

FREE CREDIT SCORES FOR CONSUMERS ACT OF 2019

NOVEMBER 21, 2019.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Ms. WATERS, from the Committee on Financial Services,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 3618]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 3618) to establish requirements relating to credit scores and educational credit scores, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Free Credit Scores for Consumers Act of 2019”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) While nationwide consumer reporting agencies (“CRAs”) are required by law to supply consumers with a free copy of their credit report annually, they can charge consumers to obtain a credit score disclosure.

(2) A July 2011 report by the Consumer Financial Protection Bureau (“Consumer Bureau”) titled “The Impact of Differences between Consumer- and Creditor-Purchased Credit Scores” found that the credit scores made available to and purchased by consumers from CRAs are unlikely to be the same credit scores used by creditors and lenders to evaluate consumers’ creditworthiness.

(3) That report found that the scarcity of public educational tools to inform consumers of the differences among credit scores, the large combined market share and brand recognition of FICO credit scores, and the marketing practices of some credit score sellers may perpetuate consumers’ confusion about credit scores. As a result, some consumers may be purchasing an educational credit score or subscribing to a credit monitoring service sold by a CRA, without realizing the limitations and usefulness of these products and services.

(4) Similarly, a September 2012 Consumer Bureau report titled “Analysis of Differences between Consumer- and Creditor-Purchased Credit Scores” found that consumers do not know before they purchase a credit score from a CRA whether this credit score will closely track or vary significantly from the credit score sold to creditors or lenders. Given the lack of transparency about the usefulness of credit scores that are marketed for purchase by consumers from CRAs and the resulting consumer confusion, the Consumer Bureau recommended that companies selling scores to consumers clearly inform consumers that the scores marketed to consumers for purchase by CRAs can vary, sometimes substantially, from the scores that are actually sold to and used by creditors and lenders.

(5) A February 2011 study by Consumer Federation of America and VantageScore also found that half of the consumers surveyed did not know that a credit score is designed to indicate the risk of not repaying a credit obligation. Consumers also did not know who makes credit scores available, what numerical range constitutes excellent credit standing, or the financial implications of having a low credit score.

(6) Many consumers do not realize that they have more than just “one” credit score. Because the submission of credit information to CRAs is voluntary and not all furnishers submit information to every CRA, the information contained in a report also varies among CRAs. As a result, the credit score generated by each CRA is also likely to vary, resulting in potentially different credit decisions based on an evaluation of different credit reports obtained from different CRAs.

(7) A February 2015 Consumer Bureau report titled “Consumer Voices on Credit Reports and Scores” found that consumers had questions about what actions to take to improve their scores once they had seen them, suggesting that additional disclosures and educational content would be helpful to consumers. The Consumer Bureau found that consumers were confused by conflicting advice on how to improve their scores.

(8) That report also noted that consumers found the process for obtaining consumer reports and credit scores confusing. Consumers also were uncertain about whether, and under what circumstances, they could obtain a consumer report for free.

SEC. 3. DEFINITIONS.

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

“(bb) CREDIT SCORE AND EDUCATIONAL CREDIT SCORE DEFINITIONS.—

“(1) CREDIT SCORE.—The term ‘credit score’ 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 or extends credit to predict the likelihood of certain credit behaviors, including default, as determined by the Bureau.

“(2) EDUCATIONAL CREDIT SCORE.—The term ‘educational credit score’ means a numerical value or categorization derived from a statistical tool or modeling system based upon information from a consumer report that assists consumers in understanding how a lender or creditor may view the consumer’s credit-

worthiness in deciding whether to make a loan or extend credit to that consumer.

“(3) KEY FACTORS.—The term ‘key factors’ means relevant elements or reasons affecting the credit score for the particular individual, listed in the order of importance based on the effect of each element or reason on the credit score or educational credit score.

“(4) CREDIT SCORING MODEL.—The term ‘credit scoring model’ means a scoring algorithm, formula, model, program, or mechanism used to generate a credit score or an educational credit score.”.

(b) CONFORMING AMENDMENTS.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended—

(1) in section 605(d)(2), by striking “(as defined in section 609(f)(2)(B))”; and

(2) in section 615—

(A) by striking “as defined in section 609(f)(2)(A)” each place that term appears; and

(B) by striking “set forth in subparagraphs (B) through (E) of section 609(f)(1)” and inserting “with respect to a credit score described in section 609(f)(2), if available” each place that term appears.

SEC. 4. EXPANDS EXPLANATORY INFORMATION GIVEN TO CONSUMERS ABOUT HOW SCORES ARE CALCULATED.

Section 609(f) of the Fair Credit Reporting Act (15 U.S.C. 1681g(f)) is amended to read as follows:

“(f) DISCLOSURE OF CREDIT SCORE AND EDUCATIONAL CREDIT SCORE BY CONSUMER REPORTING AGENCIES.—

“(1) IN GENERAL.—Upon the request of a consumer for a credit score or educational credit score, a consumer reporting agency shall supply to the consumer a statement—

“(A) containing—

“(i) a current credit score at the time of the request generated using a commonly used credit scoring model to generate credit scores, subject to regulations of the Bureau;

“(ii) an educational credit score at the time of the request, if it is not practicable to generate such a credit score, as determined by the Bureau; or

“(iii) an explanation that the consumer’s file does not have sufficient information from which to generate such a credit score or educational credit score; and

“(B) with respect to each previous credit score in the file of the consumer—

“(i) the date on which the credit score was generated;

“(ii) the name of any entity that the credit score was provided to; and

“(iii) the credit score itself.

“(2) REQUIREMENTS.—A statement provided under clause (i) or (ii) of paragraph (1)(A) shall include—

“(A) a minimum of 4 key factors, if available, that adversely affected the credit score or educational credit score, except that if one of the key factors consists of the number of enquiries made with respect to a consumer report, that factor shall be provided to the consumer in addition to the factors required by this subparagraph;

“(B) to the extent possible, specific actions a consumer could take with respect to each key factor listed in subparagraph (A) to improve the consumer’s credit score or educational credit score;

“(C) a minimum of 4 key factors, if available, that positively affected the credit score or educational credit score;

“(D) the range of possible credit scores or educational credit scores under the credit scoring model used;

“(E) the distribution of credit scores or educational credit scores among consumers who are scored under the same credit scoring model by the consumer reporting agency, and using the same scale as that of the score that is provided to a creditor or consumers—

“(i) in the form of a bar graph containing a minimum of 6 bars that illustrates the percentage of consumers with credit scores or educational credit scores within the range of scores represented by each bar; or

“(ii) by another clear and readily understandable graphical depiction, statement, or illustration comparing the consumer’s credit score or educational credit score to the scores of other consumers, as determined by the Bureau;

“(F) the date on which the credit score or educational credit score was created; and

“(G) the name of the person that developed the credit scoring model on which the credit score or educational credit score was based.

“(3) APPLICABILITY TO CERTAIN USES.—This subsection shall not be construed so as to compel a consumer reporting agency to—

“(A) develop or disclose a credit score if the agency does not distribute credit scores used by a person who makes or arranges a loan or extends credit to predict the likelihood of certain credit behaviors; or

“(B) develop or disclose an educational credit score if the agency does not develop educational credit scores that assist in understanding the general credit behavior of a consumer and predicting the future credit behavior of the consumer.

“(4) MAINTENANCE OF CREDIT SCORES.—

“(A) IN GENERAL.—All consumer reporting agencies shall maintain in the consumer’s file credit scores relating to the consumer for a period of 2 years from the date on which such information is generated.

“(B) DISCLOSURE ONLY TO CONSUMERS.—A past credit score maintained in a consumer’s file pursuant to subparagraph (A) may only be provided to the consumer to which the credit score relates and may not be included in a consumer report or used as a factor in generating a credit score or educational credit score.

“(C) REMOVAL OF PAST CREDIT SCORES.—A past credit score maintained in a consumer’s file pursuant to subparagraph (A) shall be removed from the consumer’s file after the end of the 2-year period described under subparagraph (A).”

SEC. 5. REQUIRES CONSUMER REPORTING AGENCIES TO DISCLOSE PROMINENTLY THE DIFFERENCES BETWEEN AND LIMITATIONS OF CREDIT SCORES AND EDUCATIONAL CREDIT SCORES REQUIRED PRIOR TO A CONSUMER OBTAINING SUCH SCORES.

Section 609(f) of the Fair Credit Reporting Act (15 U.S.C. 1681g(f)), as amended by section 3, is further amended by adding at the end the following new paragraphs:

“(5) WEBSITE DISCLAIMER.—A consumer reporting agency that generates or provides credit scores or educational credit scores shall clearly and conspicuously display on the home page of the agency’s Internet website, and as part of any application, solicitation, or marketing material or media providing information related to a credit score or educational credit score, the following notice, in boldface type of 18-point font or larger and in a text box with boldface outer borders:

“CREDIT SCORE DISCLAIMER. “

There is no “one” credit score. There are many scoring formulas derived from a wide variety of models available to a consumer and used by lenders and creditors. Different lenders and creditors use different scoring formulas to determine whether to extend credit or make a loan to you, and the terms of the credit or loan. An educational credit score is not a credit score that a person who makes a loan or extends credit to you is likely to use. Educational credit scores are merely intended to be used as an educational tool to help consumers understand how the information contained in a consumer report may affect the terms and conditions of a loan or extension of credit that may be available to a consumer. Lenders and creditors may also rely on information not contained in your consumer report and not reflected in the calculation of your credit score.”

“(6) ADDITIONAL REQUIREMENTS FOR EDUCATIONAL CREDIT SCORES.—

“(A) DISCLAIMER.—If an educational credit score is provided pursuant to paragraph (1), a consumer reporting agency shall clearly and conspicuously include in a prominent location on the statement, in boldface type of 18-point font or larger, and in a text box with boldface outer borders, the following notice:

“EDUCATIONAL CREDIT SCORE DISCLAIMER. “

The educational credit score provided to you is not a credit score that a lender or creditor is likely to use to make a loan or extend credit to you. There are many different credit scores derived from a wide variety of models used by lenders and creditors. An educational credit score is merely an educational tool. It is intended to provide consumers with a basic understanding of how the information contained in a consumer report may affect the terms and conditions of credit that are available. The credit scores you receive directly from different lenders and creditors may not be the same as an educational credit score. There are a number of reasons for this:

“(1) Each company may use a different formula for calculating credit scores and the differences in the formulas may lead to differences in your scores.

“(2) Companies may produce scores that give results on different scales.

“(3) Not all lenders or creditors report to every consumer reporting agency, and therefore the information contained in your consumer report that the consumer reporting agencies use to calculate your educational credit score may differ among agencies.”

“(B) PROHIBITION ON MISLEADING REPRESENTATIONS.—A consumer reporting agency may not refer to an educational credit score as a credit score in any application, solicitation, marketing, or other informational materials or media.

“(7) MODIFICATION OF DISCLAIMERS.—The Bureau may modify the content, format, and manner of the disclaimers required under paragraphs (5) and (6), if warranted, after conducting consumer testing or research.”

SEC. 6. PROVIDES CONSUMERS WITH FREE CREDIT SCORE DISCLOSURES WITH THEIR FREE ANNUAL CONSUMER REPORTS UPON REQUEST AND CREATES INSTANCES WHEN CONSUMERS AUTOMATICALLY RECEIVE FREE CONSUMER REPORTS AND CREDIT SCORES.

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

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting after “section 609” the following: “(including the disclosure of a credit score or educational credit score under subsection (f) of such section); and

(ii) in subparagraph (C)—

(I) by striking “Commission” each place such term appears and inserting “Bureau”; and

(II) by inserting “, credit scores, and educational credit scores (as applicable)” after “consumer reports” each place that term appears;

(B) in paragraph (2)—

(i) by striking “15 days” and inserting “3 business days”; and

(ii) by inserting “, credit score, or educational credit score” after “consumer report”;

(C) in paragraph (3), by inserting “, credit score, or educational credit score” after “consumer report”; and

(D) in paragraph (4), by inserting “, credit scores, or educational credit scores” after “consumer reports”;

(2) in subsection (b), by inserting “(including the disclosure of a credit score or educational credit score, as applicable, under subsection (f) of such section)” after “section 609”;

(3) in subsection (c)—

(A) by inserting “(including the disclosure of a credit score or educational credit score under subsection (f) of such section)” after “pursuant to section 609”;

(B) in paragraph (2), by striking “; or” and inserting a semicolon;

(C) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following new paragraphs:

“(4) has disputed information, or submitted an appeal of an investigation or reinvestigation of such information, under section 611 or 623, regardless of whether the consumer has already received a credit report, credit score, or educational credit score under section 611 or 623; or

“(5) has had information that was previously deleted under section 611(a)(5) reinserted into the consumer’s file, regardless of whether the consumer has already received a credit report, credit score, or educational credit score under such section.”;

(4) in subsection (d), by inserting “(including the disclosure of a credit score or educational credit score under subsection (f) of such section)” after “section 609”;

(5) in subsection (f)(1)—

(A) by striking “reasonable charge” and all that follows through “section 609” and inserting “reasonable charge on a consumer for providing a consumer report to a consumer”;

(B) by striking subparagraph (B);

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively (and conforming the margins accordingly); and

(D) in subparagraph (B) (as so redesignated), by striking “disclosure; and” and inserting “disclosure.”; and

(6) by adding at the end the following new subsections:

“(h) CENTRALIZED SOURCE FOR OBTAINING FREE COPY OF CONSUMER REPORT AND SCORES.—

“(1) NATIONWIDE CONSUMER REPORTING AGENCIES.—

“(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, each consumer reporting agency described under subsection (p) of section 603 shall prominently display on the home page of the agency’s website—

“(i) a hyperlink labeled ‘Get Your Free Annual Credit Reports along with either your Credit Scores or Educational Credit Scores provided for under Federal Law’ or substantially similar text, as determined by the Bureau; and

“(ii) a disclosure titled ‘Consumer’s Right to Free Credit Scores, Educational Credit Scores, and Reports under Federal Law’ or substantially similar text, as determined by the Bureau that includes the following statement:

“‘All consumers are entitled to obtain a free copy of their consumer report and credit score or educational credit score annually from each of the nationwide consumer reporting agencies. Under Federal law, a consumer is entitled to obtain additional free copies of their consumer reports, along with a copy of either the consumer’s credit score or educational credit score (under certain circumstances), including:

“(1) When a consumer is unemployed and intends to apply for employment within 60 days.

“(2) When a consumer is a recipient of public welfare assistance.

“(3) When a consumer has a reasonable belief that their report contains inaccuracies as a result of fraud.

“(4) When a consumer asserts in good faith a suspicion that the consumer has been or is about to become a victim of identity theft, fraud, or a related crime, or harmed by the unauthorized disclosure of the consumer’s financial or personally identifiable information.

“(5) When a consumer files a dispute or an appeal of the results of a dispute with a consumer reporting agency or a person who furnished information to the consumer reporting agency regarding the accuracy or completeness of the information contained on their report.

“(6) After a furnisher of information discovers it has furnished inaccurate or incomplete information to a consumer reporting agency, and the furnisher notifies the agency of the error.

“(7) After an adverse action is taken against a consumer or a consumer receives a risk-based pricing notice.

“(8) When a mortgage lender, private educational lender, indirect auto lender, or motor vehicle lender obtains and uses a consumer’s reports or scores for underwriting purposes.’

“(B) HYPERLINK REQUIREMENTS.—The hyperlink described in subparagraph (A)(i) shall be prominently located on the top of the home page and should link directly to the website of the centralized source established pursuant to section 211(d) of the Fair and Accurate Credit Transactions Act of 2003 (15 U.S.C. 1681j note).

“(C) MODIFICATIONS.—The Bureau may modify the disclosure described in subparagraph (A)(ii) as necessary to include other circumstances under which a consumer has the right to receive a free consumer report, credit score, or educational credit score.

“(2) NATIONWIDE SPECIALTY CONSUMER REPORTING AGENCIES.—

“(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, each nationwide specialty consumer reporting agency shall prominently display on the Internet home webpage of the agency a disclosure titled ‘Consumer’s Right to Free Consumer Reports and Credit Score or Educational Credit Score (as applicable) under Federal Law’. Such disclosure shall include the following statement:

“‘Upon request, all consumers are entitled to obtain a free copy of their consumer report and credit score or educational credit score (as applicable) during any 12-month period from each of the nationwide specialty consumer reporting agencies. Federal law also provides further circumstances under which a consumer is entitled to obtain additional free copies of their consumer report and credit score or educational credit score (as applicable) including:

“(1) When a consumer is unemployed and intends to apply for employment within 60 days.

“(2) When a consumer is a recipient of public welfare assistance.

“(3) When a consumer has a reasonable belief that their report contains inaccuracies as a result of fraud.

“(4) When a consumer files a dispute or an appeal of the results of a dispute with a consumer reporting agency or a person who furnished information to the consumer reporting agency regarding the accuracy or completeness of the information contained on their report.

“(5) After a furnisher of information discovers it has furnished inaccurate or incomplete information to a consumer reporting agency, and the furnisher notifies the agency of the error.

“(6) After an adverse action is taken against a consumer or a consumer receives a risk-based pricing notice.

“(7) When a mortgage lender, private educational lender, indirect auto lender, or motor vehicle lender obtains and uses a consumer’s reports or scores for underwriting purposes.’.

“(B) MODIFICATIONS.—The Bureau may modify the disclosure described in subparagraph (A) as necessary to include other circumstances under which a consumer has the right to receive a free consumer report and credit score or educational credit score (as applicable).

“(C) TOLL-FREE TELEPHONE ACCESS.—The information described in this paragraph shall also be made available via a toll-free telephone number. Such number shall be prominently displayed on the home page of the website of each nationwide specialty consumer reporting agency. Each of the circumstances under which a consumer may obtain a free consumer report and credit score or educational credit score (as applicable) shall be presented in an easily understandable format and consumers shall be directed to an individual who is a customer service representative not later than 2 minutes after the initial phone connection is made by the consumer. Information provided through such telephone number shall comply with the requirements of section 633.

“(D) ONLINE CONSUMER REPORTS; EXEMPTION.—Upon receipt of a request by a consumer for a consumer report, each nationwide specialty consumer reporting agency shall provide access to such report electronically on the Internet website described in section 611(h).

“(i) AUTOMATIC PROVISION OF FREE CONSUMER REPORTS AND CREDIT SCORES OR EDUCATIONAL CREDIT SCORES.—A consumer reporting agency shall provide to a consumer a free copy of the file and credit score or educational credit score of the consumer who—

“(1) obtains a fraud alert, extended alert, active duty alert, or security freeze as described in section 605A; or

“(2) has disputed information, or submitted an appeal of an investigation or reinvestigation of such information, under section 611 or 623.”.

(b) TECHNICAL AMENDMENT.—Section 615(h)(7) of such Act (15 U.S.C. 1681m(h)(7)) is amended by striking “section” and inserting “subsection”.

SEC. 7. REQUIRES PRIVATE EDUCATIONAL LENDERS TO PROVIDE CONSUMERS WITH FREE COPIES OF ANY CONSUMER REPORTS AND CREDIT SCORES THAT THEY USED FOR UNDERWRITING BEFORE CONSUMERS SIGN LOAN AGREEMENTS.

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

“(h) DISCLOSURE OF CONSUMER REPORTS AND CREDIT SCORES BY PRIVATE EDUCATIONAL LENDERS.—

“(1) IN GENERAL.—If a private educational lender obtains a copy of any consumer reports or credit scores and uses such reports or scores in connection with an application of a consumer for a private education loan, the private educational lender shall provide to the consumer, not later than 3 business days after obtaining such reports or scores and before the date on which the consumer enters into a loan agreement with the private educational lender, a copy of any such reports or scores, along with the statement described under subsection (f)(2).

“(2) COSTS.—None of the costs to the private educational lender associated with procuring consumer reports or credit scores under this subsection may be charged, directly or indirectly, to the consumer.

“(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to eliminate any requirement for creditors and lenders to provide credit score disclosures, including the statement described under subsection (f)(2), to consumers as part of an adverse action or risk-based pricing notice.”.

SEC. 8. REQUIRES MOTOR VEHICLE LENDERS OR INDIRECT AUTO LENDERS TO PROVIDE CONSUMERS WITH FREE COPIES OF ANY CONSUMER REPORTS AND CREDIT SCORES THAT THEY USED FOR UNDERWRITING BEFORE CONSUMERS SIGN LEASE OR LOAN AGREEMENTS.

Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g), as amended by section 6, is further amended by adding at the end the following new subsection:

“(i) **DISCLOSURE OF CONSUMER REPORTS AND CREDIT SCORES USED BY MOTOR VEHICLE LENDERS OR INDIRECT AUTO LENDERS.**—

“(1) **IN GENERAL.**—If a motor vehicle lender or indirect auto lender obtains a copy of any consumer reports or credit scores and uses such reports or scores in connection with an application of a consumer for a motor vehicle loan or lease, the motor vehicle lender or indirect auto lender shall provide to the consumer a document, separate from the consumer’s lease or purchase agreement and before the consumer enters into a lease or purchase agreement, disclosing any consumer reports and credit scores, including the statement described in subsection (f)(2), used by the lender to determine whether to extend credit to the consumer.

“(2) **COSTS.**—None of the costs to the motor vehicle lender or indirect auto lender associated with procuring consumer reports or credit scores under this subsection may be charged, directly or indirectly, to the consumer.

“(3) **RULE OF CONSTRUCTION.**—Nothing in this subsection shall be construed to eliminate any requirement for creditors and lenders to provide credit score disclosures, including the statement described under subsection (f)(2), to consumers as part of an adverse action or risk-based pricing notice.

“(4) **DEFINITIONS.**—

“(A) **INDIRECT AUTO LENDER.**—The term ‘indirect auto lender’ has the meaning given the term by the Bureau, and shall include a person extending a loan made with respect to a car, boat, motorcycle, recreational vehicle, or other similar vehicle used primarily for personal or household purposes.

“(B) **MOTOR VEHICLE LENDER.**—The term ‘motor vehicle lender’ has the meaning given the term by the Board of Governors of the Federal Reserve System, and shall include a person extending a loan made with respect to a car, boat, motorcycle, recreational vehicle, or other similar vehicle used primarily for personal or household purposes.”

SEC. 9. REQUIRES RESIDENTIAL MORTGAGE LENDERS TO PROVIDE CONSUMERS WITH FREE COPIES OF ANY CONSUMER REPORTS AND CREDIT SCORES THAT THEY USED FOR UNDERWRITING BEFORE CONSUMERS SIGN LOAN AGREEMENTS.

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

(1) by redesignating paragraph (2) as paragraph (5);

(2) in paragraph (1)—

(A) by striking “a consumer credit score” and inserting “any consumer reports or credit scores”;

(B) by striking “, as defined in subsection (f),”;

(C) by striking “the following to the consumer as soon as reasonably practicable.” and inserting “, not later than 3 business days after using such reports or scores, a document disclosing any consumer reports and credit scores used by the lender to determine whether to extend credit to the consumer along with the statement described in subsection (f)(2).”;

(D) by striking subparagraphs (A), (B), (C), (E), and (F);

(E) by redesignating subparagraph (D) as paragraph (3) (and adjusting the margins accordingly); and

(F) by redesignating subparagraph (G) as paragraph (4) (and adjusting the margins accordingly);

(3) by inserting before paragraph (3) (as so redesignated) the following new paragraph:

“(2) **RULE OF CONSTRUCTION.**—Nothing in this subsection shall be construed to eliminate any requirement for lenders to provide credit score disclosures, including the statement described under subsection (f)(2), to consumers as part of an adverse action or risk-based pricing notice.”;

(4) in paragraph (3) (as so redesignated), in the quoted material—

(A) by inserting “, free of charge,” after “disclose to you”; and

(B) by striking “affecting your credit scores” and inserting “affecting your credit score or scores”;

(5) in paragraph (5) (as so redesignated) by inserting “or scores” after “credit score” each place such term appears; and

(6) by adding at the end the following new paragraphs:

“(6) **ACTIONS NOT REQUIRED.**—This subsection shall not require any person to disclose any credit score or related information obtained by the person after a loan has closed.

“(7) NO PROCUREMENT COSTS.—None of the costs to the creditor or lender associated with procuring any consumer reports or scores under this subsection may be charged, directly or indirectly, to the consumer.”.

SEC. 10. RULEMAKING.

Not later than the end of the 2-year period beginning on the date of the enactment of this Act, the Bureau of Consumer Financial Protection shall issue final rules to implement the amendments made by this Act.

PURPOSE AND SUMMARY

On July 5, 2019, Representative Joyce Beatty introduced H.R. 3618, the “Free Credit Scores for Consumers Act of 2019” which directs the nationwide consumer reporting agencies (CRAs) and nationwide specialty CRAs to give consumers free copies of their credit scores that are used by creditors in making credit decisions, as determined by the Consumer Financial Protection Bureau (CFPB), or if not practicable, educational credit scores whenever consumers obtain their free annual consumer reports. It also requires CRAs to include free credit scores with reports when consumers exercise their rights to free consumer reports under existing law, such as when individuals believe they may be or are victims of fraud. This bill also requires expanded explanatory information given to consumers about how scores are calculated by enhancing the contextual information that accompanies numerical scores to include both negative and positive factors that impacted their score.

BACKGROUND AND NEED FOR LEGISLATION

Our nation’s credit reporting system is broken yet has an impact on almost every American. Credit scores and credit reports are increasingly relied upon by creditors, employers, insurers, and even law enforcement. Yet it has been more than 15 years since Congress enacted comprehensive reform of the consumer reporting system,¹ and there have been numerous shortcomings with the current system identified during that time that need to be addressed. For example, the Federal Trade Commission (FTC) study found in 2012 that one out of every five consumers have a verified error on their consumer reports and 5 percent had errors serious enough to result in them being denied credit or paying more for mortgages, auto loans, insurance policies, and other financial obligations.² An analysis of the CFPB consumer complaint database revealed that in 2018, credit reports were the most complained about financial product, and the three major credit bureaus—Equifax, Experian and TransUnion—were the most-complained about financial companies.³ It is critical that Congress act swiftly to address these critical flaws and modernize the Fair Credit Reporting Act to ensure the credit reporting system works better for all Americans.

While current law provides consumers with the right to obtain free annual consumer reports from each of the nationwide CRAs and nationwide specialty CRAs, consumers are not entitled to a free credit score when they obtain this report. According to the CFPB, many consumers believe consumer reports are “hard to get

¹The Fair and Accurate Credit Transactions Act of 2003 (FACT Act; P.L. 108–159), among other things, allows consumers to request and obtain a free credit report once a year from each of the three nationwide consumer reporting agencies.

²<https://www.ftc.gov/sites/default/files/documents/reports/section-319-fair-and-accurate-credit-transactions-act-2003-fifth-interim-federal-trade-commission/130211factareport.pdf>

³<https://uspig.org/news/usp/youre-not-alone-cfpb-complaints-rise>

and hard to read.”⁴ Providing consumers with their credit scores, along with their free annual consumer reports, will help all consumers, regardless of their income, to better understand their credit standing.

Many consumers do not understand how credit scores are calculated and what actions they can take to improve their credit standing. A 2015 CFPB survey found that consumers had questions about what actions to take to improve their scores once they had seen them, suggesting that additional disclosures and educational content is necessary.⁵ The CFPB found that consumers were commonly confused by conflicting advice on how to improve their scores. Furthermore, when consumers apply for credit, they often do so without having critical information about their creditworthiness to be able to make more informed credit decisions. The CFPB previously found that consumers with accurate perceptions of their credit standing may be better equipped to shop for favorable credit terms.⁶

This legislation is supported by more than 80 consumer, civil rights, labor, and community organizations.⁷ The National Association of Federally-Insured Credit Unions and the National Association of Realtors are also supportive of this legislation.⁸

This legislation is substantially similar to Title VI of the discussion draft of Chairwoman Maxine Waters’ legislation, the “Comprehensive Consumer Credit Reporting Reform Act of 2019,” which

⁴ Consumer Financial Protection Bureau, Consumer Voices on Credit Reports and Scores 19, available at https://files.consumerfinance.gov/f/201502_cfpb_report_consumer-voices-on-credit-reports-and-scores.pdf.

⁵ *Id.*

⁶ Consumer Financial Protection Bureau, The impact of differences between consumer- and creditor-purchased credit scores 2 (2011), available at https://files.consumerfinance.gov/f/2011/07/Report_20110719_CreditScores.pdf.

⁷ Supporting organizations include Americans for Financial Reform, A2Z Real Estate Consultants, African American Health Alliance, Alaska Public Interest Research Group, Allied Progress, Arkansas Community Organizations, BREAD Organization, CAFE Montgomery MD, Center for Digital Democracy, Cleveland Jobs with Justice, Community Action Human Resources Agency (CAHRA), Congregation of Our Lady of the Good Shepherd, US Provinces, Connecticut, Fair Housing Center, Consumer Action, Consumer Federation of America, Consumer Federation of California, Consumer Reports, CWA Local 1081, Delaware Community Reinvestment Action Council, Inc., Demos, Denver Area Labor Federation, East Bay Community Law Center, FAITH IN TEXAS, Famicos Foundation, FLARA, Florida Alliance for Consumer Protection, Greater Longview United Way, Groundcover News, Habitat for Humanity of Camp Co, TX, Hawaiian Community Assets, Housing Action Illinois, Housing and Family Services of Greater New York, Inc., Mary House, Inc., Maryland Consumer Rights Coalition, Miami Valley Fair Housing Center, Inc., Mobilization for Justice Inc., Montana Organizing Project, Multi-Cultural Real Estate Alliance For Urban Change, National Advocacy Center of the Sisters of the Good Shepherd, National Association of Consumer Advocates, National Association of Social Workers, National Association of Social Workers West Virginia Chapter, National Center for Law and Economic Justice, National Consumer Law Center (on behalf of its low-income clients), National Fair Housing Alliance, National Housing Law Project, National Housing Resource Center, National Rural Social Work Caucus, New Economics for Women, New Jersey Citizen Action, New Jersey Tenants Organization, New York Legal Assistance Group, North Carolina Council of Churches, Partners In Community Building, Inc., PathWays PA, Pennsylvania Council of Churches, People Demanding Action, Progressive Leadership Alliance of Nevada, Project IRENE, Prosperity Now, Public Citizen, Public Justice Center, Public Law Center, Public Utility Law Project of New York, Rocky Mountain Peace and Justice Center, SC Appleseed Legal Justice Center, Sisters of Mercy South Central Community, Society of St. Vincent de Paul, St. Paul UMC, Tennessee Citizen Action, The Center for Survivor Agency and Justice, The Disaster Law Project, The Greenlining Institute, The Leadership Conference on Civil and Human Rights, THE ONE LESS FOUNDATION, Tzedek DC, U.S. PIRG, Urban Asset Builders, Inc., Virginia Citizens Consumer Council, Virginia Poverty Law Center, West Virginia Center on Budget and Policy, Wildfire, Woodstock Institute, and WV Citizen Action Group. See <http://ourfinancialsecurity.org/2019/07/news-release-afr-statement-financial-services-committee-markup-credit-reporting/>.

⁸ National Association of Federally-Insured Credit Unions letter available at <https://www.nafcu.org/system/files/files/7-10-19%20Letter%20to%20House%20Financial%20Services%20on%20Markup.pdf>; National Association of Realtors letter, available at <https://narfocus.com/billdatabase/clientfiles/172/2/3417.pdf>.

was considered at a full committee hearing on February 26, 2019 and was introduced in previous Congresses.⁹

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides that H.R. 3618 may be cited as the “Free Credit Scores for Consumers Act of 2019”.

Section 2. Findings

This section highlights government and other reports finding that consumers have a hard time accessing and understanding their credit reports. Consumers would benefit from greater access and a better understanding of their reports, and the different types of credit scores that exist, and are used by lenders.

Section 3. Definitions

This section amends section 603 of the Fair Credit Reporting Act by adding definitions for “credit score,” “educational credit score,” “key factors,” “credit scoring model.”

This section also includes a conforming amendment to the Fair Credit Reporting Act.

Section 4. Expands explanatory information given to consumers about how scores are calculated

This section amends section 609(f) of the Fair Credit Reporting Act.

The amendments made by this section require detailed explanatory information be provided to consumers about how scores are calculated. The amendments require consumer reporting agencies to include at least four key factors that adversely affected the consumer’s credit score as well as at least four factors that positively affected the credit score, and specific actions per factor (as possible) a consumer can take to improve their credit score. The amendments also mandate that credit reporting agencies maintain file information for credit scores relating to the consumer for two years from the date that the information is generated.

Section 5. Requires consumer reporting agencies to disclose prominently the differences between and limitations of credit scores and educational credit scores required prior to a consumer obtaining such scores

This section amends section 609(f) of the Fair Credit Reporting Act by requiring consumer reporting agencies to include on the home page of their website, applications, solicitations or marketing materials or media, a disclaimer that details the differences between educational credit and standard credit scores.

⁹Financial Services Committee Hearing: Who’s Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System (2019). Hearing information available at <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=402343>. Also see H.R. 5282 (114th Congress), the Comprehensive Consumer Credit Reporting Reform Act of 2016, introduced by Rep. Waters on May 19, 2016, and H.R. 3755 (115th Congress), the Comprehensive Consumer Credit Reporting Reform Act of 2017, introduced by Rep. Waters on September 13, 2017, available with additional materials at <https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=400788>.

Section 6. Provides consumers with free credit score disclosures with their free annual consumer reports upon request and creates instances when consumers automatically receive free consumer reports and credit scores

This section amends section 612 of the Fair Credit Reporting Act by requiring consumer reporting agencies nationwide to display on their website a disclosure informing consumers of their right to obtain a free credit score with their credit score report, as well as identify instances in which consumers are also entitled to free copies of such reports and scores.

Section 7. Requires private educational lenders to provide consumers with free copies of any consumer reports and credit scores that they used for underwriting before consumers sign loan agreements

This section amends section 609 of the Fair Credit Reporting Act by requiring private educational lenders to provide consumers with free copies of any consumer reports and credit scores that they used for underwriting before consumers sign loan agreements. The amendments made by this section also prohibit the costs to the private education lender of obtaining such consumer reports from being charged, directly or indirectly, to the consumer.

Section 8. Requires motor vehicle lenders or indirect auto lenders to provide consumers with free copies of any consumer reports and credit scores that they used for underwriting before consumers sign lease or loan agreements

This section amends section 609 of the Fair Credit Reporting Act. The amendments made by this section require motor vehicle lenders or indirect auto lenders to provide consumers with free copies of any consumer reports and credit scores that they used for underwriting before consumers sign lease or loan agreements. The amendments made by this section also prohibit the costs to the motor vehicle lender or indirect auto lender associated with procuring such reports from being transferred or charged directly or indirectly to the consumer.

Section 9. Requires residential mortgage lenders to provide consumers with free copies of any consumer reports and credit scores that they used for underwriting before consumers sign loan agreements

This section amends section 609(g) of the Fair Credit Reporting Act.

The amendments made by this section require residential mortgage lenders to provide consumers with free copies of any consumer reports and credit scores that they used for underwriting before consumers sign loan agreements. The amendments also do not require any person to disclose any credit score or related information after a loan has closed and prohibits the costs to the creditor or lender associated with procuring such reports from being transferred or charged directly or indirectly to the consumer.

Section 10. Rulemaking

This section gives the Consumer Financial Protection Bureau no later than two years of enactment of H.R. 3618 to issue final rules to implement the amendments made by this act.

HEARINGS

For the purposes of section 103(i) of H. Res. 6 for the 116th Congress—

(1) The Committee on Financial Services held a hearing, entitled “Who’s Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System” to consider the “Comprehensive Consumer Credit Reporting Reform Act of 2019” (Title VI of the discussion draft is substantially similar to H.R. 3618) on February 26, 2019. The two-panel hearing consisted of first the three CEOs of the three largest Credit Reporting Agencies: Equifax, TransUnion, and Experian. Witnesses on the second panel included representatives from the National Fair Housing Alliance, the National Consumer Law Center, UnidosUS, U.S. Public Interest Research Group (PIRG), and a Paul Hastings partner and attorney. The hearing allowed Members of the Financial Services Committee to hear from witnesses about the continuing challenges modernizing the Fair Credit Reporting Act to better protect consumers and their data, as well as other legislation to help overcome those challenges.

(2) The Committee on Financial Services’ taskforce on Financial Technology held a hearing, entitled “Examining the Use of Alternative Data in Underwriting and Credit Scoring to Expand Access to Credit” on July 25, 2019 to discuss emerging technologies and how they impact access to credit, and their impact across communities. The panel consisted of representatives from the National Consumer Law Center, Tulane University Law School, The Government Accountability Office (GAO), Upstart, and Upturn.

(3) In addition, during the 115th Congress, the Financial Services Committee held a two-part hearing on the Equifax data breach and related credit reporting and consumer data protection issues. The first part of the hearing entitled “Examining the Equifax Data Breach” took place on October 5, 2017 and featured the former Chairman and CEO to Equifax. The Committee also held a Minority Day hearing, which was a continuation of the hearing entitled, “Examining the Equifax Data Breach” and took place on October 25, 2017. Witnesses included representatives from the Consumer Financial Protection Bureau, the National Consumer Law Center, Georgetown University Law Center, and the Office of the New York State Attorney General.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on July 11, 2019, and ordered H.R. 3618 to be reported favorably to the House with an amendment in the nature of a substitute by a vote of 32 yeas and 26 nays, a quorum being present.

COMMITTEE VOTES AND ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following

roll call votes occurred during the Committee's consideration of
H.R. 3618:

Present	Representatives	Ayes	Nays
	Ms. Waters, <i>Chairwoman</i>		X
	Mrs. Maloney		X
	Ms. Velázquez		X
	Mr. Sherman		X
	Mr. Meeks		X
	Mr. Clay		X
	Mr. Scott		X
	Mr. Green		X
	Mr. Cleaver		X
	Mr. Perlmutter		
	Mr. Himes		X
	Mr. Foster		X
	Mrs. Beatty		X
	Mr. Heck		X
	Mr. Vargas		X
	Mr. Gottheimer		X
	Mr. Gonzalez (TX)		X
	Mr. Lawson		X
	Mr. San Nicolas		X
	Ms. Thaib		X
	Ms. Porter		X
	Ms. Axne		X
	Mr. Casten		X
	Ms. Pressley		X
	Mr. McAdams		X
	Ms. Ocasio-Cortez		X
	Ms. Wexton		X
	Mr. Lynch		X
	Ms. Gabbard		
	Ms. Adams		X
	Ms. Dean		X
	Mr. Garcia (IL)		X
	Ms. Garcia (TX)		X
	Mr. Phillips		X
34			
	Mr. McHenry, <i>Ranking Member</i>	X	
	Ms. Wagner	X	
	Mr. King	X	
	Mr. Lucas	X	
	Mr. Posey	X	
	Mr. Luetkemeyer	X	
	Mr. Huizenga	X	
	Mr. Duffy	X	
	Mr. Stivers	X	
	Mr. Barr	X	
	Mr. Tipton	X	
	Mr. Williams	X	
	Mr. Hill	X	
	Mr. Emmer	X	
	Mr. Zeldin	X	
	Mr. Loudermilk	X	
	Mr. Mooney	X	
	Mr. Davidson	X	
	Mr. Budd	X	
	Mr. Kustoff	X	
	Mr. Hollingsworth	X	
	Mr. Gonzalez (OH)	X	
	Mr. Rose	X	
	Mr. Steil	X	
	Mr. Gooden	X	
	Mr. Riggleman	X	
26			

Committee on Financial Services
Full Committee
116th Congress (1st Session)

Date: 7/11/2019

Measure H.R. 3618 as amended

Amendment No. 7a

Offered by: Mr. Emmer

Agreed To	Yes	No	Prsnt	Wdrn
Voice Vote	Ayes		Nays	

Record Vote	FC 26 Ayes - 32 Noes
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Present	Representatives	Ayes	Nays
	Ms. Waters, <i>Chairwoman</i>	X	
	Mrs. Maloney	X	
	Ms. Velázquez	X	
	Mr. Sherman	X	
	Mr. Meeks	X	
	Mr. Clay	X	
	Mr. Scott	X	
	Mr. Green	X	
	Mr. Cleaver	X	
	Mr. Perlmutter		
	Mr. Himes	X	
	Mr. Foster	X	
	Mrs. Beatty	X	
	Mr. Heck	X	
	Mr. Vargas	X	
	Mr. Gottheimer	X	
	Mr. Gonzalez (TX)	X	
	Mr. Lawson	X	
	Mr. San Nicolas	X	
	Ms. Thib	X	
	Ms. Porter	X	
	Ms. Axne	X	
	Mr. Casten	X	
	Ms. Pressley	X	
	Mr. McAdams	X	
	Ms. Ocasio-Cortez	X	
	Ms. Wexton	X	
	Mr. Lynch	X	
	Ms. Gabbard		
	Ms. Adams	X	
	Ms. Dean	X	
	Mr. Garcia (IL)	X	
	Ms. Garcia (TX)	X	
	Mr. Phillips	X	
34			
	Mr. McHenry, <i>Ranking Member</i>	X	
	Ms. Wagner	X	
	Mr. King	X	
	Mr. Lucas	X	
	Mr. Posey	X	
	Mr. Luetkemeyer	X	
	Mr. Huizenga	X	
	Mr. Duffy	X	
	Mr. Stivers	X	
	Mr. Barr	X	
	Mr. Tipton	X	
	Mr. Williams	X	
	Mr. Hill	X	
	Mr. Emmer	X	
	Mr. Zeldin	X	
	Mr. Loudermilk	X	
	Mr. Mooney	X	
	Mr. Davidson	X	
	Mr. Budd	X	
	Mr. Kustoff	X	
	Mr. Hollingsworth	X	
	Mr. Gonzalez (OH)	X	
	Mr. Rose	X	
	Mr. Steil	X	
	Mr. Gooden	X	
	Mr. Riggleman	X	
26			

Committee on Financial Services
Full Committee
116th Congress (1st Session)

Date: 7/11/2019

Measure H.R. 3618 (Final Passage)

Amendment No.

Offered by: Ms. Beatty

Agreed To	Yes	No	Prsnt	Wdm
Voice Vote	Ayes		Nays	

Record Vote	FC
	32 Ayes - 26 Noes

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF
THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of rule XIII of the Rules of the House of Representatives, the goals of H.R. 3618 are to increase consumer knowledge of and access to credit reports and credit scores.

NEW BUDGET AUTHORITY AND CBO ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974*, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has received the following estimate for H.R. 3618 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 22, 2019.

Hon. MAXINE WATERS,
*Chairwoman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MADAM CHAIRWOMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3618, the Free Credit Scores for Consumers Act of 2019.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is David Hughes.

Sincerely,

MARK P. HADLEY
(For Phillip L. Swagel, Director).

Enclosure.

H.R. 3618, Free Credit Scores for Consumers Act of 2019			
As ordered reported by the House Committee on Financial Services on July 11, 2019			
By Fiscal Year, Millions of Dollars	2020	2020-2024	2020-2029
Direct Spending (Outlays)	1	2	2
Revenues	0	0	0
Deficit Effect	1	2	2
Spending Subject to Appropriation (Outlays)	0	0	0
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Over Threshold

Under current law, nationwide credit reporting agencies (CRAs) are required to provide to consumers, annually upon request, a free credit report that lists factors such as bill payment history, current debt, and other elements used to assess creditworthiness. H.R. 3618 would require CRAs to:

- Provide to consumers, annually upon request, a statement containing a FICO credit score, an educational credit score (which measures credit risk, but cannot be used by lenders), or an explanation why neither can be furnished. Besides the credit score itself, the statement would identify factors that contributed to the score, the range of possible scores under the model used, and the distribution of scores among recipient consumers.
- Provide to consumers, upon request, their past two years of credit scores on file.
- Include a free credit score with any free credit report that must be furnished under current law. (For example, CRAs must provide a free credit report to consumers that assert they are identity theft victims.)
- Increase transparency efforts and to notify consumers of their right to receive free credit reports and scores.

Using information from the Consumer Financial Protection Bureau, CBO estimates that enacting the bill would increase direct spending by \$2 million for the agency to issue rules to implement the bill over the 2020–2021 period. Issuing rules would require the services of five full-time employees at an annual cost of \$200,000 each.

H.R. 3618 contains private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the cost of those mandates would exceed UMRA's private-sector threshold (\$164 million in 2019, adjusted annually for inflation).

Using industry data, CBO estimates that CRAs would provide free credit scores to about 20 million consumers each year. The costs would vary depending on prices negotiated between the CRA and the entities that provide credit scores. Using an estimated negotiated cost per score of \$9 (the median in the range of likely cost), CBO estimates that CRAs would spend roughly \$185 million annually to comply with the mandate.

On the basis of industry information, CBO estimates that CRAs also would spend about \$50 million annually to comply with the following requirements:

- Disclose at least four key factors that positively affect a consumer's credit score or educational credit score (credit score statements already list key factors that negatively affect scores—also required by the bill);
- Maintain scores in a consumer's file for at least two years; and
- Establish and maintain a portal for consumers' online or phone access to scores.

CRAs could not refer to an educational credit score as a credit score in any application, solicitation, marketing, or informational material. That prohibition would impose minimal costs on CRAs, CBO estimates.

Finally, H.R. 3618 would require private education, motor vehicle, and residential mortgage lenders to give consumers a copy of

any credit report or score used in underwriting a loan. Because lenders already possess that information, their cost to comply with the mandate would be small.

The bill contains no intergovernmental mandates as defined in UMRA.

The CBO staff contacts for this estimate are David Hughes (for federal costs) and Rachel Austin (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 3618. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act*.

UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act* (as amended by Section 101(a)(2) of the *Unfunded Mandates Reform Act*, Pub. L. 104-4), the Committee adopts as its own the estimate of federal mandates regarding H.R. 3618, as amended, prepared by the Director of the Congressional Budget Office.

ADVISORY COMMITTEE

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

H.R. 3618 does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

EARMARK STATEMENT

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 3618 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H.R. 3618 establishes or reauthorizes a program of the Federal Government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CHANGES IN EXISTING LAW MADE BY THE BILL AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 3618, as reported, are shown as follows:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

FAIR CREDIT REPORTING ACT

* * * * *

TITLE VI—CONSUMER CREDIT REPORTING

* * * * *

§ 603. Definitions and rules of construction

(a) Definitions and rules of construction set forth in this section are applicable for the purposes of this title.

(b) The term “person” means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

(c) The term “consumer” means an individual.

(d) CONSUMER REPORT.—

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

(A) credit or insurance to be used primarily for personal, family, or household purposes;

(B) employment purposes; or

(C) any other purpose authorized under section 604.

(2) EXCLUSIONS.—Except as provided in paragraph (3), the term “consumer report” does not include—

(A) subject to section 624, any—

(i) report containing information solely as to transactions or experiences between the consumer and the person making the report;

(ii) communication of that information among persons related by common ownership or affiliated by corporate control; or

(iii) communication of other information among persons related by common ownership or affiliated by corporate control, if it is clearly and conspicuously disclosed to the consumer that the information may be

communicated among such persons and the consumer is given the opportunity, before the time that the information is initially communicated, to direct that such information not be communicated among such persons;

(B) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device;

(C) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his or her decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made, and such person makes the disclosures to the consumer required under section 615; or

(D) a communication described in subsection (o) or (x).

(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 disclosed 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.

(e) The term “investigative consumer report” means a consumer report or portion thereof in which information on a consumer’s character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom he is acquainted or who may have knowledge concerning any such items of information. However, such information shall not include specific factual information on a consumer’s credit record obtained directly from a creditor of the consumer or from a consumer reporting agency when such information was obtained directly from a creditor of the consumer or from the consumer.

(f) The term “consumer reporting agency” means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

(g) The term “file”, when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by a consumer reporting agency regardless of how the information is stored.

(h) The term “employment purposes” when used in connection with a consumer report means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment or retention as an employee.

(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.

(j) DEFINITIONS RELATING TO CHILD SUPPORT OBLIGATIONS.—

(1) OVERDUE SUPPORT.—The term “overdue support” has the meaning given to such term in section 466(e) of the Social Security Act.

(2) STATE OR LOCAL CHILD SUPPORT ENFORCEMENT AGENCY.—The term “State or local child support enforcement agency” means a State or local agency which administers a State or local program for establishing and enforcing child support obligations.

(k) ADVERSE ACTION.—

(1) ACTIONS INCLUDED.—The term “adverse action”—

- (A) has the same meaning as in section 701(d)(6) of the Equal Credit Opportunity Act; and
- (B) means—

(i) a denial or cancellation of, an increase in any charge for, or a reduction or other adverse or unfavorable change in the terms of coverage or amount of, any insurance, existing or applied for, in connection with the underwriting of insurance;

(ii) a denial of employment or any other decision for employment purposes that adversely affects any current or prospective employee;

(iii) a denial or cancellation of, an increase in any charge for, or any other adverse or unfavorable change in the terms of, any license or benefit described in section 604(a)(3)(D); and

(iv) an action taken or determination that is—

(I) made in connection with an application that was made by, or a transaction that was initiated by, any consumer, or in connection with a review of an account under section 604(a)(3)(F)(ii); and

(II) adverse to the interests of the consumer.

(2) APPLICABLE FINDINGS, DECISIONS, COMMENTARY, AND ORDERS.—For purposes of any determination of whether an action is an adverse action under paragraph (1)(A), all appropriate final findings, decisions, commentary, and orders issued under section 701(d)(6) of the Equal Credit Opportunity Act by the Bureau or any court shall apply.

(l) FIRM OFFER OF CREDIT OR INSURANCE.—The term “firm offer of credit or insurance” means any offer of credit or insurance to a consumer that will be honored if the consumer is determined,

based on information in a consumer report on the consumer, to meet the specific criteria used to select the consumer for the offer, except that the offer may be further conditioned on one or more of the following:

(1) The consumer being determined, based on information in the consumer's application for the credit or insurance, to meet specific criteria bearing on credit worthiness or insurability, as applicable, that are established—

(A) before selection of the consumer for the offer; and

(B) for the purpose of determining whether to extend credit or insurance pursuant to the offer.

(2) Verification—

(A) that the consumer continues to meet the specific criteria used to select the consumer for the offer, by using information in the consumer's application for the credit or insurance, or other information bearing on the credit worthiness or insurability of the consumer; or

(B) of the information in the consumer's application for the credit or insurance, to determine that the consumer meets the specific criteria bearing on credit worthiness or insurability.

(3) The consumer furnishing any collateral that is a requirement for the extension of the credit or insurance that was—

(A) established before selection of the consumer for the offer of credit or insurance; and

(B) disclosed to the consumer in the offer of credit or insurance.

(m) CREDIT OR INSURANCE TRANSACTION THAT IS NOT INITIATED BY THE CONSUMER.—The term “credit or insurance transaction that is not initiated by the consumer” does not include the use of a consumer report by a person with which the consumer has an account or insurance policy, for purposes of—

(1) reviewing the account or insurance policy; or

(2) collecting the account.

(n) STATE.—The term “State” means any State, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States.

(o) EXCLUDED COMMUNICATIONS.—A communication is described in this subsection if it is a communication—

(1) that, but for subsection (d)(2)(D), would be an investigative consumer report;

(2) that is made to a prospective employer for the purpose of—

(A) procuring an employee for the employer; or

(B) procuring an opportunity for a natural person to work for the employer;

(3) that is made by a person who regularly performs such procurement;

(4) that is not used by any person for any purpose other than a purpose described in subparagraph (A) or (B) of paragraph (2); and

(5) with respect to which—

(A) the consumer who is the subject of the communication—

(i) consents orally or in writing to the nature and scope of the communication, before the collection of any information for the purpose of making the communication;

(ii) consents orally or in writing to the making of the communication to a prospective employer, before the making of the communication; and

(iii) in the case of consent under clause (i) or (ii) given orally, is provided written confirmation of that consent by the person making the communication, not later than 3 business days after the receipt of the consent by that person;

(B) the person who makes the communication does not, for the purpose of making the communication, make any inquiry that if made by a prospective employer of the consumer who is the subject of the communication would violate any applicable Federal or State equal employment opportunity law or regulation; and

(C) the person who makes the communication—

(i) discloses in writing to the consumer who is the subject of the communication, not later than 5 business days after receiving any request from the consumer for such disclosure, the nature and substance of all information in the consumer's file at the time of the request, except that the sources of any information that is acquired solely for use in making the communication and is actually used for no other purpose, need not be disclosed other than under appropriate discovery procedures in any court of competent jurisdiction in which an action is brought; and

(ii) notifies the consumer who is the subject of the communication, in writing, of the consumer's right to request the information described in clause (i).

(p) CONSUMER REPORTING AGENCY THAT COMPILES AND MAINTAINS FILES ON CONSUMERS ON A NATIONWIDE BASIS.—The term “consumer reporting agency that compiles and maintains files on consumers on a nationwide basis” means a consumer reporting agency that regularly engages in the practice of assembling or evaluating, and maintaining, for the purpose of furnishing consumer reports to third parties bearing on a consumer's credit worthiness, credit standing, or credit capacity, each of the following regarding consumers residing nationwide:

(1) Public record information.

(2) Credit account information from persons who furnish that information regularly and in the ordinary course of business.

(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 Bureau may prescribe, by regulation.
- (4) IDENTITY THEFT REPORT.—The term “identity theft report” has the meaning given that term by rule of the Bureau, 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 Bureau; 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 Bureau.

(w) The term “Bureau” means the Bureau of Consumer Financial Protection.

(x) 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.

(y) 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 commu-

nication 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.

(z) VETERAN.—The term “veteran” has the meaning given the term in section 101 of title 38, United States Code.

(aa) VETERAN’S MEDICAL DEBT.—The term “veteran’s medical debt”—

(1) means a medical collection debt of a veteran owed to a non-Department of Veterans Affairs health care provider that was submitted to the Department for payment for health care authorized by the Department of Veterans Affairs; and

(2) includes medical collection debt that the Department of Veterans Affairs has wrongfully charged a veteran.

(bb) CREDIT SCORE AND EDUCATIONAL CREDIT SCORE DEFINITIONS.—

(1) CREDIT SCORE.—*The term “credit score” 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 or extends credit to predict the likelihood of certain credit behaviors, including default, as determined by the Bureau.*

(2) EDUCATIONAL CREDIT SCORE.—*The term “educational credit score” means a numerical value or categorization derived from a statistical tool or modeling system based upon information from a consumer report that assists consumers in understanding how a lender or creditor may view the consumer’s creditworthiness in deciding whether to make a loan or extend credit to that consumer.*

(3) KEY FACTORS.—*The term “key factors” means relevant elements or reasons affecting the credit score for the particular individual, listed in the order of importance based on the effect of each element or reason on the credit score or educational credit score.*

(4) CREDIT SCORING MODEL.—*The term “credit scoring model” means a scoring algorithm, formula, model, program, or mechanism used to generate a credit score or an educational credit score.*

* * * * *

§ 605. Requirements relating to information contained in consumer reports

(a) INFORMATION EXCLUDED FROM CONSUMER REPORTS.—Except as authorized under subsection (b), no consumer reporting agency may make any consumer report containing any of the following items of information:

(1) Cases under title 11 of the United States Code or under the Bankruptcy Act that, from the date of entry of the order for relief

or the date of adjudication, as the case may be, antedate the report by more than 10 years.

(2) Civil suits, civil judgments, and records of arrest that, from date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.

(3) Paid tax liens which, from date of payment, antedate the report by more than seven years.

(4) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

(5) Any other adverse item of information, other than records of convictions of crimes which antedates the report by more than seven years.

(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.

(7) With respect to a consumer reporting agency described in section 603(p), any information related to a veteran's medical debt if the date on which the hospital care, medical services, or extended care services was rendered relating to the debt antedates the report by less than 1 year if the consumer reporting agency has actual knowledge that the information is related to a veteran's medical debt and the consumer reporting agency is in compliance with its obligation under section 302(c)(5) of the Economic Growth, Regulatory Relief, and Consumer Protection Act.

(8) With respect to a consumer reporting agency described in section 603(p), any information related to a fully paid or settled veteran's medical debt that had been characterized as delinquent, charged off, or in collection if the consumer reporting agency has actual knowledge that the information is related to a veteran's medical debt and the consumer reporting agency is in compliance with its obligation under section 302(c)(5) of the Economic Growth, Regulatory Relief, and Consumer Protection Act.

(b) The provisions of paragraphs (1) through (5) of subsection (a) are not applicable in the case of any consumer credit report to be used in connection with—

(1) a credit transaction involving, or which may reasonably be expected to involve, a principal amount of \$150,000 or more;

(2) the underwriting of life insurance involving, or which may reasonably be expected to involve, a face amount of \$150,000 or more; or

(3) the employment of any individual at an annual salary which equals, or which may reasonably be expected to equal \$75,000, or more.

(c) RUNNING OF REPORTING PERIOD.—

(1) **IN GENERAL.**—The 7-year period referred to in paragraphs (4) and (6) of subsection (a) shall begin, with respect to any delinquent account that is placed for collection (internally or by referral to a third party, whichever is earlier), charged to profit and loss, or subjected to any similar action, upon the expiration of the 180-day period beginning on the date of the commencement of the delinquency which immediately preceded the collection activity, charge to profit and loss, or similar action.

(2) **EFFECTIVE DATE.**—Paragraph (1) shall apply only to items of information added to the file of a consumer on or after the date that is 455 days after the date of enactment of the Consumer Credit Reporting Reform Act of 1996.

(d) **INFORMATION REQUIRED TO BE DISCLOSED.**—

(1) **TITLE 11 INFORMATION.**—Any consumer reporting agency that furnishes a consumer report that contains information regarding any case involving the consumer that arises under title 11, United States Code, shall include in the report an identification of the chapter of such title 11 under which such case arises if provided by the source of the information. If any case arising or filed under title 11, United States Code, is withdrawn by the consumer before a final judgment, the consumer reporting agency shall include in the report that such case or filing was withdrawn upon receipt of documentation certifying such withdrawal.

(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) **INDICATION OF CLOSURE OF ACCOUNT BY CONSUMER.**—If a consumer reporting agency is notified pursuant to section 623(a)(4) that a credit account of a consumer was voluntarily closed by the consumer, the agency shall indicate that fact in any consumer report that includes information related to the account.

(f) **INDICATION OF DISPUTE BY CONSUMER.**—If a consumer reporting agency is notified pursuant to section 623(a)(3) that information regarding a consumer who was furnished to the agency is disputed by the consumer, the agency shall indicate that fact in each consumer report that includes the disputed information.

(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.

(h) NOTICE OF DISCREPANCY IN ADDRESS.—

(1) IN GENERAL.—If a person has requested a consumer report 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 Bureau shall, in consultation with the Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission,, prescribe regulations providing guidance regarding reasonable policies and procedures that a user of a consumer report should employ when such user has received a notice of discrepancy under paragraph (1).

(B) POLICIES AND PROCEDURES TO BE INCLUDED.—The regulations prescribed under subparagraph (A) shall describe 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 relationship 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 obtained, to reconcile the address of the consumer with the consumer reporting agency by furnishing such address to such consumer reporting agency as part of information regularly furnished by the user for the period in which the relationship is established.

* * * * *

§ 609. Disclosures to consumers

(a) Every consumer reporting agency shall, upon request, and subject to section 610(a)(1), clearly and accurately disclose to the consumer:

(1) All information in the consumer's file at the time of the request, 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 in this paragraph shall be construed to require a consumer reporting agency to disclose to a consumer any information concerning credit scores or any other risk scores or predictors relating to the consumer.

(2) The sources of the information; except that the sources of information acquired solely for use in preparing an investigative consumer report and actually used for no other purpose need not be disclosed: *Provided*, That in the event an action is brought under this title, such sources shall be available to the plaintiff under appropriate discovery procedures in the court in which the action is brought.

(3)(A) Identification of each person (including each end-user identified under section 607(e)(1)) that procured a consumer report—

(i) for employment purposes, during the 2-year period preceding the date on which the request is made; or

(ii) for any other purpose, during the 1-year period preceding the date on which the request is made.

(B) An identification of a person under subparagraph (A) shall include—

(i) the name of the person or, if applicable, the trade name (written in full) under which such person conducts business; and

(ii) upon request of the consumer, the address and telephone number of the person.

(C) Subparagraph (A) does not apply if—

(i) the end user is an agency or department of the United States Government that procures the report from the person for purposes of determining the eligibility of the consumer to whom the report relates to receive access or continued access to classified information (as defined in section 604(b)(4)(E)(i)); and

(ii) the head of the agency or department makes a written finding as prescribed under section 604(b)(4)(A).

(4) The dates, original payees, and amounts of any checks upon which is based any adverse characterization of the consumer, included in the file at the time of the disclosure.

(5) A record of all inquiries received by the agency during the 1-year period preceding the request that identified the consumer in connection with a credit or insurance transaction that was not initiated by the consumer.

(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) The requirements of subsection (a) respecting the disclosure of sources of information and the recipients of consumer reports do not apply to information received or consumer reports furnished prior to the effective date of this title except to the extent that the matter involved is contained in the files of the consumer reporting agency on that date.

(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 Bureau 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 Bureau 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 Bureau 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) 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 Bureau 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 Bureau under paragraph (1), and information on how to contact the Bureau 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), unless 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 Bureau; 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.

[(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 Bureau, 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.]

(f) *DISCLOSURE OF CREDIT SCORE AND EDUCATIONAL CREDIT SCORE BY CONSUMER REPORTING AGENCIES.—*

(1) *IN GENERAL.—Upon the request of a consumer for a credit score or educational credit score, a consumer reporting agency shall supply to the consumer a statement—*

(A) *containing—*

(i) *a current credit score at the time of the request generated using a commonly used credit scoring model to generate credit scores, subject to regulations of the Bureau;*

(ii) an educational credit score at the time of the request, if it is not practicable to generate such a credit score, as determined by the Bureau; or

(iii) an explanation that the consumer's file does not have sufficient information from which to generate such a credit score or educational credit score; and

(B) with respect to each previous credit score in the file of the consumer—

(i) the date on which the credit score was generated;

(ii) the name of any entity that the credit score was provided to; and

(iii) the credit score itself.

(2) *REQUIREMENTS.*—A statement provided under clause (i) or (ii) of paragraph (1)(A) shall include—

(A) a minimum of 4 key factors, if available, that adversely affected the credit score or educational credit score, except that if one of the key factors consists of the number of enquiries made with respect to a consumer report, that factor shall be provided to the consumer in addition to the factors required by this subparagraph;

(B) to the extent possible, specific actions a consumer could take with respect to each key factor listed in subparagraph (A) to improve the consumer's credit score or educational credit score;

(C) a minimum of 4 key factors, if available, that positively affected the credit score or educational credit score;

(D) the range of possible credit scores or educational credit scores under the credit scoring model used;

(E) the distribution of credit scores or educational credit scores among consumers who are scored under the same credit scoring model by the consumer reporting agency, and using the same scale as that of the score that is provided to a creditor or consumers—

(i) in the form of a bar graph containing a minimum of 6 bars that illustrates the percentage of consumers with credit scores or educational credit scores within the range of scores represented by each bar; or

(ii) by another clear and readily understandable graphical depiction, statement, or illustration comparing the consumer's credit score or educational credit score to the scores of other consumers, as determined by the Bureau;

(F) the date on which the credit score or educational credit score was created; and

(G) the name of the person that developed the credit scoring model on which the credit score or educational credit score was based.

(3) *APPLICABILITY TO CERTAIN USES.*—This subsection shall not be construed so as to compel a consumer reporting agency to—

(A) develop or disclose a credit score if the agency does not distribute credit scores used by a person who makes or arranges a loan or extends credit to predict the likelihood of certain credit behaviors; or

(B) develop or disclose an educational credit score if the agency does not develop educational credit scores that assist in understanding the general credit behavior of a consumer and predicting the future credit behavior of the consumer.

(4) MAINTENANCE OF CREDIT SCORES.—

(A) IN GENERAL.—All consumer reporting agencies shall maintain in the consumer's file credit scores relating to the consumer for a period of 2 years from the date on which such information is generated.

(B) DISCLOSURE ONLY TO CONSUMERS.—A past credit score maintained in a consumer's file pursuant to subparagraph (A) may only be provided to the consumer to which the credit score relates and may not be included in a consumer report or used as a factor in generating a credit score or educational credit score.

(C) REMOVAL OF PAST CREDIT SCORES.—A past credit score maintained in a consumer's file pursuant to subparagraph (A) shall be removed from the consumer's file after the end of the 2-year period described under subparagraph (A).

(5) WEBSITE DISCLAIMER.—A consumer reporting agency that generates or provides credit scores or educational credit scores shall clearly and conspicuously display on the home page of the agency's Internet website, and as part of any application, solicitation, or marketing material or media providing information related to a credit score or educational credit score, the following notice, in boldface type of 18-point font or larger and in a text box with boldface outer borders: CREDIT SCORE DISCLAIMER.“

There is no “one” credit score. There are many scoring formulas derived from a wide variety of models available to a consumer and used by lenders and creditors. Different lenders and creditors use different scoring formulas to determine whether to extend credit or make a loan to you, and the terms of the credit or loan. An educational credit score is not a credit score that a person who makes a loan or extends credit to you is likely to use. Educational credit scores are merely intended to be used as an educational tool to help consumers understand how the information contained in a consumer report may affect the terms and conditions of a loan or extension of credit that may be available to a consumer. Lenders and creditors may also rely on information not contained in your consumer report and not reflected in the calculation of your credit score.”

(6) ADDITIONAL REQUIREMENTS FOR EDUCATIONAL CREDIT SCORES.—

(A) DISCLAIMER.—If an educational credit score is provided pursuant to paragraph (1), a consumer reporting agency shall clearly and conspicuously include in a prominent location on the statement, in boldface type of 18-point font or larger, and in a text box with boldface outer borders, the following notice: EDUCATIONAL CREDIT SCORE DISCLAIMER.“

The educational credit score provided to you is not a credit score that a lender or creditor is likely to use to make a loan or extend

credit to you. There are many different credit scores derived from a wide variety of models used by lenders and creditors. An educational credit score is merely an educational tool. It is intended to provide consumers with a basic understanding of how the information contained in a consumer report may affect the terms and conditions of credit that are available. The credit scores you receive directly from different lenders and creditors may not be the same as an educational credit score. There are a number of reasons for this:

“(1) Each company may use a different formula for calculating credit scores and the differences in the formulas may lead to differences in your scores.

“(2) Companies may produce scores that give results on different scales.

“(3) Not all lenders or creditors report to every consumer reporting agency, and therefore the information contained in your consumer report that the consumer reporting agencies use to calculate your educational credit score may differ among agencies.”.

(B) PROHIBITION ON MISLEADING REPRESENTATIONS.—A consumer reporting agency may not refer to an educational credit score as a credit score in any application, solicitation, marketing, or other informational materials or media.

(7) MODIFICATION OF DISCLAIMERS.—The Bureau may modify the content, format, and manner of the disclaimers required under paragraphs (5) and (6), if warranted, after conducting consumer testing or research.

(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]** *any consumer reports or credit scores [*, 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:]**, *not later than 3 business days after using such reports or scores, a document disclosing any consumer reports and credit scores used by the lender to determine whether to extend credit to the consumer along with the statement described in subsection (f)(2).*

[(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.]

(2) *RULE OF CONSTRUCTION.*—*Nothing in this subsection shall be construed to eliminate any requirement for lenders to provide credit score disclosures, including the statement described under subsection (f)(2), to consumers as part of an adverse action or risk-based pricing notice.*

[(D)] (3) 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, *free of charge*, 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] *affecting your credit score or 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 no-

tice, 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)] (4) 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)] (5) PROHIBITION ON DISCLOSURE CLAUSES NULL AND VOID.—

(A) IN GENERAL.—Any provision in a contract that prohibits the disclosure of a credit score *or scores* 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 *or scores* pursuant to this subsection.

(6) ACTIONS NOT REQUIRED.—*This subsection shall not require any person to disclose any credit score or related information obtained by the person after a loan has closed.*

(7) NO PROCUREMENT COSTS.—*None of the costs to the creditor or lender associated with procuring any consumer reports or scores under this subsection may be charged, directly or indirectly, to the consumer.*

(h) DISCLOSURE OF CONSUMER REPORTS AND CREDIT SCORES BY PRIVATE EDUCATIONAL LENDERS.—

(1) IN GENERAL.—*If a private educational lender obtains a copy of any consumer reports or credit scores and uses such re-*

ports or scores in connection with an application of a consumer for a private education loan, the private educational lender shall provide to the consumer, not later than 3 business days after obtaining such reports or scores and before the date on which the consumer enters into a loan agreement with the private educational lender, a copy of any such reports or scores, along with the statement described under subsection (f)(2).

(2) COSTS.—None of the costs to the private educational lender associated with procuring consumer reports or credit scores under this subsection may be charged, directly or indirectly, to the consumer.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to eliminate any requirement for creditors and lenders to provide credit score disclosures, including the statement described under subsection (f)(2), to consumers as part of an adverse action or risk-based pricing notice.

(i) DISCLOSURE OF CONSUMER REPORTS AND CREDIT SCORES USED BY MOTOR VEHICLE LENDERS OR INDIRECT AUTO LENDERS.—

(1) IN GENERAL.—If a motor vehicle lender or indirect auto lender obtains a copy of any consumer reports or credit scores and uses such reports or scores in connection with an application of a consumer for a motor vehicle loan or lease, the motor vehicle lender or indirect auto lender shall provide to the consumer a document, separate from the consumer’s lease or purchase agreement and before the consumer enters into a lease or purchase agreement, disclosing any consumer reports and credit scores, including the statement described in subsection (f)(2), used by the lender to determine whether to extend credit to the consumer.

(2) COSTS.—None of the costs to the motor vehicle lender or indirect auto lender associated with procuring consumer reports or credit scores under this subsection may be charged, directly or indirectly, to the consumer.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to eliminate any requirement for creditors and lenders to provide credit score disclosures, including the statement described under subsection (f)(2), to consumers as part of an adverse action or risk-based pricing notice.

(4) DEFINITIONS.—

(A) INDIRECT AUTO LENDER.—The term “indirect auto lender” has the meaning given the term by the Bureau, and shall include a person extending a loan made with respect to a car, boat, motorcycle, recreational vehicle, or other similar vehicle used primarily for personal or household purposes.

(B) MOTOR VEHICLE LENDER.—The term “motor vehicle lender” has the meaning given the term by the Board of Governors of the Federal Reserve System, and shall include a person extending a loan made with respect to a car, boat, motorcycle, recreational vehicle, or other similar vehicle used primarily for personal or household purposes.

* * * * *

SEC. 612. CHARGES FOR CERTAIN DISCLOSURES.

(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 (*including the disclosure of a credit score or educational credit score under subsection (f) of such section*) 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** *Bureau* 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 request consumer reports, *credit scores, and educational credit scores (as applicable)* 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 Bureau shall consider—

(I) the significant demands that may be placed on consumer reporting agencies in providing such consumer reports, *credit scores, and educational credit scores (as applicable)*;

(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, *credit scores, and educational credit scores (as applicable)*; and

(III) the ease by which consumers should be able to contact consumer reporting agencies with respect to access to such consumer reports, *credit scores, and educational credit scores (as applicable)*.

(iii) DATE OF ISSUANCE.—The **Commission** *Bureau* 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 Bureau 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 Bureau determines appropriate).

(2) TIMING.—A consumer reporting agency shall provide a consumer report, *credit score*, or *educational credit score* under paragraph (1) not later than **[15 days]** *3 business 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, *credit score*, or *educational credit score* 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, *credit scores*, or *educational credit scores* to third parties on a continuing basis during the 12-month period preceding a request under paragraph (1), with respect to consumers residing nationwide.

(b) FREE DISCLOSURE AFTER ADVERSE NOTICE TO CONSUMER.—Each consumer reporting agency that maintains a file on a consumer shall make all disclosures pursuant to section 609 (*including the disclosure of a credit score or educational credit score, as applicable, under subsection (f) of such section*) without charge to the consumer if, not later than 60 days after receipt by such consumer of a notification pursuant to section 615, or of a notification from a debt collection agency affiliated with that consumer reporting agency stating that the consumer's credit rating may be or has been adversely affected, the consumer makes a request under section 609.

(c) FREE DISCLOSURE UNDER CERTAIN OTHER CIRCUMSTANCES.—Upon the request of the consumer, a consumer reporting agency shall make all disclosures pursuant to section 609 (*including the disclosure of a credit score or educational credit score under subsection (f) of such section*) once during any 12-month period without charge to that consumer if the consumer certifies in writing that the consumer—

(1) is unemployed and intends to apply for employment in the 60-day period beginning on the date on which the certification is made;

(2) is a recipient of public welfare assistance**[; or]**;

(3) has reason to believe that the file on the consumer at the agency contains inaccurate information due to fraud**[.]**;

(4) *has disputed information, or submitted an appeal of an investigation or reinvestigation of such information, under section 611 or 623, regardless of whether the consumer has already received a credit report, credit score, or educational credit score under section 611 or 623; or*

(5) *has had information that was previously deleted under section 611(a)(5) reinserted into the consumer's file, regardless*

of whether the consumer has already received a credit report, credit score, or educational credit score under such section.

(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 (*including the disclosure of a credit score or educational credit score under subsection (f) of such section*) without charge to the consumer, as provided in subsections (a)(2) and (b)(2) of section 605A, as applicable.

(e) OTHER CHARGES PROHIBITED.—A consumer reporting agency shall not impose any charge on a consumer for providing any notification required by this title or making any disclosure required by this title, except as authorized by subsection (f).

(f) REASONABLE CHARGES ALLOWED FOR CERTAIN DISCLOSURES.—

(1) IN GENERAL.—In the case of a request from a consumer other than a request that is covered by any of subsections (a) through (d), a consumer reporting agency may impose a [reasonable charge on a consumer—]

[(A) for making a disclosure to the consumer pursuant to section 609] *reasonable charge on a consumer for providing a consumer report to a consumer, which charge—*

[(i) (A) shall not exceed \$8; and

[(ii) (B) shall be indicated to the consumer before making the [disclosure; and] *disclosure.*

[(B) for furnishing, pursuant to section 611(d), following a reinvestigation under section 611(a), a statement, codification, or summary to a person designated by the consumer under that section after the 30-day period beginning on the date of notification of the consumer under paragraph (6) or (8) of section 611(a) with respect to the reinvestigation, which charge—

[(i) shall not exceed the charge that the agency would impose on each designated recipient for a consumer report; and

[(ii) shall be indicated to the consumer before furnishing such information.]

(2) MODIFICATION OF AMOUNT.—The Bureau shall increase the amount referred to in paragraph (1)(A)(i) on January 1 of each year, based proportionally on changes in the Consumer Price Index, with fractional changes rounded to the nearest fifty cents.

(g) PREVENTION OF DECEPTIVE MARKETING OF CREDIT REPORTS.—

(1) IN GENERAL.—Subject to rulemaking pursuant to section 205(b) of the Credit CARD Act of 2009, any advertisement for a free credit report in any medium shall prominently disclose in such advertisement that free credit reports are available under Federal law at: “AnnualCreditReport.com” (or such other source as may be authorized under Federal law).

(2) TELEVISION AND RADIO ADVERTISEMENT.—In the case of an advertisement broadcast by television, the disclosures required under paragraph (1) shall be included in the audio and visual part of such advertisement. In the case of an advertisement broadcast by television or radio, the disclosure required under paragraph (1) shall consist only of the following: “This is not the free credit report provided for by Federal law”.

(h) *CENTRALIZED SOURCE FOR OBTAINING FREE COPY OF CONSUMER REPORT AND SCORES.*—

(1) *NATIONWIDE CONSUMER REPORTING AGENCIES.*—

(A) *IN GENERAL.*—Not later than 180 days after the date of enactment of this subsection, each consumer reporting agency described under subsection (p) of section 603 shall prominently display on the home page of the agency's website—

(i) a hyperlink labeled “Get Your Free Annual Credit Reports along with either your Credit Scores or Educational Credit Scores provided for under Federal Law” or substantially similar text, as determined by the Bureau; and

(ii) a disclosure titled “Consumer’s Right to Free Credit Scores, Educational Credit Scores, and Reports under Federal Law” or substantially similar text, as determined by the Bureau that includes the following statement:

“**SEC.** “

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, All consumers are entitled to obtain a free copy of their consumer report and credit score or educational credit score annually from each of the nationwide consumer reporting agencies. Under Federal law, a consumer is entitled to obtain additional free copies of their consumer reports, along with a copy of either the consumer’s credit score or educational credit score (under certain circumstances), including:

“(1) *When a consumer is unemployed and intends to apply for employment within 60 days.*

“(2) *When a consumer is a recipient of public welfare assistance.*

“(3) *When a consumer has a reasonable belief that their report contains inaccuracies as a result of fraud.*

“(4) *When a consumer asserts in good faith a suspicion that the consumer has been or is about to become a victim of identity theft, fraud, or a related crime, or harmed by the unauthorized disclosure of the consumer’s financial or personally identifiable information.*

“(5) *When a consumer files a dispute or an appeal of the results of a dispute with a consumer reporting agency or a person who furnished information to the consumer reporting agency regarding the accuracy or completeness of the information contained on their report.*

“(6) *After a furnisher of information discovers it has furnished inaccurate or incomplete information to a consumer reporting agency, and the furnisher notifies the agency of the error.*

“(7) *After an adverse action is taken against a consumer or a consumer receives a risk-based pricing notice.*

“(8) *When a mortgage lender, private educational lender, indirect auto lender, or motor vehicle lender obtains and uses a consumer’s reports or scores for underwriting purposes.”.*

(B) *HYPERLINK REQUIREMENTS.*—The hyperlink described in subparagraph (A)(i) shall be prominently located on the top of the home page and should link directly to the website

of the centralized source established pursuant to section 211(d) of the Fair and Accurate Credit Transactions Act of 2003 (15 U.S.C. 1681j note).

(C) *MODIFICATIONS.*—The Bureau may modify the disclosure described in subparagraph (A)(ii) as necessary to include other circumstances under which a consumer has the right to receive a free consumer report, credit score, or educational credit score.

(2) *NATIONWIDE SPECIALTY CONSUMER REPORTING AGENCIES.*—

(A) *IN GENERAL.*—Not later than 180 days after the date of enactment of this subsection, each nationwide specialty consumer reporting agency shall prominently display on the Internet home webpage of the agency a disclosure titled “Consumer’s Right to Free Consumer Reports and Credit Score or Educational Credit Score (as applicable) under Federal Law”. Such disclosure shall include the following statement:

“**SEC.** “

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Upon request, all consumers are entitled to obtain a free copy of their consumer report and credit score or educational credit score (as applicable) during any 12-month period from each of the nationwide specialty consumer reporting agencies. Federal law also provides further circumstances under which a consumer is entitled to obtain additional free copies of their consumer report and credit score or educational credit score (as applicable) including:

“(1) *When a consumer is unemployed and intends to apply for employment within 60 days.*

“(2) *When a consumer is a recipient of public welfare assistance.*

“(3) *When a consumer has a reasonable belief that their report contains inaccuracies as a result of fraud.*

“(4) *When a consumer files a dispute or an appeal of the results of a dispute with a consumer reporting agency or a person who furnished information to the consumer reporting agency regarding the accuracy or completeness of the information contained on their report.*

“(5) *After a furnisher of information discovers it has furnished inaccurate or incomplete information to a consumer reporting agency, and the furnisher notifies the agency of the error.*

“(6) *After an adverse action is taken against a consumer or a consumer receives a risk-based pricing notice.*

“(7) *When a mortgage lender, private educational lender, indirect auto lender, or motor vehicle lender obtains and uses a consumer’s reports or scores for underwriting purposes.”.*

(B) *MODIFICATIONS.*—The Bureau may modify the disclosure described in subparagraph (A) as necessary to include other circumstances under which a consumer has the right to receive a free consumer report and credit score or educational credit score (as applicable).

(C) *TOLL-FREE TELEPHONE ACCESS.*—The information described in this paragraph shall also be made available via

a toll-free telephone number. Such number shall be prominently displayed on the home page of the website of each nationwide specialty consumer reporting agency. Each of the circumstances under which a consumer may obtain a free consumer report and credit score or educational credit score (as applicable) shall be presented in an easily understandable format and consumers shall be directed to an individual who is a customer service representative not later than 2 minutes after the initial phone connection is made by the consumer. Information provided through such telephone number shall comply with the requirements of section 633.

(D) ONLINE CONSUMER REPORTS; EXEMPTION.—Upon receipt of a request by a consumer for a consumer report, each nationwide specialty consumer reporting agency shall provide access to such report electronically on the Internet website described in section 611(h).

(i) AUTOMATIC PROVISION OF FREE CONSUMER REPORTS AND CREDIT SCORES OR EDUCATIONAL CREDIT SCORES.—A consumer reporting agency shall provide to a consumer a free copy of the file and credit score or educational credit score of the consumer who—

(1) obtains a fraud alert, extended alert, active duty alert, or security freeze as described in section 605A; or

(2) has disputed information, or submitted an appeal of an investigation or reinvestigation of such information, under section 611 or 623.

* * * * *

§ 615. Requirements on users of consumer reports

(a) DUTIES OF USERS TAKING ADVERSE ACTIONS ON THE BASIS OF INFORMATION CONTAINED IN CONSUMER REPORTS.—If any person takes any adverse action with respect to any consumer that is based in whole or in part on any information contained in a consumer report, the person shall—

(1) provide oral, written, or electronic notice of the adverse action to the consumer;

(2) provide to the consumer written or electronic disclosure—

(A) of a numerical credit score [as defined in section 609(f)(2)(A)] used by such person in taking any adverse action based in whole or in part on any information in a consumer report; and

(B) of the information [set forth in subparagraphs (B) through (E) of section 609(f)(1)] *with respect to a credit score described in section 609(f)(2), if available;*

(3) provide to the consumer orally, in writing, or electronically—

(A) the name, address, and telephone number of the consumer reporting agency (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis) that furnished the report to the person; and

(B) a statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the consumer the specific reasons why the adverse action was taken; and

(4) provide to the consumer an oral, written, or electronic notice of the consumer's right—

(A) to obtain, under section 612, a free copy of a consumer report on the consumer from the consumer reporting agency referred to in paragraph (3), which notice shall include an indication of the 60-day period under that section for obtaining such a copy; and

(B) to dispute, under section 611, with a consumer reporting agency the accuracy or completeness of any information in a consumer report furnished by the agency.

(b) ADVERSE ACTION BASED ON INFORMATION OBTAINED FROM THIRD PARTIES OTHER THAN CONSUMER REPORTING AGENCIES.—

(1) IN GENERAL.—Whenever credit for personal, family, or household purposes involving a consumer is denied or the charge for such credit is increased either wholly or partly because of information obtained from a person other than a consumer reporting agency bearing upon the consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, the user of such information shall, within a reasonable period of time, upon the consumer's written request for the reasons for such adverse action received within sixty days after learning of such adverse action, disclose the nature of the information to the consumer. The user of such information shall clearly and accurately disclose to the consumer his right to make such written request at the time such adverse action is communicated to the consumer.

(2) DUTIES OF PERSON TAKING CERTAIN ACTIONS BASED ON INFORMATION PROVIDED BY AFFILIATE.—

(A) DUTIES, GENERALLY.—If a person takes an action described in subparagraph (B) with respect to a consumer, based in whole or in part on information described in subparagraph (C), the person shall—

(i) notify the consumer of the action, including a statement that the consumer may obtain the information in accordance with clause (ii); and

(ii) upon a written request from the consumer received within 60 days after transmittal of the notice required by clause (i), disclose to the consumer the nature of the information upon which the action is based by not later than 30 days after receipt of the request.

(B) ACTION DESCRIBED.—An action referred to in subparagraph (A) is an adverse action described in section 603(k)(1)(A), taken in connection with a transaction initiated by the consumer, or any adverse action described in clause (i) or (ii) of section 603(k)(1)(B).

(C) INFORMATION DESCRIBED.—Information referred to in subparagraph (A)—

(i) except as provided in clause (ii), is information that—

(I) is furnished to the person taking the action by a person related by common ownership or affiliated by common corporate control to the person taking the action; and

(II) bears on the credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living of the consumer; and

(ii) does not include—

(I) information solely as to transactions or experiences between the consumer and the person furnishing the information; or

(II) information in a consumer report.

(c) No person shall be held liable for any violation of this section if he shows by a preponderance of the evidence that at the time of the alleged violation he maintained reasonable procedures to assure compliance with the provisions of this section.

(d) DUTIES OF USERS MAKING WRITTEN CREDIT OR INSURANCE SOLICITATIONS ON THE BASIS OF INFORMATION CONTAINED IN CONSUMER FILES.—

(1) IN GENERAL.—Any person who uses a consumer report on any consumer in connection with any credit or insurance transaction that is not initiated by the consumer, that is provided to that person under section 604(c)(1)(B), shall provide with each written solicitation made to the consumer regarding the transaction a clear and conspicuous statement that—

(A) information contained in the consumer's consumer report was used in connection with the transaction;

(B) the consumer received the offer of credit or insurance because the consumer satisfied the criteria for credit worthiness or insurability under which the consumer was selected for the offer;

(C) if applicable, the credit or insurance may not be extended if, after the consumer responds to the offer, the consumer does not meet the criteria used to select the consumer for the offer or any applicable criteria bearing on credit worthiness or insurability or does not furnish any required collateral;

(D) the consumer has a right to prohibit information contained in the consumer's file with any consumer reporting agency from being used in connection with any credit or insurance transaction that is not initiated by the consumer; and

(E) the consumer may exercise the right referred to in subparagraph (D) by notifying a notification system established under section 604(e).

(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 Bureau, by rule, in consultation with the Federal Trade Commission, the Federal banking agencies, and the National Credit Union Administration.

(3) MAINTAINING CRITERIA ON FILE.—A person who makes an offer of credit or insurance to a consumer under a credit or insurance transaction described in paragraph (1) shall maintain

on file the criteria used to select the consumer to receive the offer, all criteria bearing on credit worthiness or insurability, as applicable, that are the basis for determining whether or not to extend credit or insurance pursuant to the offer, and any requirement for the furnishing of collateral as a condition of the extension of credit or insurance, until the expiration of the 3-year period beginning on the date on which the offer is made to the consumer.

(4) AUTHORITY OF FEDERAL AGENCIES REGARDING UNFAIR OR DECEPTIVE ACTS OR PRACTICES NOT AFFECTED.—This section is not intended to affect the authority of any Federal or State agency to enforce a prohibition against unfair or deceptive acts or practices, including the making of false or misleading statements in connection with a credit or insurance transaction that is not initiated by the consumer.

(e) RED FLAG GUIDELINES AND REGULATIONS REQUIRED.—

(1) GUIDELINES.—The Federal banking agencies, the National Credit Union Administration, the Federal Trade Commission, the Commodity Futures Trading Commission, and the Securities and Exchange 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(1) of title 31, United States Code.

(4) DEFINITIONS.—As used in this subsection, the term “creditor”—

(A) means a creditor, as defined in section 702 of the Equal Credit Opportunity Act (15 U.S.C. 1691a), that regularly and in the ordinary course of business—

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

(ii) furnishes information to consumer reporting agencies, as described in section 623, in connection with a credit transaction; or

(iii) advances funds to or on behalf of a person, based on an obligation of the person to repay the funds or repayable from specific property pledged by or on behalf of the person;

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

(C) includes any other type of creditor, as defined in that section 702, as the agency described in paragraph (1) having authority over that creditor may determine appropriate by rule promulgated by that agency, based on a determination that such creditor offers or maintains accounts that are subject to a reasonably foreseeable risk of identity theft.

(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.

(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.

(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;

(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)); and

(E) include a statement informing the consumer of—

(i) a numerical credit score [as defined in section 609(f)(2)(A)], used by such person in making the credit decision described in paragraph (1) based in whole or in part on any information in a consumer report; and

(ii) the information [set forth in subparagraphs (B) through (E) of section 609(f)(1)] *with respect to a credit score described in section 609(f)(2), if available.*

(6) RULEMAKING.—

(A) RULES REQUIRED.—The Bureau shall prescribe rules to carry out this subsection.

(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] *subsection* 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.

* * * * *

MINORITY VIEWS

Committee Republicans believe H.R. 3618, the *Free Credit Scores for Consumers Act*, would implement a labor-intensive reporting and disclosure process that would have the reverse effect of preventing consumers from accessing valuable information. In short, this legislation seeks to impose federal mandates on the private sector without any evidence or analysis of demonstrated need or potential intended and unintended consequences of such mandates. The debate surrounding H.R. 3618 also fails to consider existing options available to consumers.

Committee Republicans share the goal of providing consumers with the tools needed for financial success. However, and despite the name and messaging surrounding the bill, H.R. 3618 goes far beyond providing a free credit score to consumers. H.R. 3618 creates a costly and complex process by which furnishers, including financial institutions, will be required to provide consumers with overwhelming amounts of information on a regular basis, including any previous credit score in the consumer's file. However, there is nothing to suggest this information has been requested by consumers or at a minimum would be helpful to consumers. Furthermore, Committee Republicans remain concerned that too much information could prove to be unhelpful to consumers. Finally, H.R. 3618 could be interpreted to require that a furnisher erase previous consumer credit scores within a two-year period. Deleting such historical data could be detrimental to many consumers and negatively impact underwriting and access to credit.

While credit reporting agencies are statutorily required to provide an annual free credit report to consumers, the credit report does not necessarily include a FICO score. The FICO score is the most prevalent credit score used in loan underwriting. Notwithstanding its inclusion in a credit report, it is widely available to many consumers through a wide variety of financial firms including banks, credit unions, and credit card issuers.

Committee Republicans remain committed to ensuring consumers have access to credit scores and strengthening consumers' financial education. Congressman Emmer offered an amendment that would have required disclosure of credit and educational credit scores but removed the cumbersome requirements. However, Congressman Emmer's amendment was rejected by a party line vote of 26–32. Without this amendment, Committee Republicans do not believe this legislation will provide consumers with access to important information and will only add another burden on the private sector, unfortunately increasing the cost of credit for those who can least afford it.

DAVID KUSTOFF.
BARRY LOUDERMILK.
LANCE GOODEN.

WILLIAM R. TIMMONS, IV.
TOM EMMER.
SCOTT R. TIPTON.
TED BUDD.
PETER T. KING.
ROGER WILLIAMS.
TREY HOLLINGSWORTH.
J. FRENCH HILL.
JOHN W. ROSE.
WARREN DAVIDSON.
ANTHONY GONZALEZ.
DENVER RIGGLEMAN.
ANDY BARR.
BLAINE LUETKEMEYER.
BILL HUIZENGA.
STEVE STIVERS.
ALEXANDER X. MOONEY.
BILL POSEY.
FRANK D. LUCAS.
ANN WAGNER.
LEE M. ZELDIN.
PATRICK T. MCHENRY.
BRYAN STEIL.

