which the relationship is established.”.

SEC. 316. NOTICE OF DISPUTE THROUGH RESELLER.

(a) **REQUIREMENT FOR REINVESTIGATION OF DISPUTED INFORMATION UPON NOTICE FROM A RESELLER.**—Section 611(a) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)(1)(A)) is amended—

(1) in paragraph (1)(A)—

(A) by striking “If the completeness” and inserting “Subject to subsection (f), if the completeness”;

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

(C) by inserting “or reseller” before the period at the end;

(2) in paragraph (2)(A)—

(A) by inserting “or a reseller” after “dispute from any consumer”; and

(B) by inserting “or reseller” before the period at the end; and

(3) in paragraph (2)(B), by inserting “or the reseller” after “from the consumer”.

(b) **REINVESTIGATION REQUIREMENT APPLICABLE TO RESELLERS.**—Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i), as amended by this Act, is amended by adding at the end the following:

“(f) **REINVESTIGATION REQUIREMENT APPLICABLE TO RESELLERS.**—

“(1) **EXEMPTION FROM GENERAL REINVESTIGATION REQUIREMENT.**—Except as provided in paragraph (2), a reseller shall be exempt from the requirements of this section.

“(2) **ACTION REQUIRED UPON RECEIVING NOTICE OF A DISPUTE.**—If a reseller receives a notice from a consumer of a dispute concerning the completeness or accuracy of any item of information contained in a consumer report on such consumer produced by the reseller, the reseller shall, within 5 business days of receiving the notice, and free of charge—

“(A) determine whether the item of information is incomplete or inaccurate as a result of an act or omission of the reseller; and

“(B) if—

“(i) the reseller determines that the item of information is incomplete or inaccurate as a result of an act or omission of the reseller, not later than 20 days after receiving the notice, correct the information in the consumer report or delete it; or

“(ii) if the reseller determines that the item of information is not incomplete or inaccurate as a result of an act or omission of the reseller, convey the notice of the dispute, together with all relevant information provided by the consumer, to each consumer reporting agency that provided the reseller with the information that is the subject of the dispute, using an address or a notification mechanism specified by the consumer reporting agency for such notices.

“(3) **RESPONSIBILITY OF CONSUMER REPORTING AGENCY TO NOTIFY CONSUMER THROUGH RESELLER.**—Upon the completion of a reinvestigation under this section of a dispute concerning the completeness or accuracy of any information in the file of

a consumer by a consumer reporting agency that received notice of the dispute from a reseller under paragraph (2)—

“(A) the notice by the consumer reporting agency under paragraph (6), (7), or (8) of subsection (a) shall be provided to the reseller in lieu of the consumer; and

“(B) the reseller shall immediately reconvey such notice to the consumer, including any notice of a deletion by telephone in the manner required under paragraph (8)(A).

“(4) RESELLER REINVESTIGATIONS.—No provision of this subsection shall be construed as prohibiting a reseller from conducting a reinvestigation of a consumer dispute directly.”.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 611(a)(2)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)(2)(B)) is amended in the subparagraph heading, by striking “FROM CONSUMER”.

SEC. 317. REASONABLE REINVESTIGATION REQUIRED.

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

SEC. 318. FTC STUDY OF ISSUES RELATING TO THE FAIR CREDIT REPORTING ACT.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Commission shall conduct a study on ways to improve the operation of the Fair Credit Reporting Act.

(2) AREAS FOR STUDY.—In conducting the study under paragraph (1), the Commission shall review—

(A) the efficacy of increasing the number of points of identifying information that a credit reporting agency is required to match to ensure that a consumer is the correct individual to whom a consumer report relates before releasing a consumer report to a user, including—

(i) the extent to which requiring additional points of such identifying information to match would—

(I) enhance the accuracy of credit reports; and

(II) combat the provision of incorrect consumer reports to users;

(ii) the extent to which requiring an exact match of the first and last name, social security number, and address and ZIP Code of the consumer would enhance the likelihood of increasing credit report accuracy; and

(iii) the effects of allowing consumer reporting agencies to use partial matches of social security numbers and name recognition software on the accuracy of credit reports;

(B) requiring notification to consumers when negative information has been added to their credit reports, including—

(i) the potential impact of such notification on the ability of consumers to identify errors on their credit reports; and

(ii) the potential impact of such notification on the ability of consumers to remove fraudulent information from their credit reports;

(C) the effects of requiring that a consumer who has experienced an adverse action based on a credit report receives a copy of the same credit report that the creditor relied on in taking the adverse action, including—

(i) the extent to which providing such reports to consumers would increase the ability of consumers to identify errors in their credit reports; and

(ii) the extent to which providing such reports to consumers would increase the ability of consumers to remove fraudulent information from their credit reports;

(D) any common financial transactions that are not generally reported to the consumer reporting agencies, but would provide useful information in determining the credit worthiness of consumers; and

(E) any actions that might be taken within a voluntary reporting system to encourage the reporting of the types of transactions described in subparagraph (D).

(3) COSTS AND BENEFITS.—With respect to each area of study described in paragraph (2), the Commission shall consider the extent to which such requirements would benefit consumers, balanced against the cost of implementing such provisions.

(b) REPORT REQUIRED.—Not later than 1 year after the date of enactment of this Act, the chairman of the Commission shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives containing a detailed summary of the findings and conclusions of the study under this section, together with such recommendations for legislative or administrative actions as may be appropriate.

SEC. 319. FTC STUDY OF THE ACCURACY OF CONSUMER REPORTS.

(a) STUDY REQUIRED.—Until the final report is submitted under subsection (b)(2), the Commission shall conduct an ongoing study of the accuracy and completeness of information contained in consumer reports prepared or maintained by consumer reporting agencies and methods for improving the accuracy and completeness of such information.

(b) BIENNIAL REPORTS REQUIRED.—

(1) INTERIM REPORTS.—The Commission shall submit an interim report to the Congress on the study conducted under subsection (a) at the end of the 1-year period beginning on the date of enactment of this Act and biennially thereafter for 8 years.

(2) FINAL REPORT.—The Commission shall submit a final report to the Congress on the study conducted under subsection (a) at the end of the 2-year period beginning on the date on which the final interim report is submitted to the Congress under paragraph (1).

(3) CONTENTS.—Each report submitted under this subsection shall contain a detailed summary of the findings and conclusions of the Commission with respect to the study re-

quired under subsection (a) and such recommendations for legislative and administrative action as the Commission may determine to be appropriate.

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

SEC. 411. PROTECTION OF MEDICAL INFORMATION IN THE FINANCIAL SYSTEM.

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

“(g) **PROTECTION OF MEDICAL INFORMATION.**—

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

“(A) if furnished in connection with an insurance transaction, the consumer affirmatively consents to the furnishing of the report;

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

“(i) the information to be furnished is relevant to process or effect the employment or credit transaction; and

“(ii) the consumer provides specific written consent for the furnishing of the report that describes in clear and conspicuous language the use for which the information will be furnished; or

“(C) the information to be furnished pertains solely to transactions, accounts, or balances relating to debts arising from the receipt of medical services, products, or devices, where such information, other than account status or amounts, is restricted or reported using codes that do not identify, or do not provide information sufficient to infer, the specific provider or the nature of such services, products, or devices, as provided in section 605(a)(6).

“(2) **LIMITATION ON CREDITORS.**—Except as permitted pursuant to paragraph (3)(C) or regulations prescribed under paragraph (5)(A), a creditor shall not obtain or use medical information pertaining to a consumer in connection with any determination of the consumer’s eligibility, or continued eligibility, for credit.

“(3) **ACTIONS AUTHORIZED BY FEDERAL LAW, INSURANCE ACTIVITIES AND REGULATORY DETERMINATIONS.**—Section 603(d)(3) shall not be construed so as to treat information or any communication of information as a consumer report if the information or communication is disclosed—

“(A) in connection with the business of insurance or annuities, including the activities described in section 18B of the model Privacy of Consumer Financial and Health Information Regulation issued by the National Association of Insurance Commissioners (as in effect on January 1, 2003);

“(B) for any purpose permitted without authorization under the Standards for Individually Identifiable Health Information promulgated by the Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996, or referred to under section 1179 of such Act, or described in section 502(e) of Public Law 106–102; 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 paragraph (1) or (3) shall not disclose such information to any other person, except as necessary to carry out the purpose 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 transactions under paragraph (2) that are determined to be necessary and appropriate to protect legitimate operational, transactional, risk, consumer, and other needs (and which shall include permitting actions necessary for administrative verification purposes), consistent with the intent of paragraph (2) to restrict the use of medical information for inappropriate purposes.

“(B) FINAL REGULATIONS REQUIRED.—The Federal banking agencies and the National Credit Union Administration shall issue the regulations required under subparagraph (A) in final form before the end of the 6-month period beginning on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003.

“(6) COORDINATION WITH OTHER LAWS.—No provision of this subsection shall be construed as altering, affecting, or superseding the applicability of any other provision of Federal law relating to medical confidentiality.”

(b) RESTRICTION ON SHARING OF MEDICAL INFORMATION.—Section 603(d) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)) is amended—

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

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

“(3) RESTRICTION ON SHARING OF MEDICAL INFORMATION.—Except for information or any communication of information disclosed as provided in section 604(g)(3), the exclusions in paragraph (2) shall not apply with respect to information dis-

closed to any person related by common ownership or affiliated by corporate control, if the information is—

“(A) medical information;

“(B) an individualized list or description based on the payment transactions of the consumer for medical products or services; or

“(C) an aggregate list of identified consumers based on payment transactions for medical products or services.

(c) *DEFINITION.*—Section 603(i) of the Fair Credit Reporting Act (15 U.S.C. 1681a(i)) is amended to read as follows:

“(i) *MEDICAL INFORMATION.*—The term ‘medical information’—

“(1) means information or data, whether oral or recorded, in any form or medium, created by or derived from a health care provider or the consumer, that relates to—

“(A) the past, present, or future physical, mental, or behavioral health or condition of an individual;

“(B) the provision of health care to an individual; or

“(C) the payment for the provision of health care to an individual.

“(2) does not include the age or gender of a consumer, demographic information about the consumer, including a consumer’s residence address or e-mail address, or any other information about a consumer that does not relate to the physical, mental, or behavioral health or condition of a consumer, including the existence or value of any insurance policy.”.

(d) *EFFECTIVE DATES.*—This section shall take effect at the end of the 180-day period beginning on the date of enactment of this Act, except that paragraph (2) of section 604(g) of the Fair Credit Reporting Act (as amended by subsection (a) of this section) shall take effect on the later of—

(1) the end of the 90-day period beginning on the date on which the regulations required under paragraph (5)(B) of such section 604(g) are issued in final form; or

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

SEC. 412. CONFIDENTIALITY OF MEDICAL CONTACT INFORMATION IN CONSUMER REPORTS.

(a) *DUTIES OF MEDICAL INFORMATION FURNISHERS.*—Section 623(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s-2(a)), as amended by this Act, is amended by adding at the end the following:

“(9) *DUTY TO PROVIDE NOTICE OF STATUS AS MEDICAL INFORMATION FURNISHER.*—A person whose primary business is providing medical services, products, or devices, or the person’s agent or assignee, who furnishes information to a consumer reporting agency on a consumer shall be considered a medical information furnisher for purposes of this title, and shall notify the agency of such status.”.

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

“(6) The name, address, and telephone number of any medical information furnisher that has notified the agency of its status, unless—

“(A) such name, address, and telephone number are restricted or reported using codes that do not identify, or provide information sufficient to infer, the specific provider or the nature of such services, products, or devices to a person other than the consumer; or

“(B) the report is being provided to an insurance company for a purpose relating to engaging in the business of insurance other than property and casualty insurance.”.

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

(d) **COORDINATION WITH OTHER LAWS.**—No provision of any amendment made by this section shall be construed as altering, affecting, or superseding the applicability of any other provision of Federal law relating to medical confidentiality.

(e) **FTC REGULATION OF CODING OF TRADE NAMES.**—Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s), as amended by this Act, is amended by adding at the end the following:

“(g) **FTC REGULATION OF CODING OF TRADE NAMES.**—If the Commission determines that a person described in paragraph (9) of section 623(a) has not met the requirements of such paragraph, the Commission shall take action to ensure the person’s compliance with such paragraph, which may include issuing model guidance or prescribing reasonable policies and procedures, as necessary to ensure that such person complies with such paragraph.”.

(f) **TECHNICAL AND CONFORMING AMENDMENTS.**—Section 604(g) of the Fair Credit Reporting Act (15 U.S.C. 1681b(g)), as amended by section 411 of this Act, is amended—

(1) in paragraph (1), by inserting “(other than medical contact information treated in the manner required under section 605(a)(6))” after “a consumer report that contains medical information”; and

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

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

TITLE V—FINANCIAL LITERACY AND EDUCATION IMPROVEMENT

SEC. 511. SHORT TITLE.

This title may be cited as the “Financial Literacy and Education Improvement Act”.

SEC. 512. DEFINITIONS.

As used in this title—

(1) the term “Chairperson” means the Chairperson of the Financial Literacy and Education Commission; and

(2) the term “Commission” means the Financial Literacy and Education Commission established under section 513.

SEC. 513. ESTABLISHMENT OF FINANCIAL LITERACY AND EDUCATION COMMISSION.

(a) *IN GENERAL.*—There is established a commission to be known as the “Financial Literacy and Education Commission”.

(b) *PURPOSE.*—The Commission shall serve to improve the financial literacy and education of persons in the United States through development of a national strategy to promote financial literacy and education.

(c) *MEMBERSHIP.*—

(1) *COMPOSITION.*—The Commission shall be composed of—

(A) the Secretary of the Treasury;

(B) the respective head of each of the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, the Securities and Exchange Commission, each of the Departments of Education, Agriculture, Defense, Health and Human Services, Housing and Urban Development, Labor, and Veterans Affairs, the Federal Trade Commission, the General Services Administration, the Small Business Administration, the Social Security Administration, the Commodity Futures Trading Commission, and the Office of Personnel Management; and

(C) at the discretion of the President, not more than 5 individuals appointed by the President from among the administrative heads of any other Federal agencies, departments, or other Federal Government entities, whom the President determines to be engaged in a serious effort to improve financial literacy and education.

(2) *ALTERNATES.*—Each member of the Commission may designate an alternate if the member is unable to attend a meeting of the Commission. Such alternate shall be an individual who exercises significant decisionmaking authority.

(d) *CHAIRPERSON.*—The Secretary of the Treasury shall serve as the Chairperson.

(e) *MEETINGS.*—The Commission shall hold, at the call of the Chairperson, at least 1 meeting every 4 months. All such meetings shall be open to the public. The Commission may hold, at the call of the Chairperson, such other meetings as the Chairperson sees fit to carry out this title.

(f) *QUORUM.*—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) *INITIAL MEETING.*—The Commission shall hold its first meeting not later than 60 days after the date of enactment of this Act.

SEC. 514. DUTIES OF THE COMMISSION.

(a) *DUTIES.*—

(1) *IN GENERAL.*—The Commission, through the authority of the members referred to in section 513(c), shall take such actions as it deems necessary to streamline, improve, or augment the financial literacy and education programs, grants, and materials of the Federal Government, including curricula for all Americans.

(2) *AREAS OF EMPHASIS.*—To improve financial literacy and education, the Commission shall emphasize, among other ele-

ments, basic personal income and household money management and planning skills, including how to—

(A) create household budgets, initiate savings plans, and make strategic investment decisions for education, retirement, home ownership, wealth building, or other savings goals;

(B) manage spending, credit, and debt, including credit card debt, effectively;

(C) increase awareness of the availability and significance of credit reports and credit scores in obtaining credit, the importance of their accuracy (and how to correct inaccuracies), their effect on credit terms, and the effect common financial decisions may have on credit scores;

(D) ascertain fair and favorable credit terms;

(E) avoid abusive, predatory, or deceptive credit offers and financial products;

(F) understand, evaluate, and compare financial products, services, and opportunities;

(G) understand resources that ought to be easily accessible and affordable, and that inform and educate investors as to their rights and avenues of recourse when an investor believes his or her rights have been violated by unprofessional conduct of market intermediaries;

(H) increase awareness of the particular financial needs and financial transactions (such as the sending of remittances) of consumers who are targeted in multilingual financial literacy and education programs and improve the development and distribution of multilingual financial literacy and education materials;

(I) promote bringing individuals who lack basic banking services into the financial mainstream by opening and maintaining an account with a financial institution; and

(J) improve financial literacy and education through all other related skills, including personal finance and related economic education, with the primary goal of programs not simply to improve knowledge, but rather to improve consumers' financial choices and outcomes.

(b) WEBSITE.—

(1) IN GENERAL.—The Commission shall establish and maintain a website, such as the domain name “FinancialLiteracy.gov”, or a similar domain name.

(2) PURPOSES.—The website established under paragraph (1) shall—

(A) serve as a clearinghouse of information about Federal financial literacy and education programs;

(B) provide a coordinated entry point for accessing information about all Federal publications, grants, and materials promoting enhanced financial literacy and education;

(C) offer information on all Federal grants to promote financial literacy and education, and on how to target, apply for, and receive a grant that is most appropriate under the circumstances;

(D) as the Commission considers appropriate, feature website links to efforts that have no commercial content

and that feature information about financial literacy and education programs, materials, or campaigns; and

(E) offer such other information as the Commission finds appropriate to share with the public in the fulfillment of its purpose.

(c) *TOLL-FREE HOTLINE.*—The Commission shall establish a toll-free telephone number that shall be made available to members of the public seeking information about issues pertaining to financial literacy and education.

(d) *DEVELOPMENT AND DISSEMINATION OF MATERIALS.*—The Commission shall—

(1) develop materials to promote financial literacy and education; and

(2) disseminate such materials to the general public.

(e) *COORDINATION OF EFFORTS.*—The Commission shall take such steps as are necessary to coordinate and promote financial literacy and education efforts at the State and local level, including promoting partnerships among Federal, State, and local governments, nonprofit organizations, and private enterprises.

(f) *NATIONAL STRATEGY.*—

(1) *IN GENERAL.*—The Commission shall—

(A) not later than 18 months after the date of enactment of this Act, develop a national strategy to promote basic financial literacy and education among all American consumers; and

(B) coordinate Federal efforts to implement the strategy developed under subparagraph (A).

(2) *STRATEGY.*—The strategy to promote basic financial literacy and education required to be developed under paragraph (1) shall provide for—

(A) participation by State and local governments and private, nonprofit, and public institutions in the creation and implementation of such strategy;

(B) the development of methods—

(i) to increase the general financial education level of current and future consumers of financial services and products; and

(ii) to enhance the general understanding of financial services and products;

(C) review of Federal activities designed to promote financial literacy and education, and development of a plan to improve coordination of such activities; and

(D) the identification of areas of overlap and duplication among Federal financial literacy and education activities and proposed means of eliminating any such overlap and duplication.

(3) *NATIONAL STRATEGY REVIEW.*—The Commission shall, not less than annually, review the national strategy developed under this subsection and make such changes and recommendations as it deems necessary.

(g) *CONSULTATION.*—The Commission shall actively consult with a variety of representatives from private and nonprofit organizations and State and local agencies, as determined appropriate by the Commission.

(h) *REPORTS.*—

(1) *IN GENERAL.*—Not later than 18 months after the date of the first meeting of the Commission, and annually thereafter, the Commission shall issue a report, the Strategy for Assuring Financial Empowerment (“SAFE Strategy”), to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the progress of the Commission in carrying out this title.

(2) *CONTENTS.*—The report required under paragraph (1) shall include—

(A) the national strategy for financial literacy and education, as described under subsection (f);

(B) information concerning the implementation of the duties of the Commission under subsections (a) through (g);

(C) an assessment of the success of the Commission in implementing the national strategy developed under subsection (f);

(D) an assessment of the availability, utilization, and impact of Federal financial literacy and education materials;

(E) information concerning the content and public use of—

(i) the website established under subsection (b); and

(ii) the toll-free telephone number established under subsection (c);

(F) a brief survey of the financial literacy and education materials developed under subsection (d), and data regarding the dissemination and impact of such materials, as measured by improved financial decisionmaking;

(G) a brief summary of any hearings conducted by the Commission, including a list of witnesses who testified at such hearings;

(H) information about the activities of the Commission planned for the next fiscal year;

(I) a summary of all Federal financial literacy and education activities targeted to communities that have historically lacked access to financial literacy materials and education, and have been underserved by the mainstream financial systems; and

(J) such other materials relating to the duties of the Commission as the Commission deems appropriate.

(3) *INITIAL REPORT.*—The initial report under paragraph (1) shall include information regarding all Federal programs, materials, and grants which seek to improve financial literacy, and assess the effectiveness of such programs.

(i) *TESTIMONY.*—The Commission shall annually provide testimony by the Chairperson to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

SEC. 515. POWERS OF THE COMMISSION.

(a) *HEARINGS.*—

(1) *IN GENERAL.*—The Commission shall hold such hearings, sit and act at such times and places, take such testimony,

and receive such evidence as the Commission deems appropriate to carry out this title.

(2) *PARTICIPATION.*—In hearings held under this subsection, the Commission shall consider inviting witnesses from, among other groups—

(A) other Federal Government officials;

(B) State and local government officials;

(C) consumer and community groups;

(D) nonprofit financial literacy and education groups (such as those involved in personal finance and economic education); and

(E) the financial services industry.

(b) *INFORMATION FROM FEDERAL AGENCIES.*—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this title. Upon request of the Chairperson, the head of such department or agency shall furnish such information to the Commission.

(c) *PERIODIC STUDIES.*—The Commission may conduct periodic studies regarding the state of financial literacy and education in the United States, as the Commission determines appropriate.

(d) *MULTILINGUAL.*—The Commission may take any action to develop and promote financial literacy and education materials in languages other than English, as the Commission deems appropriate, including for the website established under section 514(b), at the toll-free number established under section 514(c), and in the materials developed and disseminated under section 514(d).

SEC. 516. COMMISSION PERSONNEL MATTERS.

(a) *COMPENSATION OF MEMBERS.*—Each member of the Commission shall serve without compensation in addition to that received for their service as an officer or employee of the United States.

(b) *TRAVEL EXPENSES.*—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) *ASSISTANCE.*—

(1) *IN GENERAL.*—The Director of the Office of Financial Education of the Department of the Treasury shall provide assistance to the Commission, upon request of the Commission, without reimbursement.

(2) *DETAIL OF GOVERNMENT EMPLOYEES.*—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

SEC. 517. STUDIES BY THE COMPTROLLER GENERAL.

(a) *EFFECTIVENESS STUDY.*—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress assessing the effectiveness of the Commission in promoting financial literacy and education.

(b) *STUDY AND REPORT ON THE NEED AND MEANS FOR IMPROVING FINANCIAL LITERACY AMONG CONSUMERS.*—

(1) *STUDY REQUIRED.*—The Comptroller General of the United States shall conduct a study to assess the extent of consumers' knowledge and awareness of credit reports, credit scores, and the dispute resolution process, and on methods for improving financial literacy among consumers.

(2) *FACTORS TO BE INCLUDED.*—The study required under paragraph (1) shall include the following issues:

(A) *The number of consumers who view their credit reports.*

(B) *Under what conditions and for what purposes do consumers primarily obtain a copy of their consumer report (such as for the purpose of ensuring the completeness and accuracy of the contents, to protect against fraud, in response to an adverse action based on the report, or in response to suspected identity theft) and approximately what percentage of the total number of consumers who obtain a copy of their consumer report do so for each such primary purpose.*

(C) *The extent of consumers' knowledge of the data collection process.*

(D) *The extent to which consumers know how to get a copy of a consumer report.*

(E) *The extent to which consumers know and understand the factors that positively or negatively impact credit scores.*

(3) *REPORT REQUIRED.*—Before the end of the 12-month period beginning on the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the findings and conclusions of the Comptroller General pursuant to the study conducted under this subsection, together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate, including recommendations on methods for improving financial literacy among consumers.

SEC. 518. THE NATIONAL PUBLIC SERVICE MULTIMEDIA CAMPAIGN TO ENHANCE THE STATE OF FINANCIAL LITERACY.

(a) *IN GENERAL.*—The Secretary of the Treasury (in this section referred to as the "Secretary"), after review of the recommendations of the Commission, as part of the national strategy, shall develop, implement, and conduct a pilot national public service multimedia campaign to enhance the state of financial literacy and education in the United States.

(b) *PROGRAM REQUIREMENTS.*—

(1) *PUBLIC SERVICE CAMPAIGN.*—The Secretary, after review of the recommendations of the Commission, shall select and work with a nonprofit organization or organizations that are especially well-qualified in the distribution of public service campaigns, and have secured private sector funds to produce the pilot national public service multimedia campaign.

(2) *DEVELOPMENT OF MULTIMEDIA CAMPAIGN.*—The Secretary, after review of the recommendations of the Commission, shall develop, in consultation with nonprofit, public, or private organizations, especially those that are well qualified by virtue of their experience in the field of financial literacy and edu-

cation, to develop the financial literacy national public service multimedia campaign.

(3) *FOCUS OF CAMPAIGN.*—The pilot national public service multimedia campaign shall be consistent with the national strategy, and shall promote the toll-free telephone number and the website developed under this title.

(c) *MULTILINGUAL.*—The Secretary may develop the multimedia campaign in languages other than English, as the Secretary deems appropriate.

(d) *PERFORMANCE MEASURES.*—The Secretary shall develop measures to evaluate the effectiveness of the pilot national public service multimedia campaign, as measured by improved financial decision making among individuals.

(e) *REPORT.*—For each fiscal year for which there are appropriations pursuant to the authorization in subsection (e), the Secretary shall submit a report to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Financial Services and the Committee on Appropriations of the House of Representatives, describing the status and implementation of the provisions of this section and the state of financial literacy and education in the United States.

(f) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated to the Secretary, not to exceed \$3,000,000 for fiscal years 2004, 2005, and 2006, for the development, production, and distribution of a pilot national public service multimedia campaign under this section.

SEC. 519. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this title, including administrative expenses of the Commission.

TITLE VI—PROTECTING EMPLOYEE MISCONDUCT INVESTIGATIONS

SEC. 611. CERTAIN EMPLOYEE INVESTIGATION COMMUNICATIONS EXCLUDED FROM DEFINITION OF CONSUMER REPORT.

(a) *IN GENERAL.*—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a), as amended by this Act, is amended by adding at the end the following:

“(x) *EXCLUSION OF CERTAIN COMMUNICATIONS FOR EMPLOYEE INVESTIGATIONS.*—

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

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

“(B) the communication is made to an employer in connection with an investigation of—

“(i) suspected misconduct relating to employment;

or

“(ii) compliance with Federal, State, or local laws and regulations, the rules of a self-regulatory organization, or any preexisting written policies of the employer;

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

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

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

“(ii) to any Federal or State officer, agency, or department, or any officer, agency, or department of a unit of general local government;

“(iii) to any self-regulatory organization with regulatory authority over the activities of the employer or employee;

“(iv) as otherwise required by law; or

“(v) pursuant to section 608.

“(2) **SUBSEQUENT DISCLOSURE.**—After taking any adverse action based in whole or in part on a communication described in paragraph (1), the employer shall disclose to the consumer a summary containing the nature and substance of the communication upon which the adverse action is based, except that the sources of information acquired solely for use in preparing what would be but for subsection (d)(2)(D) an investigative consumer report need not be disclosed.

“(3) **SELF-REGULATORY ORGANIZATION DEFINED.**—For purposes of this subsection, the term ‘self-regulatory organization’ includes any self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act of 1934), any entity established under title I of the Sarbanes-Oxley Act of 2002, any board of trade designated by the Commodity Futures Trading Commission, and any futures association registered with such Commission.”.

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

TITLE VII—RELATION TO STATE LAWS

SEC. 711. RELATION TO STATE LAWS.

Section 625 of the Fair Credit Reporting Act (15 U.S.C. 1681t), as so designated by section 214 of this Act, is amended—

(1) in subsection (a), by inserting “or for the prevention or mitigation of identity theft,” after “information on consumers.”;

(2) in subsection (b), by adding at the end the following:

“(5) with respect to the conduct required by the specific provisions of—

“(A) section 605(g);

“(B) section 605A;

“(C) section 605B;

“(D) section 609(a)(1)(A);

“(E) section 612(a);

“(F) subsections (e), (f), and (g) of section 615;

“(G) section 621(f);

“(H) section 623(a)(6); or

“(I) section 628.”; and

- (3) in subsection (d)—
 (A) by striking paragraph (2);
 (B) by striking “(c)—” and all that follows through “do not affect” and inserting “(c) do not affect”; and
 (C) by striking “1996; and” and inserting “1996.”.

TITLE VIII—MISCELLANEOUS

SEC. 811. CLERICAL AMENDMENTS.

(a) *SHORT TITLE.*—Section 601 of the Fair Credit Reporting Act (15 U.S.C. 1601 note) is amended by striking “the Fair Credit Reporting Act.” and inserting “the ‘Fair Credit Reporting Act.’”.

(b) *SECTION 604.*—Section 604(a) of the Fair Credit Reporting Act (15 U.S.C. 1681b(a)) is amended in paragraphs (1) through (5), other than subparagraphs (E) and (F) of paragraph (3), by moving each margin 2 ems to the right.

(c) *SECTION 605.*—

(1) Section 605(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(1)) is amended by striking “(1) cases” and inserting “(1) Cases”.

(2)(A) Section 5(1) of Public Law 105–347 (112 Stat. 3211) is amended by striking “Judgments which” and inserting “judgments which”.

(B) The amendment made by subparagraph (A) shall be deemed to have the same effective date as section 5(1) of Public Law 105–347 (112 Stat. 3211).

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

(1) in paragraph (2), by moving the margin 2 ems to the right; and

(2) in paragraph (3)(C), by moving the margins 2 ems to the left.

(e) *SECTION 617.*—Section 617(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681o(a)(1)) is amended by adding “and” at the end.

(f) *SECTION 621.*—Section 621(b)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)(1)(B)) is amended by striking “25(a)” and inserting “25A”.

(g) *TITLE 31.*—Section 5318 of title 31, United States Code, is amended by redesignating the second item designated as subsection (l) (relating to applicability of rules) as subsection (m).

(h) *CONFORMING AMENDMENT.*—Section 2411(c) of Public Law 104–208 (110 Stat. 3009–445) is repealed.

And the Senate agree to the same.

For consideration of the House bill and the Senate amendment, and modifications committed to conference:

MICHAEL G. OXLEY,
DOUG BEREUTER,
SPENCER BACHUS,
MIKE CASTLE,
ED ROYCE,
ROBERT W. NEY,
SUE KELLY,
PAUL GILLMOR,
STEVEN C. LATOURETTE,
JUDY BIGGERT,
PETE SESSIONS,
BARNEY FRANK,
PAUL E. KANJORSKI,
MELVIN L. WATT,
LUIS V. GUTIERREZ,
DARLENE HOOLEY,
DENNIS MOORE,

Managers on the Part of the House.

RICHARD SHELBY,
ROBERT F. BENNETT,
WAYNE ALLARD,
MICHAEL B. ENZI,
PAUL SARBANES,
CHRISTOPHER J. DODD,
TIM JOHNSON,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (H.R. 2622) 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, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The Committee of Conference met on November 21, 2003 (the Senate Chairing) and resolved their differences. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

The Fair Credit Reporting Act was enacted in 1970, and substantially amended in 1996. The amendments made at that time were necessary to make the law relevant in an information age. Included in the 1996 amendment were a number of provisions that explicitly preempt state laws. These preemptions expire on January 1, 2004.

Since 1996, the national credit markets have undergone significant change. Most of these changes were the result of technological innovations. Technology has expanded the availability of credit, and permitted instant credit decisions. Mortgage financing that once took weeks now takes hours, and home ownership rates are at historic highs. Consumer credit can be obtained at the point of sale for major items like automobiles. Technology and the prudently-regulated free flow of consumer information under the FCRA has made much of this possible. We live in a mobile society in which 40 million Americans move annually. The FCRA permits consumers to transport their credit with them wherever they go. Both Committees of jurisdiction have developed detailed records regarding the benefits that our national credit reporting system has visited upon consumers of financial products.

Despite the myriad benefits of technology to the American consumer, there has been one drawback. Namely, the free flow information has enabled the explosive growth of a new crime—identity theft. Both Committees developed comprehensive hearing records

regarding the growth of this crime, and the havoc it visits upon the lives of its victims. Law enforcement professionals are cognizant of the growth of this crime, and have worked with the affected industries to combat it. While criminal prosecutions and strict fraud detection protocols can curtail identity theft, and punish the wrongdoers, not enough had been done heretofore to aid the real victims of this crime—the consumer whose identity is assumed, and can spend months or years trying to rehabilitate their credit and re-order their affairs.

The House bill and the Senate amendment contain a number of identical provisions. In other instances, the provisions in the respective bills addressed the same issue in a slightly different manner. Both the House bill and the Senate amendment addressed the provisions of the FCRA that preempted state laws, and are due to expire on January 1, 2004. Both bills addressed identity theft, medical information privacy and promote greater consumer access to their credit reports.

The House bill, H.R. 2622, and the bill that served as the core of the Senate amendment (S. 1753) are each the result of an extensive deliberative and legislative process with a three-fold purpose: to assist the victims of identity theft; modernize the FCRA and; enhance the national credit reporting system. Readers should refer to the Committee Reports for the respective bills for further elaboration. The conference agreement contains provisions to accomplish these goals. It is the conferees' belief that this legislation will assist the victims of identity theft, and ensure the operational efficiency of our national credit system by creating a number of preemptive national standards.

For consideration of the House bill and the Senate amendment, and modifications committed to conference:

MICHAEL G. OXLEY,
DOUG BEREUTER,
SPENCER BACHUS,
MIKE CASTLE,
ED ROYCE,
ROBERT W. NEY,
SUE KELLY,
PAUL GILLMOR
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Managers on the Part of the House.

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TIM JOHNSON,

Managers on the Part of the Senate.

