

RESTORING UNFAIRLY IMPAIRED CREDIT AND  
PROTECTING CONSUMERS ACT

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DECEMBER 23, 2019.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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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. 3622]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 3622) to amend the Fair Credit Reporting act to restore the impaired credit of victims of predatory activities and unfair consumer reporting practices, to expand access to tools to protect vulnerable consumers from identity theft, fraud, or a related crime, and protect victims from further harm, 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; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Restoring Unfairly Impaired Credit and Protecting Consumers Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Effective date.
- Sec. 4. General Bureau rulemaking.

**TITLE I—RESTORING THE IMPAIRED CREDIT OF VICTIMS OF PREDATORY ACTIVITIES AND UNFAIR CONSUMER REPORTING PRACTICES**

- Sec. 101. Shortens the time period that most adverse credit information stays on consumer reports.
- Sec. 102. Mandates the expedited removal of fully paid or settled debt from consumer reports.
- Sec. 103. Imposes restrictions on the appearance of medical collections on consumer reports and requires the expedited removal of fully paid or settled medical collections from consumer reports.
- Sec. 104. Provides credit restoration for victims of predatory mortgage lending and servicing.
- Sec. 105. Provides credit relief for private education loans borrowers who were defrauded or misled by proprietary education institution or career education programs.
- Sec. 106. Establishes right for victims of financial abuse to have adverse information associated with an abuser’s fraudulent activity removed from their consumer reports.
- Sec. 107. Prohibits treatment of credit restoration or rehabilitation as adverse information.

**TITLE II—EXPANDING ACCESS TO TOOLS TO PROTECT VULNERABLE CONSUMERS FROM IDENTITY THEFT, FRAUD, OR A RELATED CRIME, AND PROTECT VICTIMS FROM FURTHER HARM**

- Sec. 201. Identity theft report definition.
- Sec. 202. Amendment to protection for files and credit records of protected consumers.
- Sec. 203. Enhances fraud alert protections.
- Sec. 204. Amendment to security freezes for consumer reports.
- Sec. 205. Clarification of information to be included with agency disclosures.
- Sec. 206. Provides access to fraud records for victims.
- Sec. 207. Required Bureau to set procedures for reporting identity theft, fraud, and other related crime.
- Sec. 208. Establishes the right to free credit monitoring and identity theft protection services for certain consumers.
- Sec. 209. Ensures removal of inquiries resulting from identity theft, fraud, or other related crime from consumer reports.

**TITLE III—MISCELLANEOUS**

- Sec. 301. Definitions.
- Sec. 302. Technical correction related to risk-based pricing notices.
- Sec. 303. FCRA findings and purpose; voids certain contracts not in the public interest.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) **GENERAL FINDINGS.**—

(A) Consumer reporting agencies (“CRAs”) are companies that collect, compile, and provide information about consumers in the form of consumer reports for certain permissible statutory purposes under the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) (“FCRA”). The three largest CRAs in this country are Equifax, TransUnion, and Experian. These CRAs are referred to as nationwide CRAs and the reports that they prepare are commonly referred to as credit reports. Furnishers, such as creditors, lenders, and debt collection agencies, voluntarily submit information to CRAs about their accounts such as the total amount for each loan or credit limit for each credit card and the consumer’s payment history on these products. Reports also include identifying information about a consumer, such as their birthdate, previous mailing addresses, and current and previous employers.

(B) In a December 2012 paper, “Key Dimensions and Processes in the U.S. Credit Reporting System: A review for how the nation’s largest credit bureaus manage consumer data”, the Bureau of Consumer Financial Protection (“Consumer Bureau”) noted that the three nationwide CRAs maintain credit files on approximately 200 million adults and receive information from about 10,000 furnishers. On a monthly basis, these furnishers provide information on over 1.3 billion consumer credit accounts or other trade lines.

(C) The 10 largest institutions furnishing credit information to each of the nationwide CRAs account for more than half of all accounts reflected in consumers’ credit files.

(D) Consumer reports play an increasingly important role in the lives of American consumers. Most creditors, for example, review these reports to

make decisions about whether to extend credit to consumers and what terms and conditions to offer them. As such, information contained in these reports affects whether a person is able to get a private education loan to pay for college costs, to secure a mortgage loan to buy a home, or to obtain a credit card, as well as the terms and conditions under which consumer credit products or services are offered to them.

(E) Credit reports are also increasingly used for many noncredit decisions, including by landlords to determine whether to rent an apartment to a prospective tenant and by employers to decide whether to hire potential job applicants or to offer a promotion to existing employees.

(F) CRAs have a statutory obligation to verify independently the accuracy and completeness of information included on the reports that they provide.

(G) The nationwide CRAs have failed to establish and follow reasonable procedures, as required by existing law, to establish the maximum level of accuracy of information contained on consumer reports. Given the repeated failures of these CRAs to comply with accuracy requirements on their own, legislation is intended to provide them with detailed guidance improving the accuracy and completeness of information contained in consumer reports, including procedures, policies, and practices that these CRAs should already be following to ensure full compliance with their existing obligations.

(H) The presence of inaccurate or incomplete information on these reports can result in substantial financial and emotional harm to consumers. Credit reporting errors can lead to the loss of a new employment opportunity or a denial of a promotion in an existing job, stop someone from being able to access credit on favorable terms, prevent a person from obtaining rental housing, or even trigger mental distress.

(I) Current industry practices impose an unfair burden of proof on consumers trying to fix errors on their reports.

(J) Consumer reports containing inaccurate or incomplete credit information also undermine the ability of creditors and lenders to effectively and accurately underwrite and price credit.

(K) Recognizing that credit reporting affects the lives of almost all consumers in this country and that the consequences of errors on a consumer report can be catastrophic for a consumer, the Consumer Bureau began accepting consumer complaints about credit reporting in October 2012.

(L) As of February 2017, the Consumer Bureau has handled approximately 185,717 credit reporting complaints, making credit reporting consistently the third most-complained-about subject matter on which the Consumer Bureau accepts consumer complaints.

(M) In the “Monthly Complaint Report Volume 20”, released in February 2017, the Consumer Bureau noted that 76 percent of credit reporting complaints involved incorrect information on reports, with consumers frequently expressing their frustrations about the burdensome and time-consuming process to disputing items.

(N) Other common types of credit reporting complaints submitted to the Consumer Bureau related to the improper use of a report, trouble obtaining a report or credit score, CRAs’ investigations, and credit monitoring or identity protection.

(O) In the summer 2015 “Supervisory Highlights”, the Consumer Bureau noted that one or more of the largest CRAs failed to adequately oversee furnishers to ensure that they were adhering to the CRA’s vetting policies and to establish proper procedures to verify public record information.

(P) According to the fall 2016 “Supervisory Highlights”, Consumer Bureau examiners determined that one or more debt collectors never investigated indirect disputes that lacked detail or were not accompanied by attachments with relevant information from the consumer. Examiners also found that notifications sent to consumers about disputes considered frivolous failed to identify for the consumers the type of material that they could provide in order for the debt collector to complete the investigation of the disputed item.

(Q) A February 2014 Consumer Bureau report titled “Credit Reporting Complaint Snapshot” found that consumers are confused about the extent to which the nationwide CRAs are required to provide them with validation and documentation of a debt that appears on their credit report.

(R) As evidence that the current system lacks sufficient market incentives for CRAs to develop more robust procedures to increase the accuracy and completeness of information on credit reports, litigation discovery documented by the National Consumer Law Center (“NCLC”), as part of a Janu-

ary 2009 report titled, “Automated Injustice: How a Mechanized Dispute System Frustrates Consumers Seeking to Fix Errors in Their Credit Reports”, showed that at least two of the three largest CRAs use quota systems to force employees to process disputes hastily and without the opportunity for conducting meaningful investigations. At least one nationwide CRA only allowed dispute resolution staff five minutes to handle a consumer’s call. Furthermore, these CRAs were found to have awarded bonuses for meeting quotas and punished those who didn’t meet production numbers with probation.

(S) Unlike most other business relationships, where consumers can register their satisfaction or unhappiness with a particular credit product or service simply by taking their business elsewhere, consumers have no say in whether their information is included in the CRAs databases and limited legal remedies to hold the CRAs accountable for inaccuracies or poor service.

(T) Accordingly, despite the existing statutory mandate for CRAs to follow reasonable procedures to assure the maximum possible accuracy of the information whenever they prepare consumer reports, numerous studies, the high volume of consumer complaints submitted to the Consumer Bureau about incorrect information on consumer reports, and supervisory activities by the Consumer Bureau demonstrate that CRAs continue to skirt their obligations under the law.

(2) PRIVATE EDUCATION LOANS.—

(A) The Consumer Bureau’s October 2014 report titled “Annual Report of the CFPB Student Loan Ombudsman” noted many private education loan borrowers, who sought to negotiate a modified repayment plan when they were experiencing a period of financial distress, were unable to get assistance from their loan holders, which often resulting in them defaulting on their loans. This pattern resembles the difficulty that a significant number of mortgage loan borrowers experienced when they sought to take responsible steps to work with their mortgage loan servicer to avoid foreclosure during the Great Recession.

(B) Although private student loan holders may allow a borrower to postpone payments while enrolled in school full-time, many limit this option to a certain time period, usually 48 to 66 months. This limited time period may not be sufficient for those who need additional time to obtain their degree or who want to continue their education by pursuing a graduate or professional degree. The Consumer Bureau found that borrowers who were unable to make payments often defaulted or had their accounts sent to collections before they were even able to graduate.

(3) DECEPTIVE PRACTICES AT CERTAIN PROPRIETARY EDUCATION INSTITUTIONS AND CAREER EDUCATION PROGRAMS.—

(A) NCLC cited the proliferation of law enforcement actions against many for-profit schools in its June 2014 report, titled “Ensuring Educational Integrity: 10 Steps to Improve State Oversight of For-profit Schools”, to demonstrate the pervasive problem in this sector of targeting low-income students with deceptive high-pressure sales techniques involving inflated job placement rates and misleading data on graduate wages, and false representations about the transferability of credits and the employability of graduates in occupations that require licensure. Student loan borrowers at these schools may be left with nothing but worthless credentials and large debt. Those who default on their student loans face years with damaged credit that will adversely impact their ability to rent or buy homes, purchase cars, and find employment.

(B) The closure and bankruptcy of Corinthian Colleges, which was found to have deceived students by steering them into high-interest student loans based on misleading graduation rates and employment data, is a good example of the problem. Even after its closure, many Corinthian students remained saddled with student loan debt, worthless degrees, and few prospects for employment.

(C) Attending a two-year, for-profit college costs, on average, four times as much as attending a community college. Students at for-profit colleges represent only about 11 percent of the total higher education population but a startling 44 percent of all Federal student loan defaults, according to the United States Department of Education (“DOE”).

(D) According to NCLC, a disproportionate number of for-profit students are low-income and people of color. These schools target veterans, working parents, first-generation students, and non-English speaking students, who may be more likely than their public or private nonprofit school counter-

parts to drop out, incur enormous student debt, and default on this debt. In the 2011–2012 school year, 28 percent of African Americans and 15 percent of Latinos attending four-year institutions were enrolled in a for-profit school, compared to 10 percent of Whites.

(E) As highlighted in a press release titled “Obama Administration Announces Final Rules to Protect Students from Poor-Performing Career College Programs”, that was issued by the DOE on October 30, 2014, “[t]oo often, students at career colleges—including thousands of veterans—are charged excessive costs, but don’t get the education they paid for. Instead, students in such programs are provided with poor quality training, often for low-wage jobs or in occupations where there are simply no job opportunities. They find themselves with large amounts of debt and, too often, end up in default. In many cases, students are drawn into these programs with confusing or misleading information.”.

(4) MEDICAL DEBT.—

(A) Research by the Consumer Bureau has found that the inclusion of medical collections on consumer reports has unfairly reduced consumers’ credit scores.

(B) The Consumer Bureau’s review of 5 million anonymized credit files from September 2011 to September 2013, for example, found that credit scores may underestimate a person’s creditworthiness by up to 10 points for those who owe medical debt, and may underestimate a person’s creditworthiness by up to 22 points after the medical debt has been paid. For consumers with lower credit scores, especially those on the brink of what is considered subprime, a 10 to 22 point decrease in their credit scores can have a significant impact on their lives, including by affecting whether they are able to qualify for credit and, if so, the terms and conditions under which it is extended to them.

(C) The Consumer Bureau found that half of all collections trade lines that appear on consumer reports are related to medical bills claimed to be owed to hospitals and other medical providers. These trade lines affect the reports of nearly 1/5 of all consumers in the credit reporting system.

(D) The Consumer Bureau has found that there are no objective or enforceable standards that determine when a debt can or should be reported as a collection trade line. Because debt buyers and collectors determine whether, when, and for how long to report a collection account, there is only a limited relationship between the time period reported, the severity of a delinquency, and when or whether a collection trade line appears on a consumer’s credit report.

(E) Medical bills can be complex and confusing for many consumers, which results in consumers’ uncertainty about what they owe, to whom, when, or for what, that may cause some people, who ordinarily pay their bills on time, to delay or withhold payments on their medical debts. This uncertainty can also result in medical collections appearing on consumer reports. In a December 2014 report titled “Consumer Credit Reports: A Study of Medical and Non-Medical Collections”, the Consumer Bureau found that a large portion of consumers with medical collections show no other evidence of financial distress and are consumers who ordinarily pay their other financial obligations on time. Unlike with most credit products or services, such as credit cards, installment loans, utilities, or wireless or cable services that have contractual account disclosures describing the terms and conditions of use, most consumers are not told what their out-of-pocket medical costs will be in advance. Consumers needing urgent or emergency care rarely know, or are provided, the cost of a medical treatment or procedure before the service is rendered.

(F) The Consumer Bureau concluded that the presence of medical collections is less predictive of future defaults or serious delinquencies than the presence of a nonmedical collection in a study titled “Data Point: Medical Debt and Credit Scores”, issued in May 2014.

(G) FICO’s latest credit scoring model, “FICO 9”, changes the treatment of paid collections to disregard any collection matters that the consumer has paid in full. FICO 9, however, is not yet widely used by lenders.

(H) VantageScore’s latest credit scoring model, “VantageScore 4.0”, will be available in the fall of 2017. This model will penalize medical collections less than non-medical ones.

(I) The three nationwide CRAs entered into a settlement agreement with the New York State attorney general in 2015 to address deficiencies in their dispute resolution process and enhance the accuracy of items on reports. These policy changes will be implemented in a three-phased rollout, culmi-

nating by June 2018. Subsequently, these CRAs entered into a cooperative agreement with 31 State Attorneys General, which was the basis of the creation of the National Consumer Assistance Plan (“NCAP”) to change some of their business practices.

(J) While the CRAs appear to be voluntarily adopting policy changes on a nationwide basis, they are not obligated to do so for consumers who reside in States that are not party to any of the consent orders.

(K) As a result of the settlement agreements, the three nationwide CRAs will set a 180-day waiting period before including medical collections on a report and will remove a medical collection from a report once it is paid by an insurance company. While this change will benefit many, once a medical collection appears on a report, it will only be deleted or suppressed if it is found to have been the insurance company’s obligation to pay and the insurer pays it. Given the research showing there is little predictive value in medical debt information, medical collections that are paid or settled should quickly be removed from a report, regardless of who pays or settles this debt.

(5) FINANCIAL ABUSE BY KNOWN PERSONS.—

(A) Financial abuse and exploitation are frequently associated with domestic violence. This type of abuse may result in fraudulent charges to a credit card or having fraudulent accounts created by the abuser in the survivor’s name. Financial abuse may also result in the survivor’s inability to make timely payments on their valid obligations due to loss or changes in income that can occur when their abuser steals from or coerces the survivor to relinquish their paychecks or savings.

(B) By racking up substantial debts in the survivor’s name, abusers are able to exercise financial control over their survivors to make it economically difficult for the survivor, whose credit is often destroyed, to escape the situation.

(C) Domestic abuse survivors with poor credit are likely to face significant obstacles in establishing financial independence from their abusers. This can be due, in part, because consumer reports may be used when a person attempts to obtain a checking account, housing, insurance, utilities, employment, and even a security clearance as required for certain jobs.

(D) Providing documentation of identity (“ID”) theft in order to dispute information on one’s consumer report can be particularly challenging for those who know their financial abuser.

(E) While it is easier for consumers who obtain a police report to remove fraudulent information from their consumer report and prevent it from re-appearing in the future, according to the Empire Justice Center, safety and other noncredit concerns may impact the capacity of a survivor of financial abuse committed by a known person to turn to law enforcement to get a police report.

(F) According to the Legal Aid Society in New York, domestic abuse survivors, seeking to remove adverse information stemming from financial abuse by contacting their furnishers directly, are likely to face skepticism about claims of ID theft perpetrated by a partner because of an assumption that they are aware of, and may have been complicit in, the activity which the survivor alleges stems from financial abuse.

(6) DECEPTIVE AND MISLEADING MARKETING PRACTICES.—

(A) The Consumer Bureau’s February 2015 report titled “Consumer Voices on Credit Reports and Scores” found that some consumers did not obtain a copy of their consumer report due to concerns about security or of being trapped into purchasing unwanted products like an additional report or a credit monitoring service.

(B) In January 2017, the Consumer Bureau fined TransUnion and Equifax for deceptively marketing credit scores for purchase by consumers as the same credit scores typically used by lenders to determine credit-worthiness and for luring consumers into costly subscription services that were advertised as “free” or “\$1” that automatically charged recurring fees unless cancelled by consumers. The Consumer Bureau also found that Equifax was illegally advertising its products on webpages that consumers accessed through AnnualCreditReport.com before consumers obtained their free disclosures. Because of these troubling practices, TransUnion was ordered to pay \$13.9 million in restitution to harmed consumers and a civil penalty of \$3 million to the Consumer Bureau. Equifax was ordered to pay more than \$3.7 million to affected consumers as well as a civil money penalty of \$2.5 million to the Consumer Bureau. As part of the consent orders, the CRAs are also supposed to change the way that they sell their products

to consumers. The CRAs must also obtain consumers' express consent before enrolling them into subscription services as well as make it easier for consumers to cancel these programs.

(C) The Consumer Bureau fined the other nationwide CRA—Experian—in March 2017 for deceiving consumers about the use of credit scores that it marketed and sold to consumers as credit scores that were used by lenders and for illegally advertising its products on web pages that consumers accessed through AnnualCreditReport.com before they obtained their free annual disclosures. Experian was ordered to pay more than \$3.7 million in restitution to harmed consumers and a civil monetary penalty of \$2.5 million to the Consumer Bureau.

(D) The Consumer Bureau's January and March 2017 consent orders with the three nationwide CRAs show that these CRAs have enticed consumers into purchasing products and services that they may not want or need, in some instances by advertising products or services "free" that automatically converted into an ongoing subscription service at the regular price unless cancelled by the consumer. Although these CRAs must now change their deceptive marketing practices, codifying these duties is an appropriate way to ensure that these companies never revert back to such misleading tactics.

(E) Given the ubiquitous use of consumer reports in consumers' lives and the fact that consumers' participation in the credit reporting system is involuntary, CRAs should also prioritize providing consumers with the effective means to safeguard their personal and financial information and improve their credit standing, rather than seeking to exploit consumers' concerns and confusion about credit reporting and scoring, to boost their companies' profits.

(F) Vulnerable consumers, who have legitimate concerns about the security of their personal and financial information, deserve clear, accurate, and transparent information about the credit reporting tools that may be available to them, such as fraud alerts and freezes.

(7) PROTECTIONS FOR CONSUMERS' CREDIT INFORMATION.—

(A) Despite heightened awareness, incidents of ID theft continue to rise. In February 2015, the FTC reported that ID theft was the top consumer complaint that it received for the 15th consecutive year. As these incidents increase, consumers experience significant financial loss and emotional distress from the inability to safeguard effectively and inexpensively their credit information from bad actors.

(B) According to a Carnegie Mellon study, children are 50 times more likely than adults to have their identities stolen. Child identities are valuable to thieves because most children do not have existing files, and their parents may not notice fraudulent activity until their child applies for a student loan, a job, or a credit card. As a result, the fraudulent activity of the bad actors may go undetected for years.

(C) Despite the increasing incidents of children's ID theft, parents who want to proactively prevent their children from having their identity stolen, may not be able to do so. Only one of the three nationwide CRAs currently allows parents from any State to set up a freeze for a minor child. At the other two nationwide CRAs, parents can only obtain a freeze after a child has become an ID theft victim because, it is only at this point, that these CRAs have an existing credit file for the child. While many States have enacted laws to address this problem, there is no existing Federal law.

(D) According to Javelin Strategy & Research's 2015 Identity Fraud study, \$16 billion was stolen by fraudsters from 12.7 million American consumers in 2014. Similarly, the United States Department of Justice found an estimated 7 percent of all residents age 16 or older (about 17.6 million persons) in this country were victims of one or more incidents of ID theft in 2014, and the number of elderly victims age 65 or older (about 86 percent) increased from 2.1 million in 2012 to 2.6 million in 2014.

(E) Consumers frequently express concern about the security of their financial information. According to a 2015 MasterCard survey, a majority of consumers (77 percent) have anxiety about the possibility that their financial information and Social Security numbers may be stolen or compromised, with about 55 percent of consumers indicating that they would rather have naked pictures of themselves leaked online than have their financial information stolen.

(F) That survey also revealed that consumers' fears about the online security of their financial information even outweighed consumers' worries

about other physical security dangers such as having their houses robbed (59 percent) or being pickpocketed (46 percent).

(G) According to Consumer Reports, roughly 50 million American consumers spent about \$3.5 billion in 2010 to purchase products aimed at protecting their identity, with the annual cost of these services ranging from \$120 to \$300. As risks to consumers' personal and financial information continue to grow, consumers need additional protections to ensure that they have fair and reasonable access to the full suite of ID theft and fraud prevention measures that may be right for them.

**SEC. 3. EFFECTIVE DATE.**

Except as otherwise specified, the amendments made by this Act shall take effect 2 years after the date of the enactment of this Act.

**SEC. 4. GENERAL BUREAU RULEMAKING.**

Except as otherwise provided, 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.

**TITLE I—RESTORING THE IMPAIRED CREDIT OF VICTIMS OF PREDATORY ACTIVITIES AND UNFAIR CONSUMER REPORTING PRACTICES**

**SEC. 101. SHORTENS THE TIME PERIOD THAT MOST ADVERSE CREDIT INFORMATION STAYS ON CONSUMER REPORTS.**

(a) IN GENERAL.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended—

(1) in subsection (a)—

(A) by striking “Except as authorized under subsection (b), no” and inserting “No”;

(B) in paragraph (1), by striking “10 years” and inserting “7 years”;

(C) in paragraph (2), by striking “Civil suits, civil judgments, and records” and inserting “Records”;

(D) in paragraph (3), by striking “seven years” and inserting “4 years”;

(E) in paragraph (4), by striking “seven years” and inserting “4 years, except as provided in paragraph (8), (10), (11), (12), or (13), or as required by section 605C, 605D, 605E, or 605F”;

(F) in paragraph (5)—

(i) by striking “, other than records of convictions of crimes”; and

(ii) by striking “seven years” and inserting “4 years, except as required by section 605C, 605D, 605E, or 605F”; and

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

“(9) Civil suits and civil judgments (except as provided in paragraph (8)) that, from date of entry, antedate the report by more than 4 years or until the governing statute of limitations has expired, whichever is the longer period.

“(10) A civil suit or civil judgment—

“(A) brought by a private education loan holder that, from the date of successful completion of credit restoration or rehabilitation in accordance with the requirements of section 605D or 605E, antedates the report by 45 calendar days; or

“(B) brought by a lender with respect to a covered residential mortgage loan that antedates the report by 45 calendar days.

“(11) Records of convictions of crimes which antedate the report by more than 7 years.

“(12) Any other adverse item of information relating to the collection of debt that did not arise from a contract or an agreement to pay by a consumer, including fines, tickets, and other assessments, as determined by the Bureau, excluding tax liability.”;

(2) by striking subsection (b) and redesignating subsections (c) through (h) as subsections (b) through (g), respectively; and

(3) in subsection (b) (as so redesignated), by striking “7-year period referred to in paragraphs (4) and (6)” and inserting “4-year period referred to in paragraphs (4) and (5)”.

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

(1) in section 616(d), by striking “section 605(g)” each place that term appears and inserting “section 605(f)”; and



(2) in section 625(b)(5)(A), by striking “section 605(g)” and inserting “section 605(f)”.

**SEC. 102. MANDATES THE EXPEDITED REMOVAL OF FULLY PAID OR SETTLED DEBT FROM CONSUMER REPORTS.**

Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)), as amended by section 101(a)(1), is further amended by adding at the end the following new paragraph:

“(13) Any other adverse item of information related to a fully paid or settled debt that had been characterized as delinquent, charged off, or in collection which, from the date of payment or settlement, antedates the report by more than 45 calendar days.”.

**SEC. 103. IMPOSES RESTRICTIONS ON THE APPEARANCE OF MEDICAL COLLECTIONS ON CONSUMER REPORTS AND REQUIRES THE EXPEDITED REMOVAL OF FULLY PAID OR SETTLED MEDICAL COLLECTIONS FROM CONSUMER REPORTS.**

(a) **REMOVAL OF FULLY PAID OR SETTLED MEDICAL DEBT FROM CONSUMER REPORTS.**—Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)), as amended by section 102, is further amended by adding at the end the following new paragraph:

“(14) Any other adverse item of information related to a fully paid or settled debt arising from the receipt of medical services, products, or devices that had been characterized as delinquent, charged off, or in collection which, from the date of payment or settlement, antedates the report by more than 45 calendar days.”.

(b) **ESTABLISHING AN EXTENDED TIME PERIOD BEFORE CERTAIN MEDICAL DEBT INFORMATION MAY BE REPORTED.**—Section 605(a) of such Act is further amended by adding at the end the following new paragraph:

“(15) Any information related to a debt arising from the receipt of medical services, products, or devices, if the date on which such debt was placed for collection, charged to profit or loss, or subjected to any similar action antedates the report by less than 365 calendar days.”.

(c) **PROHIBITION ON REPORTING MEDICALLY NECESSARY PROCEDURES.**—Section 605(a) of such Act is further amended by adding at the end the following new paragraph:

“(16) Any information related to a debt arising from a medically necessary procedure.”.

(d) **TECHNICAL AMENDMENT.**—Section 604(g)(1)(C) of the Fair Credit Reporting Act (15 U.S.C. 1681b(g)(1)(C)) is further amended by striking “devises” and inserting “devices”.

**SEC. 104. PROVIDES CREDIT RESTORATION FOR VICTIMS OF PREDATORY MORTGAGE LENDING AND SERVICING.**

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

**“§ 605C. Credit restoration for victims of predatory mortgage lending**

“(a) **IN GENERAL.**—A consumer reporting agency may not furnish any consumer report containing any adverse item of information relating to a covered residential mortgage loan (including the origination and servicing of such a loan, any loss mitigation activities related to such a loan, and any foreclosure, deed in lieu of foreclosure, or short sale related to such a loan), if the action or inaction to which the item of information relates—

“(1) resulted from an unfair, deceptive, or abusive act or practice, or a fraudulent, discriminatory, or illegal activity of a financial institution, as determined by the Bureau or a court of competent jurisdiction; or

“(2) is related to an unfair, deceptive, or abusive act, practice, or a fraudulent, discriminatory, or illegal activity of a financial institution that is the subject of a settlement agreement initiated on behalf of a consumer or consumers and that is between the financial institution and an agency or department of a local, State, or Federal Government, regardless of whether such settlement includes an admission of wrongdoing.

“(b) **COVERED RESIDENTIAL MORTGAGE LOAN DEFINED.**—In this section, the term ‘covered residential mortgage loan’ means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling (as defined in section 103(w) of the Truth in Lending Act), including a loan in which the proceeds will be used for—

“(1) a manufactured home (as defined in section 603 of the Housing and Community Development Act of 1974 (42 U.S.C. 5402));

“(2) any installment sales contract, land contract, or contract for deed on a residential property; or

“(3) a reverse mortgage transaction (as defined in section 103 of the Truth in Lending Act).”.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Fair Credit Reporting Act is amended by inserting after the item relating to section 605B the following new item:

“605C. Credit restoration for victims of predatory mortgage lending.”.

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

**SEC. 105. PROVIDES CREDIT RELIEF FOR PRIVATE EDUCATION LOANS BORROWERS WHO WERE DEFRAUDED OR MISLEAD BY PROPRIETARY EDUCATION INSTITUTION OR CAREER EDUCATION PROGRAMS.**

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by section 104, is further amended by inserting after section 605C the following new section:

**“§ 605D. Private education loan credit restoration for defrauded student borrowers who attend certain proprietary educational institution or career education programs**

“(a) PROCESS FOR CERTIFICATION AS A QUALIFYING PRIVATE EDUCATION LOAN BORROWER.—

“(1) IN GENERAL.—A consumer may submit a request to the Bureau, along with a defraudment claim, to be certified as a qualifying private education loan borrower with respect to a private education loan.

“(2) CERTIFICATION.—The Bureau shall certify a consumer described in paragraph (1) as a qualifying private education loan borrower with respect to a private education loan if the Bureau or a court of competent jurisdiction determines that the consumer has a valid defraudment claim with respect to such loan.

“(b) REMOVAL OF ADVERSE INFORMATION.—Upon receipt of a notice described in subsection (d)(5), a consumer reporting agency shall remove any adverse information relating to any private education loan with respect to which a consumer is a qualifying private education loan borrower from any consumer report within 45 calendar days of receipt of such notification.

“(c) DISCLOSURE.—The Bureau shall disclose the results of a certification determination in writing to the consumer that provides a clear and concise explanation of the basis for the determination of whether such consumer is a qualifying private education loan borrower with respect to a private education loan and, as applicable, an explanation of the consumer’s right to have adverse information relating to such loan removed from their consumer report by a consumer reporting agency.

“(d) PROCEDURES.—The Bureau shall—

“(1) establish procedures for a consumer to submit a request described in subsection (a);

“(2) establish procedures to efficiently review, accept, and process such a request;

“(3) develop ongoing outreach initiatives and education programs to inform consumers of the circumstances under which such consumer may be eligible to be certified as a qualifying private education loan borrower with respect to a private education loan;

“(4) establish procedures, including the manner, form, and content of the notice informing a private educational loan holder of the prohibition on reporting any adverse information relating to a private education loan with respect to which a consumer is a qualifying private education loan borrower; and

“(5) establish procedures, including the manner, form, and content of the notice informing a consumer reporting agency of the obligation to remove any adverse information as described in subsection (c).

“(e) STANDARDIZED REPORTING CODES.—A consumer reporting agency shall develop standardized reporting codes for use by private education loan holders to identify and report a qualifying private education loan borrower’s status of a request to remove any adverse information relating to any private education loan with respect to which such consumer is a qualifying private education loan borrower. A consumer report in which a person furnishes such codes shall be deemed to comply with the requirements for accuracy and completeness required under sections 623(a)(1) and 630. Such codes shall not appear on any report provided to a third party, and shall be removed from the consumer’s credit report upon the successful restoration of the consumer’s credit under this section.

“(f) DEFRAUDMENT CLAIM DEFINED.—For purposes of this section, the term ‘defraudment claim’ means a claim made with respect to a consumer who is a bor-

rower of a private education loan with respect to a proprietary educational institution or career education program in which the consumer alleges that—

“(1) the proprietary educational institution or career education program—

“(A) engaged in an unfair, deceptive, or abusive act or practice, or a fraudulent, discriminatory, or illegal activity—

“(i) as defined by State law of the State in which the proprietary educational institution or career education program is headquartered or maintains or maintained significant operations; or

“(ii) under Federal law;

“(B) is the subject of an enforcement order, a settlement agreement, a memorandum of understanding, a suspension of tuition assistance, or any other action relating to an unfair, deceptive, or abusive act or practice that is between the proprietary educational institution or career education program and an agency or department of a local, State, or Federal Government; or

“(C) misrepresented facts to students or accrediting agencies or associations about graduation or gainful employment rates in recognized occupations or failed to provide the coursework necessary for students to successfully obtain a professional certification or degree from the proprietary educational institution or career education program; or

“(2) the consumer has submitted a valid defense to repayment claim with respect to such loan, as determined by the Secretary of Education.”.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Fair Credit Reporting Act is amended by inserting after the item relating to section 605C (as added by section 104) the following new item:

“605D. Private education loan credit restoration for defrauded student borrowers who attend certain proprietary educational institution or career education programs.”.

**SEC. 106. ESTABLISHES RIGHT FOR VICTIMS OF FINANCIAL ABUSE TO HAVE ADVERSE INFORMATION ASSOCIATED WITH AN ABUSER'S FRAUDULENT ACTIVITY REMOVED FROM THEIR CONSUMER REPORTS.**

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by section 105, is further amended by inserting after section 605D the following new section:

**“§ 605E. Financial abuse prevention**

“For a consumer who is the victim of intentionally abusive or harmful financial behavior, as determined by a court of competent jurisdiction including a family court, juvenile court, or other court with personal jurisdiction, that was conducted by a spouse, family or household member, caregiver, or person with whom such consumer had a dating relationship in a manner which resulted in the inclusion of an adverse item of information on the consumer report of the consumer, and the consumer did not participate in or consent to such behavior, the consumer may apply to a court of competent jurisdiction, including a family court, juvenile court, or other court with personal jurisdiction, for an order to require the removal of such adverse information from the consumer's file maintained by any consumer reporting agency.”.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Fair Credit Reporting Act is amended by inserting after the item relating to section 605D the following new item:

“605E. Financial abuse prevention.”.

**SEC. 107. PROHIBITS TREATMENT OF CREDIT RESTORATION OR REHABILITATION AS ADVERSE INFORMATION.**

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

(1) by adding at the end the following new section:

**“§ 630. Prohibition of certain factors related to Federal credit restoration or rehabilitation**

“(a) RESTRICTION ON CREDIT SCORING MODELS.—A credit scoring model may not—

“(1) take into consideration, in a manner adverse to a consumer's credit score or educational credit score, any information in a consumer report concerning the consumer's participation in credit restoration or rehabilitation under section 605C, 605D, or 605E; or

“(2) treat negatively, in a manner adverse to a consumer's credit score or educational credit score, the absence of payment history data for an existing account, whether the account is open or closed, where the absence of such information is the result of a consumer's participation in credit restoration or rehabilitation under section 605C, 605D, or 605E.

“(b) RESTRICTION ON PERSONS OBTAINING CONSUMER REPORTS.—A person who obtains a consumer report may not—

“(1) take into consideration, in a manner adverse to a consumer, any information in a consumer report concerning the consumer’s participation in credit restoration or rehabilitation under section 605C, 605D, or 605E; or

“(2) treat negatively the absence of payment history data for an existing account, whether the account is open or closed, where the absence of such information is the result of a consumer’s participation in credit restoration or rehabilitation under section 605C, 605D, or 605E.

“(c) ACCURACY AND COMPLETENESS.—If a person who furnishes information to a consumer reporting agency requests the removal of information from a consumer report or a consumer reporting agency removes information from a consumer report in compliance with the requirements under section 605C, 605D, or 605E, or such information was removed pursuant to section 605(a)(11), such report shall be deemed to satisfy the requirements for accuracy and completeness with respect to such information.

“(d) PROHIBITION RELATED TO ADVERSE ACTIONS AND RISK-BASED PRICING DECISIONS.—No person shall use information related to a consumer’s participation in credit restoration or rehabilitation under section 605C, 605D, or 605E in connection with any determination of—

“(1) the consumer’s eligibility or continued eligibility for an extension of credit;

“(2) the terms and conditions offered to a consumer regarding an extension of credit; or

“(3) an adverse action made for employment purposes.”; and

(2) in the table of contents for such Act, by adding at the end the following new item:

“630. Prohibition of certain factors related to Federal credit restoration or rehabilitation.”.

## **TITLE II—EXPANDING ACCESS TO TOOLS TO PROTECT VULNERABLE CONSUMERS FROM IDENTITY THEFT, FRAUD, OR A RELATED CRIME, AND PROTECT VICTIMS FROM FURTHER HARM**

### **SEC. 201. IDENTITY THEFT REPORT DEFINITION.**

Paragraph (4) of section 603(q) of the Fair Credit Reporting Act (15 U.S.C. 1681a(q)(4)) is amended to read as follows:

“(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 is a standardized affidavit that alleges that a consumer has been a victim of identity theft, fraud, or a related crime, or has been harmed by the unauthorized disclosure of the consumer’s financial or personally identifiable information, that was developed and made available by the Bureau; or

“(B)(i) that alleges an identity theft, fraud, or a related crime, or alleges harm from the unauthorized disclosure of the consumer’s financial or personally identifiable information;

“(ii) 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

“(iii) 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.”.

### **SEC. 202. AMENDMENT TO PROTECTION FOR FILES AND CREDIT RECORDS OF PROTECTED CONSUMERS.**

(a) AMENDMENT TO DEFINITION OF “FILE”.—Section 603(g) of the Fair Credit Reporting Act (15 U.S.C. 1681a(g)) is amended by inserting “, except that such term excludes a record created pursuant to section 605A(j)” after “stored”.

(b) AMENDMENT TO PROTECTION FOR FILES AND CREDIT RECORDS.—Section 605A(j) of the Fair Credit Reporting Act (15 U.S.C. 1681c-1(j)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)(ii), by striking “an incapacitated person or a protected person” and inserting “a person”; and

(B) by amending subparagraph (E) to read as follows:

“(E) The term ‘security freeze’—

“(i) has the meaning given in subsection (i)(1)(C); and

“(ii) with respect to a protected consumer for whom the consumer reporting agency does not have a file, means a record that is subject to a security freeze that a consumer reporting agency is prohibited from disclosing to any person requesting the consumer report for the purpose of opening a new account involving the extension of credit.”; and

(2) in paragraph (4)(D), by striking “a protected consumer or a protected consumer’s representative under subparagraph (A)(i)” and inserting “a protected consumer described under subparagraph (A)(ii) or a protected consumer’s representative”.

**SEC. 203. ENHANCES FRAUD ALERT PROTECTIONS.**

Section 605A of the Fair Credit Reporting Act (15 U.S.C. 1681c–1) is amended—

(1) in subsection (a)—

(A) in the subsection heading, by striking “ONE-CALL” and inserting “ONE-YEAR”;

(B) in paragraph (1)—

(i) in the paragraph heading, by striking “INITIAL ALERTS” and inserting “IN GENERAL”;

(ii) by inserting “or harmed by the unauthorized disclosure of the consumer’s financial or personally identifiable information,” after “identity theft.”;

(iii) in subparagraph (A), by striking “and” at the end;

(iv) in subparagraph (B)—

(I) by inserting “1-year” before “fraud alert”; and

(II) by striking the period at the end and inserting “; and”; and

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

“(C) upon the expiration of the 1-year period described in subparagraph (A) or a subsequent 1-year period, and in response to a direct request by the consumer or such representative, continue the fraud alert for a period of 1 additional year if the information asserted in this paragraph remains applicable.”; and

(C) in paragraph (2)—

(i) in the paragraph heading, by inserting “AND CREDIT OR EDUCATIONAL CREDIT SCORES” after “REPORTS”;

(ii) by inserting “1-year” before “fraud alert”;

(iii) in subparagraph (A), by inserting “and credit score or educational credit score” after “file”; and

(iv) in subparagraph (B), by striking “any request described in subparagraph (A)” and inserting “the consumer reporting agency includes the 1-year fraud alert in the file of a consumer”;

(2) in subsection (b)—

(A) in the subsection heading, by striking “EXTENDED” and inserting “SEVEN-YEAR”;

(B) in paragraph (1)—

(i) in subparagraph (B)—

(I) by striking “5-year period beginning on the date of such request” and inserting “such 7-year period”; and

(II) by striking “and” at the end;

(ii) in subparagraph (C)—

(I) by striking “extended” and inserting “7-year”; and

(II) by striking the period at the end and inserting “; and”; and

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

“(D) upon the expiration of such 7-year period or a subsequent 7-year period, and in response to a direct request by the consumer or such representative, continue the fraud alert for a period of 7 additional years if the consumer or such representative submits an updated identity theft report.”; and

(C) in paragraph (2)—

(i) in the paragraph heading, by inserting “AND CREDIT OR EDUCATIONAL CREDIT SCORES” after “REPORTS”; and

(ii) by amending subparagraph (A) to read as follows:

“(A) disclose to the consumer that the consumer may request a free copy of the file and credit score or educational credit score of the consumer pursuant to section 612(d) during each 12-month period beginning on the date

on which the 7-year fraud alert was included in the file and ending on the date of the last day that the 7-year fraud alert applies to the consumer's file; and”;

(3) in subsection (c)—

(A) in paragraph (1), by inserting “or educational credit score” after “credit score”;

(B) by redesignating paragraphs (1), (2), and (3), as subparagraphs (A), (B), and (C), respectively (and conforming the margins accordingly);

(C) by striking “Upon the direct request” and inserting:

“(1) IN GENERAL.—Upon the direct request”; and

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

“(2) ACCESS TO FREE REPORTS AND CREDIT OR EDUCATIONAL CREDIT SCORES.—If a consumer reporting agency includes an active duty alert in the file of an active duty military consumer, the consumer reporting agency shall—

“(A) disclose to the active duty military consumer that the active duty military consumer may request a free copy of the file and credit score or educational credit score of the active duty military consumer pursuant to section 612(d), during each 12-month period beginning on the date that the activity duty military alert is requested and ending on the date of the last day the active duty alert applies to the file of the active duty military consumer; and

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

(4) by amending subsection (d) to read as follows:

“(d) PROCEDURES.—Each consumer reporting agency described in section 603(p) shall include on the webpage required under subsection (i) policies and procedures to comply with this section, including policies and procedures—

“(1) that inform consumers of the availability of 1-year fraud alerts, 7-year fraud alerts, active duty alerts, and security freezes (as applicable);

“(2) that allow consumers to request 1-year fraud alerts, 7-year fraud alerts, and active duty alerts (as applicable) and to place, temporarily lift, or fully remove a security freeze in a simple and easy manner; and

“(3) for asserting 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, for a consumer seeking a 1-year fraud alert or security freeze.”;

(5) in subsection (e), by inserting “1-year or 7-year” before “fraud alert”;

(6) in subsection (f), by striking “or active duty alert” and inserting “active duty alert, or security freeze (as applicable)”;

(7) in subsection (g)—

(A) by inserting “or has been harmed by the unauthorized disclosure of the consumer's financial or personally identifiable information, or to inform such agency of the consumer's participation in credit restoration or rehabilitation under section 605C, 605D, or 605E,” after “identity theft.”; and

(B) by inserting “or security freezes” after “request alerts”;

(8) in subsection (h)—

(A) in paragraph (1)—

(i) in the paragraph heading, by striking “INITIAL” and inserting “1-YEAR”; and

(ii) by striking “initial” and inserting “1-year” each place such term appears; and

(B) in paragraph (2)—

(i) in the paragraph heading, by striking “EXTENDED” and inserting “7-YEAR”; and

(ii) by striking “extended” and inserting “7-year” each place such term appears; and

(9) in subsection (i)(4)—

(A) by striking subparagraphs (E) and (I); and

(B) by redesignating subparagraphs (F), (G), (H), and (J) as subparagraphs (E), (F), (G), and (H), respectively.

**SEC. 204. AMENDMENT TO SECURITY FREEZES FOR CONSUMER REPORTS.**

(a) IN GENERAL.—Section 605A(i) of the Fair Credit Reporting Act (15 U.S.C. 1681c-1(i)) is amended—

(1) by amending the subsection heading to read as follows: “SECURITY FREEZES FOR CONSUMER REPORTS”;

(2) in paragraph (3)(E), by striking “Upon receiving” and all that follows through “subparagraph (C),” and inserting “Upon receiving a direct request from a consumer for a temporary removal of a security freeze, a consumer reporting agency shall”; and

(3) by adding at the end the following:

“(7) RELATION TO STATE LAW.—This subsection does not modify or supersede the laws of any State relating to security freezes or other similar actions, except to the extent those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. For purposes of this subsection, a term or provision of a State law is not inconsistent with the provisions of this subsection if the term or provision affords greater protection to the consumer than the protection provided under this subsection as determined by the Bureau.”

(b) AMENDMENT TO WEBSITE REQUIREMENTS.—Section 605A(i)(6)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681c–1(i)(6)(A)) is amended—

(1) in clause (ii), by striking “initial fraud alert” and inserting “1-year fraud alert”;

(2) in clause (iii), by striking “extended fraud alert” and inserting “7-year fraud alert”; and

(3) in clause (iv), by striking “fraud”.

(c) AMENDMENT TO EXCEPTIONS FOR CERTAIN PERSONS.—Section 605A(i)(4)(A) of the Consumer Credit Protection Act (15 U.S.C. 1681c–1(i)(4)(A)) is amended to read as follows:

“(A) A person, or the person’s subsidiary, affiliate, agent, subcontractor, or assignee with whom the consumer has, or prior to assignment had, an authorized account, contract, or debtor-creditor relationship for the purposes of reviewing the active account or collecting the financial obligation owed on the account, contract, or debt.”

(e) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

**SEC. 205. CLARIFICATION OF INFORMATION TO BE INCLUDED WITH AGENCY DISCLOSURES.**

Section 609(c)(2) of such Act (15 U.S.C. 1681g(c)(2)) is amended—

(1) in subparagraph (B)—

(A) by striking “consumer reporting agency described in section 603(p)” and inserting “consumer reporting agency described in subsection (p) or (x) of section 603”;

(B) by striking “the agency” and inserting “such an agency”; and

(C) by inserting “and an Internet website address” after “hours”; and

(2) in subparagraph (E), by striking “outdated under section 605 or” and inserting “outdated, required to be removed, or”.

**SEC. 206. PROVIDES ACCESS TO FRAUD RECORDS FOR VICTIMS.**

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

(1) in paragraph (1)—

(A) by striking “resulting from identity theft”;

(B) by striking “claim of identity theft” and inserting “claim of fraudulent activity”; and

(C) by striking “any transaction alleged to be a result of identity theft” and inserting “any fraudulent transaction”;

(2) in paragraph (2)(B)—

(A) by striking “identity theft, at the election of the business entity” and inserting “fraudulent activity”;

(B) by amending clause (i) to read as follows:

“(i) a copy of an identity theft report; or”; and

(C) by amending clause (ii) to read as follows:

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

(3) in paragraph (3)(C), by striking “identity theft” and inserting “fraudulent activity”;

(4) by striking paragraph (8) and redesignating paragraphs (9) through (13) as paragraphs (8) through (12), respectively; and

(5) in paragraph (10) (as so redesignated), by striking “or a similar crime” and inserting “, fraud, or a related crime”.

**SEC. 207. REQUIRED BUREAU TO SET PROCEDURES FOR REPORTING IDENTITY THEFT, FRAUD, AND OTHER RELATED CRIME.**

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

(1) in the paragraph heading, by striking “MODEL FORM” and inserting “STANDARDIZED AFFIDAVIT”;

(2) by striking “The Commission” and inserting “The Bureau”;

(3) by striking “model form” and inserting “standardized affidavit”;

(4) by inserting after “identity theft” the following: “, fraud, or a related crime, or otherwise are harmed by the unauthorized disclosure of the consumer’s financial or personally identifiable information,”; and

(5) by striking “fraud.” and inserting “identity theft, fraud, or other related crime. Such standardized affidavit and procedures shall not include a requirement that a consumer obtain a police report.”.

**SEC. 208. ESTABLISHES THE RIGHT TO FREE CREDIT MONITORING AND IDENTITY THEFT PROTECTION SERVICES FOR CERTAIN CONSUMERS.**

(a) ENFORCEMENT OF CREDIT MONITORING FOR SERVICEMEMBERS.—

(1) IN GENERAL.—Subsection (k) of section 605A (15 U.S.C. 1681c-1(a)) is amended by striking paragraph (4).

(2) EFFECTIVE DATE.—This subsection and the amendments made by this subsection shall take effect on the date of the enactment of this Act.

(b) FREE CREDIT MONITORING AND IDENTITY THEFT PROTECTION SERVICES FOR CERTAIN CONSUMERS.—Subsection (k) of section 605A (15 U.S.C. 1681c-1), is amended to read as follows:

“(k) CREDIT MONITORING AND IDENTITY THEFT PROTECTION SERVICES.—

“(1) IN GENERAL.—Upon the direct request of a consumer, a consumer reporting agency described in section 603(p) that maintains a file on the consumer and has received appropriate proof of the identity of the requester (as described in section 1022.123 of title 12, Code of Federal Regulations) shall provide the consumer with credit monitoring and identity theft protection services not later than 1 business day after receiving such request sent by postal mail, toll-free telephone, or secure electronic means as established by the agency.

“(2) FEES.—

“(A) CLASSES OF CONSUMERS.—The Bureau may establish classes of consumers eligible to receive credit monitoring and identity theft protection services free of charge.

“(B) NO FEE.—A consumer reporting agency described in section 603(p) may not charge a consumer a fee to receive credit monitoring and identity theft protection services if the consumer or a representative of the consumer—

“(i) 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;

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

“(iii) is a recipient of public welfare assistance;

“(iv) is an active duty military consumer or a member of the National Guard (as defined in section 101(c) of title 10, United States Code);

“(v) is 65 years of age or older; or

“(vi) is a member of a class established by the Bureau under subparagraph (A).

“(3) BUREAU RULEMAKING.—The Bureau shall issue regulations—

“(A) to define the scope of credit monitoring and identity theft protection services required under this subsection; and

“(B) to set a fair and reasonable fee that a consumer reporting agency may charge a consumer (other than a consumer described under paragraph (2)(B)) for such credit monitoring and identity theft protection services.

“(4) RELATION TO STATE LAW.—This subsection does not modify or supersede of the laws of any State relating to credit monitoring and identity theft protection services or other similar actions, except to the extent those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. For purposes of this subsection, a term or provision of a State law is not inconsistent with the provisions of this subsection if the term or provision affords greater protection to the consumer than the protection provided under this subsection as determined by the Bureau.”.

**SEC. 209. ENSURES REMOVAL OF INQUIRIES RESULTING FROM IDENTITY THEFT, FRAUD, OR OTHER RELATED CRIME FROM CONSUMER REPORTS.**

Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)), as amended by section 103, is further amended by adding at the end the following:



“(17) Information about inquiries made for a credit report based on requests that the consumer reporting agency verifies were initiated as the result of identity theft, fraud, or other related crime.”.

## TITLE III—MISCELLANEOUS

### SEC. 301. DEFINITIONS.

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

“(bb) DEFINITIONS RELATED TO DAYS.—

“(1) CALENDAR DAY; DAY.—The term ‘calendar day’ or ‘day’ means a calendar day, excluding any federally recognized holiday.

“(2) BUSINESS DAY.—The term ‘business day’ means a day between and including Monday to Friday, and excluding any federally recognized holiday.”.

### SEC. 302. TECHNICAL CORRECTION RELATED TO RISK-BASED PRICING NOTICES.

Section 615(h)(8) of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended—

(1) in subparagraph (A), by striking “this section” and inserting “this subsection”; and

(2) in subparagraph (B), by striking “This section” and inserting “This subsection”.

### SEC. 303. FCRA FINDINGS AND PURPOSE; VOIDS CERTAIN CONTRACTS NOT IN THE PUBLIC INTEREST.

(a) FCRA FINDINGS AND PURPOSE.—Section 602 of the Fair Credit Reporting Act (15 U.S.C. 1681(a)) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

“(1) Many financial and non-financial decisions affecting consumers’ lives depend upon fair, complete, and accurate credit reporting. Inaccurate and incomplete credit reports directly impair the efficiency of the financial system and undermine the integrity of using credit reports in other circumstances, and unfair credit reporting and credit scoring methods undermine the public confidence which is essential to the continued functioning of the financial services system and the provision of many other consumer products and services.”; and

(B) in paragraph (4), by inserting after “agencies” the following: “, furnishers, and credit scoring developers”; and

(2) in subsection (b)—

(A) by striking “It is the purpose of this title to require” and inserting the following: “The purpose of this title is the following:

“(1) To require”; and

(B) by adding at the end the following:

“(2) To prohibit any practices and procedures with respect to credit reports and credit scores that are not in the public interest.”.

(b) VOIDING OF CERTAIN CONTRACTS NOT IN THE PUBLIC INTEREST.—

The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by section 107, is further amended—

(1) by adding at the end the following new section:

#### “§ 631. Voiding of certain contracts not in the public interest

“(a) IN GENERAL.—Any provision contained in a contract that requires a person to not follow a provision of this title, that is against the public interest, or that otherwise circumvents the purposes of this title shall be null and void.

“(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed as affecting other provisions of a contract that are not described under subsection (a).”; and

(2) in the table of contents for such Act, by adding at the end the following new item:

“631. Voiding of certain contracts not in the public interest.”.

## PURPOSE AND SUMMARY

On July 5, 2019, Representative Rashida Tlaib introduced H.R. 3622, “Restoring Unfairly Impaired Credit and Protecting Consumers Act,” which shortens the time period most adverse credit information stays on consumer reports by reducing the statutory time periods from 7 to 4 years and from 10 to 7 years for bankruptcy information. Credit Reporting Agencies (CRAs) would also be required to remove information from reports relating to a residential mortgage or private education loan that are found to have resulted from an unfair, deceptive, or abusive act or practice, or a fraudulent, discriminatory, or illegal activity of a financial institution as determined by the Consumer Financial Protection Bureau (CFPB) or a court. In addition, the bill mandates the expedited removal of paid or settled debt from consumer reports. CRAs would be prohibited from including medical collections on reports until 365 calendar days after the date of the first delinquency.<sup>1</sup> The bill establishes the right for victims of financial abuse to have adverse information associated with an abuser’s fraudulent activity removed from their consumer reports. It also protects victims of fraudulent activity by expanding access to identity theft (ID) protection tools beyond victims of ID theft to all victims of fraud.

## BACKGROUND AND NEED FOR LEGISLATION

Our nation’s credit reporting system impacts 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,<sup>2</sup> and numerous shortcomings with the current system have been identified during that time that need to be addressed. For example, a 2012 Federal Trade Commission (FTC) study found 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.<sup>3</sup> An analysis of the Consumer Financial Protection Bureau’s (CFPB) consumer complaint database in 2018 revealed that credit reports were the most complained about financial product, and the three major credit bureaus—Equifax, Experian and TransUnion—were the financial companies with the most complaints.<sup>4</sup> These critical flaws must be addressed and the Fair Credit Reporting Act must be modernized to ensure the credit reporting system works better for all Americans.

According to research, the value of most negative information contained on consumer reports in predicting the likelihood of defaulting or being late on a payment gradually diminishes after two

<sup>1</sup> Currently, CRAs wait at least 180 days before including medical collections on a report. See Credit Reporting Agencies Multistate Settlement *available at* <https://www.mass.gov/service-details/credit-reporting-agencies-multistate-settlement>.

<sup>2</sup> The 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.

<sup>3</sup> <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>

<sup>4</sup> <https://uspirg.org/news/usp/youre-not-alone-cfpb-complaints-rise>

years.<sup>5</sup> As such, maintaining adverse credit information on consumer reports long after its predictive value has expired does not improve creditors' underwriting, yet can impede some consumers' ability to obtain a job or promotion, given that some employers review consumers' full reports in making employment decisions. Furthermore, the current time frames that adverse information remains on a consumer report are not a universal standard. For example, the time limit for negative information in Sweden is three years.<sup>6</sup>

The CFPB has found that the medical pricing, billing, and reimbursement process lacks transparency and is prone to consumer confusion, which can result in consumers delaying or withholding payments until they have adequate time to clarify or resolve disputes with their insurance companies or medical service providers about what they actually owe.<sup>7</sup>

Victims of predatory lending activity also experience obstacles that unfairly follow them long after the debt is addressed. For example, large numbers of minority borrowers who were eligible for safe and affordable loans were inappropriately steered towards high-priced subprime loans with ruinous features, which ultimately tarnished their creditworthiness.<sup>8</sup> According to FICO, from 2008 to 2009, about 50 million people experienced a 20-point drop in their credit scores and about 21 million people had their scores decline by more than 50 points.<sup>9</sup>

According to a 2015 MasterCard survey,<sup>10</sup> a majority of consumers (77 percent) are anxious about their information being stolen or compromised. Consumers' concerns about the online security of their financial information even outweighs fears about physical security dangers such as having their houses robbed (59 percent) or being pickpocketed (46 percent).

This legislation is supported by more than 80 consumer, civil rights, labor, and community organizations.<sup>11</sup> The National Asso-

<sup>5</sup> Vantage Score, What Influences your VantageScore Credit Score (2013), available at <https://www.vantagescore.com/pdf/VantageScore%20Infographic%2005.pdf>.

<sup>6</sup> Marieke Bos and Leonard Nakamura, Working Paper No. 12-19/R, Should Defaults Be Forgotten? Evidence from Quasi-Experimental Variation in Removal of Negative Consumer Credit Information 1 Federal Reserve Bank of Philadelphia (2013), available at <https://www.philadelphiafed.org/-/media/research-and-data/publications/working-papers/2012/wp12-29R.pdf>.

<sup>7</sup> Consumer Financial Protection Bureau, Consumer credit reports: A study of medical and non-medical collections (2014), available at [https://files.consumerfinance.gov/f/201412\\_cfpb\\_reports\\_consumer-credit-medical-and-non-medical-collections.pdf](https://files.consumerfinance.gov/f/201412_cfpb_reports_consumer-credit-medical-and-non-medical-collections.pdf).

<sup>8</sup> Debbie Gruenstein Bocian, Wei Li, Carolina Reid, Lost Ground, 2011: Disparities in Mortgage Lending and Foreclosures, Center for Responsible Lending (2011), available at <https://www.responsiblelending.org/mortgage-lending/research-analysis/Lost-Ground-2011.pdf>.

<sup>9</sup> FICOblog, Score Performance (2011), available at <https://www.fico.com/blogs/tag/score-performance/page/5/>.

<sup>10</sup> Mastercard, MasterCard Survey Reveals Americans Anxious about Personal Security but Optimistic About New Ways to Pay (2015), available at <https://newsroom.mastercard.com/press-releases/mastercard-survey-reveals-americans-anxious-about-personal-security-but-optimistic-about-new-ways-to-pay/>.

<sup>11</sup> 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,

ciation of Realtors and the National Patient Advocate Foundation also support this legislation.<sup>12</sup>

This legislation is substantially similar to Titles IV and VIII of the discussion draft of Chairwoman Maxine Waters’ legislation, the “Comprehensive Consumer Credit Reporting Reform Act of 2019,” which was considered at a full committee hearing on February 26, 2019 and was introduced in previous congresses.<sup>13</sup>

## SECTION-BY-SECTION ANALYSIS

### *Section 1. Title*

This section provides that H.R. 3622 may be cited as the “Restoring Unfairly Impaired Credit and Protecting Consumers Act.”

### *Section 2. Findings*

This section highlights reports and studies finding that the credit reporting agencies have failed to ensure complete protection and accuracy of consumer data. The findings also discusses that many of the complaints submitted to the Consumer Financial Protection Bureau’s consumer complaint database feature consumer frustration with the burden required to address fraudulent activity and other errors on their credit reports. The findings also address the difficulties that victims of fraudulent activity and/or predatory lending face in recovering from the illegal or unethical action that results in damaging information on their credit reports.

### *Section 3. Effective date*

This section provides that the changes made by this act will go into effect two years after its enactment.

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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/>.

<sup>12</sup>National Association of Realtors letter, *available at* <https://narfocus.com/billdatabase/clientfiles/172/2/3417.pdf>. National Patient Advocate Foundation letter dated and sent to the House Financial Services Committee on July 11, 2019, discussing the needed protections of H.R. 3622. “These protections are also important to help families avoid household material hardships and support patient and family quality of life, enabling affected individuals to focus on treatment and recovery rather than distressing financial hardship caused by illness.”

<sup>13</sup>Financial 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 4. General bureau rulemaking*

This section directs the Consumer Financial Protection Bureau to issue final rules implementing this Act within two years of the enactment of this act.

TITLE I. RESTORING THE IMPAIRED CREDIT OF VICTIMS OF PREDATORY ACTIVITIES AND UNFAIR CONSUMER REPORTING PRACTICES

*Section 101. Shortens the time period that most adverse credit information stays on consumer reports*

This section amends Section 605 of the Fair Credit Reporting Act by reducing the statutory time period that adverse credit information remains on consumer reports from 7 to 4 years, and 10 to 7 years for bankruptcies.

*Section 102. Mandates the expedited removal of fully paid or settled debt from consumer reports*

This section amends Section 605(a) of the Fair Credit Reporting Act by mandating the expedited removal of fully paid or settled debt items from consumer reports by requiring consumer reporting agencies to remove collection items from the report within 45 days after it is fully paid or settled, regardless of who pays the debt.

*Section 103. Imposes restrictions on the appearance of medical collections on consumer reports and requires the expedited removal of fully paid or settled medical collections from consumer reports*

This section amends Section 605(a) and Section 604(g)(1)(C) of the Fair Credit Reporting Act.

The amendments made by this section require consumer reporting agencies to remove paid or fully settled medical collections from reports within 45 days, regardless of who pays the debt. The amendments also extend the time period before medical debt may be reported to 365 calendar days. The revised provisions also ban the reporting of debt arising from medically necessary procedures.

*Section 104. Provides credit restoration for victims of predatory mortgage lending and servicing*

This section creates a new section, 605C to the Fair Credit Reporting Act.

The new section 605C prohibits consumer reporting agencies from furnishing any report containing adverse information related to a covered residential mortgage (including the origination and servicing of such a loan, any loss mitigation activities related to such a loan, and any foreclosure, deed in lieu of foreclosure, or short sale related to such a loan), if the action or inaction stems from or is related to an discriminatory, unfair, deceptive, abusive, or illegal activity of a financial institution as determined by the Consumer Financial Protection Bureau or the courts.

*Section 105. Provides credit relief for private education loans borrowers who were defrauded or misled by proprietary education institution or career education programs*

This section creates a new section, 605D to the Fair Credit Reporting Act.

The new section 605D requires consumer reporting agencies to remove any adverse information relating to any private education loan within 45 days, once the court or the Consumer Financial Protection Bureau determines that the consumer has a valid fraud claim. This section also directs the Consumer Financial Protection Bureau to establish processes and procedures to manage consumer student loan issues including the consumer reporting agency responsibility of removing such adverse information from consumer reports.

*Section 106. Establishes right for victims of financial abuse to have adverse information associated with an abuser's fraudulent activity removed from their consumer reports*

This section creates a new section, 605E to the Fair Credit Reporting Act.

The new section 605E provides that a consumer who has adverse information on their credit report due to the actions of an abusive spouse, family member, caregiver, or person to which the consumer had a dating relationship may apply to the appropriate court of jurisdiction to require the removal of the adverse information from the credit report.

*Section 107. Prohibits treatment of credit restoration or rehabilitation as adverse information*

This section creates a new section, 630 to the Fair Credit Reporting Act.

The new section 630 prohibits credit scoring models from using a consumer's participation in credit restoration or rehabilitation, including the absence of payment history data in a manner adverse to a consumer's credit score.

TITLE II—EXPANDING ACCESS TO TOOLS TO PROTECT VULNERABLE CONSUMERS FROM IDENTITY THEFT, FRAUD, OR A RELATED CRIME, AND PROTECT VICTIMS FROM FURTHER HARM

*Section 201. Identity theft report definition*

This section amends section 603(g) of the Fair Credit Reporting Act by defining "identity theft report."

*Section 202. Amendment to protection for files and credit records of protected consumers*

This section amends section 603(g) and section 605A(j) of the Fair Credit Reporting Act.

The amendments made by this section outline the definition of a credit freeze and also determine circumstances in which the credit freeze may not apply to the use of a consumer report such as; for the purposes of reviewing the active account, collecting the financial obligation owed on the account, or facilitating the extension of credit by a person whom the consumer has granted access to.

*Section 203. Enhances fraud alert protections*

This section amends section 605A of the Fair Credit Reporting Act by extending the time period of fraud protections from 90 days to one year and extends protections beyond identity theft and fraud to unauthorized disclosures of the consumer's data.

*Section 204. Amendment to security freezes for consumer reports*

This section amends section 605A(i) of the Fair Credit Reporting Act by allowing consumers to request a temporary removal of security freezes and clarifies that this subsection does not supersede state law relating to security freezes.

*Section 205. Clarification of information to be included with agency disclosures*

This section amends section 609(c)(2) of the Fair Credit Reporting Act by making technical clarifications on consumer reporting agency disclosures.

*Section 206. Provides access to fraud records for victims*

This section amends section 609(e) of the Fair Credit Reporting Act by expanding identity theft protections to protections for fraudulent activity.

*Section 207. Required Bureau to set procedures for reporting identity theft, fraud, and other related crime*

This section amends section 621(f)(2) of the Fair Credit Reporting Act by directing the Consumer Financial Protection Bureau to expand identity theft protections to protections for fraudulent activity and to establish reporting procedures.

*Section 208. Establishes the right to free credit monitoring and identity theft protection services for certain consumers*

This section amends section 605A of the Fair Credit Reporting Act.

The amendments made by this section direct the Consumer Financial Protection Bureau to establish, through a rulemaking, classes of consumers who may receive free credit monitoring and identity theft protection services, including servicemembers, victims of fraudulent activity, a consumer who is unemployed, is over the age of 65, or is a recipient of public assistance.

*Section 209. Ensures removal of inquiries resulting from identity theft, fraud, or other related crime from consumer reports*

This section amends section 605(a) of the Fair Credit Reporting Act by directing the removal of inquiries made as a result of fraudulent activity.

## TITLE III—MISCELLANEOUS

*Section 301. Definitions related to days*

This section amends section 603 of the Fair Credit Reporting Act by defining “calendar day” and “business day”.

*Section 302. Technical correction related to risk-based pricing notices*

This section amends section 615(h)(8) of the Fair Credit Reporting Act by making certain technical corrections.

*Section 303. FCRA findings and purpose; voids certain contracts not in the public interest*

This section amends section 602 of the Fair Credit Reporting Act by amending the findings and purpose section of the Fair Credit Reporting Act to highlight the importance of fair, complete, and accurate reporting. The amendments made by this section also make any contract that requires a person to not follow provisions in this title, is against the public interest, or circumvents the purposes of this title, to be considered null and void.

#### 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” (Titles IV and VIII of the discussion draft is substantially similar to H.R. 3622) 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) 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. 3622 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. 3622:



Present	Representatives	Ayes	Nays
	Ms. Waters, <i>Chairwoman</i>		X
	Mrs. Maloney		X
	Ms. Velázquez		X
	Mr. Sherman		X
	Mr. Meecks		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. Tlaib		X
	Ms. Porter		X
	Ms. Axne		X
	Mr. Casten		X
	Ms. Pressley		X
	Mr. McAdams		X
	Ms. Ocasio-Cortez		X
	Mrs. Weston		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	
	Mr. King	X	
	Mr. Lucas	X	
	Mr. Posey	X	
	Mr. Luetkemeyer	X	
	Mr. HuiZenga	X	
	Mr. Duffy	X	
	Mr. Stivers	X	
	Ms. Wagner	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. 3622

Amendmer 9a.

Offered by Rep. Loudermilk

Agreed To	Yes	No	Prsnt	Wdm
Voice Vote	Ayes		Nays	

Record Vote	FC
	26 Ayes - 32 Noes

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. Tlaib	X	
	Ms. Porter	X	
	Ms. Axne	X	
	Mr. Casten	X	
	Ms. Pressley	X	
	Mr. McAdams	X	
	Ms. Ocasio-Cortez	X	
	Mrs. 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
	Mr. King		X
	Mr. Lucas		X
	Mr. Posey		X
	Mr. Luetkemeyer		X
	Mr. Huelskamp		X
	Mr. Duffy		X
	Mr. Stivers		X
	Ms. Wagner		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. 3622 (Final Passage)

Amendment No. \_\_\_\_\_

Offered by Rep. Tlaib, as amended

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. 3622 are to protect the credit reports of victims of predatory lending and/or fraudulent activity.

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. 3622 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, December 20, 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. 3622, the Restoring Unfairly Impaired Credit and Protecting Consumers Act.

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

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

At a Glance			
H.R. 3622, Restoring Unfairly Impaired Credit and Protecting Consumers Act			
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)	3	4	5
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	3	4	5
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?	Yes, Under Threshold
		Contains private-sector mandate?	Yes, Cannot Determine Costs

The bill would:

- Reduce the amount of time adverse information may appear on consumer reports, establish processes for certain consumers to remove adverse information from their consumer reports, and expand fraud and identity theft protections for consumers
- Impose intergovernmental and private-sector mandates on consumer reporting agencies, other businesses, and states

Estimated budgetary effects would primarily stem from:

- Hiring additional Consumer Financial Protection Bureau employees to issue final rules and conduct ongoing outreach to borrowers who were defrauded

Bill Summary: H.R. 3622 would reduce the length of time that adverse credit information may appear on consumer reports assembled by consumer reporting agencies (CRAs) from 7 years to 4 years and shorten the period of time that adverse bankruptcy information may appear on such reports from 10 years to 7 years. The bill would require CRAs to remove fully paid or settled debt information from consumer reports after 45 days. H.R. 3622 also would disallow CRAs from assembling consumer reports that contain adverse information about noncontractual debt (such as fines or tickets); debt arising from medical costs placed for collection in the past year; debt arising from medically necessary procedures; and private education or residential mortgage debt resulting from unfair, deceptive, or abusive acts or practices or the fraudulent, discriminatory, or illegal activities of a financial institution.

Under the bill, the Consumer Financial Protection Bureau (CFPB) would establish processes by which borrowers with fraudulent private education loans could remove adverse information regarding those loans from any consumer report. The CFPB would conduct ongoing outreach to inform consumers about their right to remove such information. H.R. 3622 would allow victims of financial exploitation to apply to a court to remove adverse credit infor-

mation that resulted from such exploitation from any consumer report.

Finally, H.R. 3622 would create additional and expand existing fraud and identity theft protections for consumers. Under the bill, if a business transacts with a person who uses a fraudulent identity, that business would be required to notify both the victim of that transaction and law enforcement. Among various other provisions, H.R. 3622 would require CRAs to offer free electronic credit monitoring services to certain consumers, including victims of identity theft, the unemployed, those on public welfare assistance, and the elderly.

Estimated Federal cost: The estimated budgetary effect of H.R. 3622 is shown in Table 1. The costs of the legislation fall within budget function 370 (commerce and housing credit).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 3622

	By fiscal year, millions of dollars—												
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2020–2024	2020–2029	
	Increases in Direct Spending												
Estimated Budget Authority .....	3	1	*	*	*	*	*	*	*	*	4	5	
Estimated Outlays .....	3	1	*	*	*	*	*	*	*	*	4	5	

\* = between zero and \$500,000.

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted early in calendar year 2020.

Using information from the CFPB, CBO estimates that enacting H.R. 3622 would increase direct spending by \$5 million over the 2020–2029 period. About 18 full-time CFPB employees would be required to issue final rules over the 2020–2021 period. The CFPB also would hire one employee to spend a portion of their time implementing outreach initiatives to defrauded private education loan borrowers. CBO estimates the cost of each CFPB employee is about \$200,000 per year.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in Table 2.

TABLE 2.—CBO'S ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS OF H.R. 3622, THE RESTORING IMPAIRED CREDIT AND PROTECTING CONSUMERS ACT, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON FINANCIAL SERVICES ON JULY 11, 2019

	By fiscal year, millions of dollars—												
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2020–2024	2020–2029	
	Net Increase in the Deficit												
Pay-As-You-Go Effect .....	3	1	0	0	0	0	0	0	0	0	4	5	

Components do not sum to totals because of rounding.

Increase in long-term deficits: None.

Mandates: The bill contains intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates the cost to comply with the intergovern-

mental mandates would not exceed the threshold established in UMRA (\$82 million in 2019, adjusted annually for inflation). Because implementation costs would depend on rules to be established by the CFPB, CBO cannot determine whether the cost of the private-sector mandates would exceed the threshold established in UMRA (\$164 million in 2019, adjusted annually for inflation).

The bill would impose a number of new requirements on CRAs. Those requirements, which CBO estimates would impose small compliance costs on CRAs, include:

- Meeting shorter deadlines to remove paid tax liens from consumer reports;
- Removing adverse credit information from a consumer report when that issue has been resolved either through completed payment or a court settlement;
- Inserting fraud alerts in the files of consumers affected by the unauthorized disclosure of personally identifiable information; and
- Editing their webpages to inform consumers of the availability of one-year fraud alerts, seven-year fraud alerts, active duty alerts, and credit security freezes.

Further, the bill would prohibit credit scoring models (including educational credit scores developed by CRAs) from attributing a consumer's participation in credit restoration or rehabilitation as adverse information. H.R. 3622 would prohibit people who obtain consumer reports from using credit restoration and rehabilitation information when establishing a consumer's eligibility for credit or for employment purposes. According to industry sources, the incremental cost to comply with these prohibitions would be small.

The bill also would require businesses to disclose to law enforcement and the victim records of fraudulent commercial transactions. The incremental cost of the mandate would be small because the mandated entities already collect or possess the records.

In addition, H.R. 3622 would direct the CFPB to issue several rules that would impose new requirements on CRAs. Because CFPB has not yet established those rules, CBO cannot determine the aggregate cost to comply with those mandates. Specifically, the bill would direct CFPB to:

- Define the scope of identity theft protection and credit monitoring services that would be offered free of charge by CRAs to some consumers;
- Establish classes of consumers that would be eligible for free identity theft protection and credit monitoring services from CRAs; and
- Approve borrowers claiming fraud in private education loan transactions to have adverse loan information removed from their consumer report by a CRA.

Finally, the bill would preempt state laws governing security freezes, credit monitoring, and identity theft protection of a consumer's credit. Although the preemption would limit the application of state laws, CBO estimates that it would impose no duty on state governments that would result in additional spending or a loss of revenues.

Estimate prepared by: Federal costs: David Hughes; Mandates: Rachel Austin.

Estimate reviewed by: Kim Cawley, Chief, Natural Resources Cost Estimates Unit; Susan Willie, Chief, Mandates Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis; Theresa Gullo, 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. 3622. 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. 3622, 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. 3622 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. 3622 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. 3622 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. 3622, 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**

Sec.  
601. Short title.

\* \* \* \* \*

*Sec. 605C. Credit restoration for victims of predatory mortgage lending.*  
*Sec. 605D. Private education loan credit restoration for defrauded student borrowers who attend certain proprietary educational institution or career education programs.*  
*Sec. 605E. Financial abuse prevention.*

\* \* \* \* \*

*Sec. 630. Prohibition of certain factors related to Federal credit restoration or rehabilitation.*  
*Sec. 631. Voiding of certain contracts not in the public interest.*

\* \* \* \* \*

**§ 602. Findings and purpose**

(a) The Congress makes the following findings:

【(1) The banking system is dependent upon fair and accurate credit reporting. Inaccurate credit reports directly impair the efficiency of the banking system, and unfair credit reporting methods undermine the public confidence which is essential to the continued functioning of the banking system.】

*(1) Many financial and non-financial decisions affecting consumers' lives depend upon fair, complete, and accurate credit reporting. Inaccurate and incomplete credit reports directly impair the efficiency of the financial system and undermine the integrity of using credit reports in other circumstances, and unfair credit reporting and credit scoring methods undermine the public confidence which is essential to the continued functioning of the financial services system and the provision of many other consumer products and services.*

(2) An elaborate mechanism has been developed for investigating and evaluating the credit worthiness, credit standing, credit capacity, character, and general reputation of consumers.



(3) Consumer reporting agencies have assumed a vital role in assembling and evaluating consumer credit and other information on consumers.

(4) There is a need to insure that consumer reporting agencies, furnishers, and credit scoring developers exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy.

(b) [It is the purpose of this title to require] *The purpose of this title is the following:*

(1) *To require that consumer reporting agencies adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, and other information in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of such information in accordance with the requirements of this title.*

(2) *To prohibit any practices and procedures with respect to credit reports and credit scores that are not in the public interest.*

### § 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, *except that such term excludes a record created pursuant to section 605A(j)*.

(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 a consumer report on the consumer, 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.]

(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 is a standardized affidavit that alleges that a consumer has been a victim of identity theft, fraud, or a related crime, or has been harmed by the unauthorized disclosure of the consumer’s financial or personally identifiable information, that was developed and made available by the Bureau; or*

*(B)(i) that alleges an identity theft, fraud, or a related crime, or alleges harm from the unauthorized disclosure of the consumer’s financial or personally identifiable information;*

*(ii) 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*

(iii) *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 communication upon which the adverse action is based, except that the sources of information acquired solely for use in preparing what would be but for subsection (d)(2)(D) an investigative consumer report need not be disclosed.

(3) SELF-REGULATORY ORGANIZATION DEFINED.—For purposes of this subsection, the term “self-regulatory organization” includes any self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act of 1934), any entity established under title I of the Sarbanes-Oxley Act of 2002, any board of trade designated by the Commodity Futures Trading Commission, and any futures association registered with such Commission.

(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) DEFINITIONS RELATED TO DAYS.—



(1) *CALENDAR DAY; DAY.*—The term “calendar day” or “day” means a calendar day, excluding any federally recognized holiday.

(2) *BUSINESS DAY.*—The term “business day” means a day between and including Monday to Friday, and excluding any federally recognized holiday.

#### **§ 604. Permissible purposes of reports**

(a) *IN GENERAL.*—Subject to subsection (c), any consumer reporting agency may furnish a consumer report under the following circumstances and no other:

(1) In response to the order of a court having jurisdiction to issue such an order, or a subpoena issued in connection with proceedings before a Federal grand jury.

(2) In accordance with the written instructions of the consumer to whom it relates.

(3) To a person which it has reason to believe—

(A) intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer; or

(B) intends to use the information for employment purposes; or

(C) intends to use the information in connection with the underwriting of insurance involving the consumer; or

(D) intends to use the information in connection with a determination of the consumer’s eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant’s financial responsibility or status; or

(E) intends to use the information, as a potential investor or servicer, or current insurer, in connection with a valuation of, or an assessment of the credit or prepayment risks associated with, an existing credit obligation; or

(F) otherwise has a legitimate business need for the information—

(i) in connection with a business transaction that is initiated by the consumer; or

(ii) to review an account to determine whether the consumer continues to meet the terms of the account.

(G) executive departments and agencies in connection with the issuance of government-sponsored individually-billed travel charge cards.

(4) In response to a request by the head of a State or local child support enforcement agency (or a State or local government official authorized by the head of such an agency), if the person making the request certifies to the consumer reporting agency that—

(A) the consumer report is needed for the purpose of establishing an individual’s capacity to make child support payments, determining the appropriate level of such payments, or enforcing a child support order, award, agreement, or judgment;

(B) the parentage of the consumer for the child to which the obligation relates has been established or acknowledged by the consumer in accordance with State laws under which the obligation arises (if required by those laws); and

(C) the consumer report will be kept confidential, will be used solely for a purpose described in subparagraph (A), and will not be used in connection with any other civil, administrative, or criminal proceeding, or for any other purpose.

(5) To an agency administering a State plan under section 454 of the Social Security Act (42 U.S.C. 654) for use to set an initial or modified child support award.

(6) To the Federal Deposit Insurance Corporation or the National Credit Union Administration as part of its preparation for its appointment or as part of its exercise of powers, as conservator, receiver, or liquidating agent for an insured depository institution or insured credit union under the Federal Deposit Insurance Act or the Federal Credit Union Act, or other applicable Federal or State law, or in connection with the resolution or liquidation of a failed or failing insured depository institution or insured credit union, as applicable.

(b) CONDITIONS FOR FURNISHING AND USING CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.—

(1) CERTIFICATION FROM USER.—A consumer reporting agency may furnish a consumer report for employment purposes only if—

(A) the person who obtains such report from the agency certifies to the agency that—

(i) the person has complied with paragraph (2) with respect to the consumer report, and the person will comply with paragraph (3) with respect to the consumer report if paragraph (3) becomes applicable; and

(ii) information from the consumer report will not be used in violation of any applicable Federal or State equal employment opportunity law or regulation; and

(B) the consumer reporting agency provides with the report, or has previously provided, a summary of the consumer's rights under this title, as prescribed by the Bureau under section 609(c)(3).

(2) DISCLOSURE TO CONSUMER.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless—

(i) a clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes; and

(ii) the consumer has authorized in writing (which authorization may be made on the document referred

to in clause (i)) the procurement of the report by that person.

(B) APPLICATION BY MAIL, TELEPHONE, COMPUTER, OR OTHER SIMILAR MEANS.—If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, at any time before a consumer report is procured or caused to be procured in connection with that application—

(i) the person who procures the consumer report on the consumer for employment purposes shall provide to the consumer, by oral, written, or electronic means, notice that a consumer report may be obtained for employment purposes, and a summary of the consumer's rights under section 615(a)(3); and

(ii) the consumer shall have consented, orally, in writing, or electronically to the procurement of the report by that person.

(C) SCOPE.—Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer's application for employment only if—

(i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of title 49, or a position subject to safety regulation by a State transportation agency; and

(ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by mail, telephone, computer, or other similar means.

(3) CONDITIONS ON USE FOR ADVERSE ACTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in using a consumer report for employment purposes, before taking any adverse action based in whole or in part on the report, the person intending to take such adverse action shall provide to the consumer to whom the report relates—

(i) a copy of the report; and

(ii) a description in writing of the rights of the consumer under this title, as prescribed by the Bureau under section 609(c)(3).

(B) APPLICATION BY MAIL, TELEPHONE, COMPUTER, OR OTHER SIMILAR MEANS.—

(i) If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, and if a person who has procured a consumer report on the consumer for employment purposes takes adverse action on the employment application based in whole or in part on the report, then the person must provide to the consumer to whom the report relates, in lieu of the notices required under subparagraph (A) of this section and under section

615(a), within 3 business days of taking such action, an oral, written or electronic notification—

(I) that adverse action has been taken based in whole or in part on a consumer report received from a consumer reporting agency;

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

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

(IV) that the consumer may, upon providing proper identification, request a free copy of a report and may dispute with the consumer reporting agency the accuracy or completeness of any information in a report.

(ii) If, under clause (B)(i)(IV), the consumer requests a copy of a consumer report from the person who procured the report, then, within 3 business days of receiving the consumer's request, together with proper identification, the person must send or provide to the consumer a copy of a report and a copy of the consumer's rights as prescribed by the Bureau under section 609(c)(3).

(C) SCOPE.—Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer's application for employment only if—

(i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of title 49, or a position subject to safety regulation by a State transportation agency; and

(ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by mail, telephone, computer, or other similar means.

(4) EXCEPTION FOR NATIONAL SECURITY INVESTIGATIONS.—

(A) IN GENERAL.—In the case of an agency or department of the United States Government which seeks to obtain and use a consumer report for employment purposes, paragraph (3) shall not apply to any adverse action by such agency or department which is based in part on such consumer report, if the head of such agency or department makes a written finding that—

(i) the consumer report is relevant to a national security investigation of such agency or department;

(ii) the investigation is within the jurisdiction of such agency or department;

(iii) there is reason to believe that compliance with paragraph (3) will—

(I) endanger the life or physical safety of any person;

(II) result in flight from prosecution;

(III) result in the destruction of, or tampering with, evidence relevant to the investigation;

(IV) result in the intimidation of a potential witness relevant to the investigation;

(V) result in the compromise of classified information; or

(VI) otherwise seriously jeopardize or unduly delay the investigation or another official proceeding.

(B) NOTIFICATION OF CONSUMER UPON CONCLUSION OF INVESTIGATION.—Upon the conclusion of a national security investigation described in subparagraph (A), or upon the determination that the exception under subparagraph (A) is no longer required for the reasons set forth in such subparagraph, the official exercising the authority in such subparagraph shall provide to the consumer who is the subject of the consumer report with regard to which such finding was made—

(i) a copy of such consumer report with any classified information redacted as necessary;

(ii) notice of any adverse action which is based, in part, on the consumer report; and

(iii) the identification with reasonable specificity of the nature of the investigation for which the consumer report was sought.

(C) DELEGATION BY HEAD OF AGENCY OR DEPARTMENT.—For purposes of subparagraphs (A) and (B), the head of any agency or department of the United States Government may delegate his or her authorities under this paragraph to an official of such agency or department who has personnel security responsibilities and is a member of the Senior Executive Service or equivalent civilian or military rank.

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

(i) CLASSIFIED INFORMATION.—The term “classified information” means information that is protected from unauthorized disclosure under Executive Order No. 12958 or successor orders.

(ii) NATIONAL SECURITY INVESTIGATION.—The term “national security investigation” means any official inquiry by an agency or department of the United States Government to determine the eligibility of a consumer to receive access or continued access to classified information or to determine whether classified information has been lost or compromised.

(c) FURNISHING REPORTS IN CONNECTION WITH CREDIT OR INSURANCE TRANSACTIONS THAT ARE NOT INITIATED BY THE CONSUMER.—

(1) IN GENERAL.—A consumer reporting agency may furnish a consumer report relating to any consumer pursuant to subparagraph (A) or (C) of subsection (a)(3) in connection with any credit or insurance transaction that is not initiated by the consumer only if—

(A) the consumer authorizes the agency to provide such report to such person; or

(B)(i) the transaction consists of a firm offer of credit or insurance;

(ii) the consumer reporting agency has complied with subsection (e);

(iii) there is not in effect an election by the consumer, made in accordance with subsection (e), to have the consumer's name and address excluded from lists of names provided by the agency pursuant to this paragraph; and

(iv) the consumer report does not contain a date of birth that shows that the consumer has not attained the age of 21, or, if the date of birth on the consumer report shows that the consumer has not attained the age of 21, such consumer consents to the consumer reporting agency to such furnishing.

(2) LIMITS ON INFORMATION RECEIVED UNDER PARAGRAPH (1)(B).—A person may receive pursuant to paragraph (1)(B) only—

(A) the name and address of a consumer;

(B) an identifier that is not unique to the consumer and that is used by the person solely for the purpose of verifying the identity of the consumer; and

(C) other information pertaining to a consumer that does not identify the relationship or experience of the consumer with respect to a particular creditor or other entity.

(3) INFORMATION REGARDING INQUIRIES.—Except as provided in section 609(a)(5), a consumer reporting agency shall not furnish to any person a record of inquiries in connection with a credit or insurance transaction that is not initiated by a consumer.

(d) RESERVED.—

(e) ELECTION OF CONSUMER TO BE EXCLUDED FROM LISTS.—

(1) IN GENERAL.—A consumer may elect to have the consumer's name and address excluded from any list provided by a consumer reporting agency under subsection (c)(1)(B) in connection with a credit or insurance transaction that is not initiated by the consumer by notifying the agency in accordance with paragraph (2) that the consumer does not consent to any use of a consumer report relating to the consumer in connection with any credit or insurance transaction that is not initiated by the consumer.

(2) MANNER OF NOTIFICATION.—A consumer shall notify a consumer reporting agency under paragraph (1)—

(A) through the notification system maintained by the agency under paragraph (5); or

(B) by submitting to the agency a signed notice of election form issued by the agency for purposes of this subparagraph.

(3) RESPONSE OF AGENCY AFTER NOTIFICATION THROUGH SYSTEM.—Upon receipt of notification of the election of a consumer under paragraph (1) through the notification system maintained by the agency under paragraph (5), a consumer reporting agency shall—

(A) inform the consumer that the election is effective only for the 5-year period following the election if the consumer does not submit to the agency a signed notice of election form issued by the agency for purposes of paragraph (2)(B); and

(B) provide to the consumer a notice of election form, if requested by the consumer, not later than 5 business days after receipt of the notification of the election through the system established under paragraph (5), in the case of a request made at the time the consumer provides notification through the system.

(4) EFFECTIVENESS OF ELECTION.—An election of a consumer under paragraph (1)—

(A) shall be effective with respect to a consumer reporting agency beginning 5 business days after the date on which the consumer notifies the agency in accordance with paragraph (2);

(B) shall be effective with respect to a consumer reporting agency—

(i) subject to subparagraph (C), during the 5-year period beginning 5 business days after the date on which the consumer notifies the agency of the election, in the case of an election for which a consumer notifies the agency only in accordance with paragraph (2)(A); or

(ii) until the consumer notifies the agency under subparagraph (C), in the case of an election for which a consumer notifies the agency in accordance with paragraph (2)(B);

(C) shall not be effective after the date on which the consumer notifies the agency, through the notification system established by the agency under paragraph (5), that the election is no longer effective; and

(D) shall be effective with respect to each affiliate of the agency.

(5) NOTIFICATION SYSTEM.—

(A) IN GENERAL.—Each consumer reporting agency that, under subsection (c)(1)(B), furnishes a consumer report in connection with a credit or insurance transaction that is not initiated by a consumer shall—

(i) establish and maintain a notification system, including a toll-free telephone number, which permits any consumer whose consumer report is maintained by the agency to notify the agency, with appropriate identification, of the consumer's election to have the consumer's name and address excluded from any such list of names and addresses provided by the agency for such a transaction; and

(ii) publish by not later than 365 days after the date of enactment of the Consumer Credit Reporting Reform Act of 1996, and not less than annually thereafter, in a publication of general circulation in the area served by the agency—

(I) a notification that information in consumer files maintained by the agency may be used in connection with such transactions; and

(II) the address and toll-free telephone number for consumers to use to notify the agency of the consumer's election under clause (i).

(B) ESTABLISHMENT AND MAINTENANCE AS COMPLIANCE.—Establishment and maintenance of a notification system (including a toll-free telephone number) and publication by a consumer reporting agency on the agency's own behalf and on behalf of any of its affiliates in accordance with this paragraph is deemed to be compliance with this paragraph by each of those affiliates.

(6) NOTIFICATION SYSTEM BY AGENCIES THAT OPERATE NATIONWIDE.—Each consumer reporting agency that compiles and maintains files on consumers on a nationwide basis shall establish and maintain a notification system for purposes of paragraph (5) jointly with other such consumer reporting agencies.

(f) CERTAIN USE OR OBTAINING OF INFORMATION PROHIBITED.—A person shall not use or obtain a consumer report for any purpose unless—

(1) the consumer report is obtained for a purpose for which the consumer report is authorized to be furnished under this section; and

(2) the purpose is certified in accordance with section 607 by a prospective user of the report through a general or specific certification.

(g) PROTECTION OF MEDICAL INFORMATION.—

(1) LIMITATION ON CONSUMER REPORTING AGENCIES.—A consumer reporting agency shall not furnish for employment purposes, or in connection with a credit or insurance transaction, a consumer report that contains medical information (other than medical contact information treated in the manner required under section 605(a)(6)) about a consumer, unless—

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

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

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

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

(C) the information to be furnished pertains solely to transactions, accounts, or balances relating to debts aris-



ing from the receipt of medical services, products, or [devises] *devices*, where such information, other than account status or amounts, is restricted or reported using codes that do not identify, or do not provide information sufficient to infer, the specific provider or the nature of such services, products, or devices, as provided in section 605(a)(6).

(2) **LIMITATION ON CREDITORS.**—Except as permitted pursuant to paragraph (3)(C) or regulations prescribed under paragraph (5)(A), a creditor shall not obtain or use medical information (other than medical information treated in the manner required under section 605(a)(6)) pertaining to a consumer in connection with any determination of the consumer’s eligibility, or continued eligibility, for credit.

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

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

(B) for any purpose permitted without authorization under the Standards for Individually Identifiable Health Information promulgated by the Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996, or referred to under section 1179 of such Act, or described in section 502(e) of Public Law 106–102; or

(C) as otherwise determined to be necessary and appropriate, by regulation or order, by the Bureau or the applicable State insurance authority (with respect to any person engaged in providing insurance or annuities).

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

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

(A) **REGULATIONS REQUIRED.**—The Bureau may, after notice and opportunity for comment, prescribe regulations that permit transactions under paragraph (2) that are determined to be necessary and appropriate to protect legitimate operational, transactional, risk, consumer, and other needs (and which shall include permitting actions necessary for administrative verification purposes), consistent with the intent of paragraph (2) to restrict the use of medical information for inappropriate purposes.

(6) **COORDINATION WITH OTHER LAWS.**—No provision of this subsection shall be construed as altering, affecting, or super-

seding the applicability of any other provision of Federal law relating to medical confidentiality.

**§ 605. Requirements relating to information contained in consumer reports**

(a) INFORMATION EXCLUDED FROM CONSUMER REPORTS.—[Except as authorized under subsection (b), no] *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] *7 years*.

(2) [Civil suits, civil judgments, and records] *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 years*.

(4) Accounts placed for collection or charged to profit and loss which antedate the report by more than [seven years] *4 years, except as provided in paragraph (8), (10), (11), (12), or (13), or as required by section 605C, 605D, 605E, or 605F.*

(5) Any other adverse item of information[, other than records of convictions of crimes] which antedates the report by more than [seven years] *4 years, except as required by section 605C, 605D, 605E, or 605F.*

(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.

(9) *Civil suits and civil judgments (except as provided in paragraph (8)) that, from date of entry, antedate the report by more than 4 years or until the governing statute of limitations has expired, whichever is the longer period.*

(10) *A civil suit or civil judgment—*

(A) *brought by a private education loan holder that, from the date of successful completion of credit restoration or rehabilitation in accordance with the requirements of section 605D or 605E, antedates the report by 45 calendar days; or*

(B) *brought by a lender with respect to a covered residential mortgage loan that antedates the report by 45 calendar days.*

(11) *Records of convictions of crimes which antedate the report by more than 7 years.*

(12) *Any other adverse item of information relating to the collection of debt that did not arise from a contract or an agreement to pay by a consumer, including fines, tickets, and other assessments, as determined by the Bureau, excluding tax liability.*

(13) *Any other adverse item of information related to a fully paid or settled debt that had been characterized as delinquent, charged off, or in collection which, from the date of payment or settlement, antedates the report by more than 45 calendar days.*

(14) *Any other adverse item of information related to a fully paid or settled debt arising from the receipt of medical services, products, or devices that had been characterized as delinquent, charged off, or in collection which, from the date of payment or settlement, antedates the report by more than 45 calendar days.*

(15) *Any information related to a debt arising from the receipt of medical services, products, or devices, if the date on which such debt was placed for collection, charged to profit or loss, or subjected to any similar action antedates the report by less than 365 calendar days.*

(16) *Any information related to a debt arising from a medically necessary procedure.*

(17) *Information about inquiries made for a credit report based on requests that the consumer reporting agency verifies were initiated as the result of identity theft, fraud, or other related crime.*

[(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) (b) RUNNING OF REPORTING PERIOD.—

(1) IN GENERAL.—The ~~7-year period referred to in paragraphs (4) and (6)]~~ *4-year period referred to in paragraphs (4) and (5)* 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)] (c) 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)] (d) 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)] (e) 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)] (f) 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 re-

ceipt 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)] (g) 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.

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

(a) **[ONE-CALL] ONE-YEAR FRAUD ALERTS.**—

(1) **[INITIAL ALERTS] IN GENERAL.**—Upon the direct request of a consumer, or an individual acting on behalf of or as a personal representative of a consumer, who asserts in good faith a suspicion that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, *or harmed by the unauthorized disclosure of the consumer's financial or personally identifiable information*, a consumer reporting agency described in section 603(p) that maintains a file on the consumer and has received appropriate proof of the identity of the requester shall—

(A) include a fraud alert in the file of that consumer, and also provide that alert along with any credit score generated in using that file, for a period of not less than 1 year, beginning on the date of such request, unless the consumer or such representative requests that such fraud alert be removed before the end of such period, and the agency has received appropriate proof of the identity of the requester for such purpose; **[and]**

(B) refer the information regarding the *1-year* fraud alert under this paragraph to each of the other consumer reporting agencies described in section 603(p), in accordance with procedures developed under section 621(f)**[.]**; *and*

(C) *upon the expiration of the 1-year period described in subparagraph (A) or a subsequent 1-year period, and in response to a direct request by the consumer or such representative, continue the fraud alert for a period of 1 additional year if the information asserted in this paragraph remains applicable.*

(2) **ACCESS TO FREE REPORTS AND CREDIT OR EDUCATIONAL CREDIT SCORES.**—In any case in which a consumer reporting agency includes a *1-year* fraud alert in the file of a consumer pursuant to this subsection, the consumer reporting agency shall—

(A) disclose to the consumer that the consumer may request a free copy of the file *and credit score or educational credit score* of the consumer pursuant to section 612(d); *and*

(B) provide to the consumer all disclosures required to be made under section 609, without charge to the consumer, not later than 3 business days after **[any request described in subparagraph (A)]** *the consumer reporting agency includes the 1-year fraud alert in the file of a consumer.*

(b) **[EXTENDED] SEVEN-YEAR ALERTS.**—

(1) **IN GENERAL.**—Upon the direct request of a consumer, or an individual acting on behalf of or as a personal representative of a consumer, who submits an identity theft report to a consumer reporting agency described in section 603(p) that maintains a file on the consumer, if the agency has received appropriate proof of the identity of the requester, the agency shall—

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

(B) during the **5-year period** beginning on the date of such request *such 7-year period*, exclude the consumer from any list of consumers prepared by the consumer reporting agency and provided to any third party to offer credit or insurance to the consumer as part of a transaction that was not initiated by the consumer, unless the consumer or such representative requests that such exclusion be rescinded before the end of such period; **and**

(C) refer the information regarding the **extended 7-year** fraud alert under this paragraph to each of the other consumer reporting agencies described in section 603(p), in accordance with procedures developed under section 621(f)**1.**; *and*

*(D) upon the expiration of such 7-year period or a subsequent 7-year period, and in response to a direct request by the consumer or such representative, continue the fraud alert for a period of 7 additional years if the consumer or such representative submits an updated identity theft report.*

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

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

*(A) disclose to the consumer that the consumer may request a free copy of the file and credit score or educational credit score of the consumer pursuant to section 612(d) during each 12-month period beginning on the date on which the 7-year fraud alert was included in the file and ending on the date of the last day that the 7-year fraud alert applies to the consumer's file; and*

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

(c) **ACTIVE DUTY ALERTS.**—**1.** **UPON THE DIRECT REQUEST**

*(1) IN GENERAL.*—*Upon the direct request of an active duty military consumer, or an individual acting on behalf of or as a personal representative of an active duty military consumer, a consumer reporting agency described in section 603(p) that maintains a file on the active duty military consumer and has*

received appropriate proof of the identity of the requester shall—

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

【(2)】 (B) during the 2-year period beginning on the date of such request, exclude the active duty military consumer from any list of consumers prepared by the consumer reporting agency and provided to any third party to offer credit or insurance to the consumer as part of a transaction that was not initiated by the consumer, unless the consumer requests that such exclusion be rescinded before the end of such period; and

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

(2) ACCESS TO FREE REPORTS AND CREDIT OR EDUCATIONAL CREDIT SCORES.—*If a consumer reporting agency includes an active duty alert in the file of an active duty military consumer, the consumer reporting agency shall—*

(A) *disclose to the active duty military consumer that the active duty military consumer may request a free copy of the file and credit score or educational credit score of the active duty military consumer pursuant to section 612(d), during each 12-month period beginning on the date that the active duty military alert is requested and ending on the date of the last day the active duty alert applies to the file of the active duty military consumer; and*

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

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

(d) PROCEDURES.—*Each consumer reporting agency described in section 603(p) shall include on the webpage required under subsection (i) policies and procedures to comply with this section, including policies and procedures—*



(1) that inform consumers of the availability of 1-year fraud alerts, 7-year fraud alerts, active duty alerts, and security freezes (as applicable);

(2) that allow consumers to request 1-year fraud alerts, 7-year fraud alerts, and active duty alerts (as applicable) and to place, temporarily lift, or fully remove a security freeze in a simple and easy manner; and

(3) for asserting 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, for a consumer seeking a 1-year fraud alert or security freeze.

(e) REFERRALS OF ALERTS.—Each consumer reporting agency described in section 603(p) that receives a referral of a 1-year or 7-year fraud alert or active duty alert from another consumer reporting agency pursuant to this section shall, as though the agency received the request from the consumer directly, follow the procedures required under—

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

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

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

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

(g) DUTY OF OTHER CONSUMER REPORTING AGENCIES TO PROVIDE CONTACT INFORMATION.—If a consumer contacts any consumer reporting agency that is not described in section 603(p) to communicate a suspicion that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, or has been harmed by the unauthorized disclosure of the consumer's financial or personally identifiable information, or to inform such agency of the consumer's participation in credit restoration or rehabilitation under section 605C, 605D, or 605E, the agency shall provide information to the consumer on how to contact the Bureau and the consumer reporting agencies described in section 603(p) to obtain more detailed information and request alerts or security freezes under this section.

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

(1) REQUIREMENTS FOR [INITIAL] 1-YEAR AND ACTIVE DUTY ALERTS.—

(A) NOTIFICATION.—Each [initial] 1-year fraud alert and active duty alert under this section shall include information that notifies all prospective users of a consumer report on the consumer to which the alert relates that the consumer does not authorize the establishment of any new credit plan or extension of credit, other than under an open-end credit plan (as defined in section 103(i)), in the name of the consumer, or issuance of an additional card on

an existing credit account requested by a consumer, or any increase in credit limit on an existing credit account requested by a consumer, except in accordance with subparagraph (B).

(B) LIMITATION ON USERS.—

(i) IN GENERAL.—No prospective user of a consumer report that includes an **[initial]** *1-year* fraud alert or an active duty alert in accordance with this section may establish a new credit plan or extension of credit, other than under an open-end credit plan (as defined in section 103(i)), in the name of the consumer, or issue an additional card on an existing credit account requested by a consumer, or grant any increase in credit limit on an existing credit account requested by a consumer, unless the user utilizes reasonable policies and procedures to form a reasonable belief that the user knows the identity of the person making the request.

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

(2) REQUIREMENTS FOR **[EXTENDED]** *7-YEAR* ALERTS.—

(A) NOTIFICATION.—Each **[extended]** *7-year* alert under this section shall include information that provides all prospective users of a consumer report relating to a consumer with—

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

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

(B) LIMITATION ON USERS.—No prospective user of a consumer report or of a credit score generated using the information in the file of a consumer that includes an **[extended]** *7-year* fraud alert in accordance with this section may establish a new credit plan or extension of credit, other than under an open-end credit plan (as defined in section 103(i)), in the name of the consumer, or issue an additional card on an existing credit account requested by a consumer, or any increase in credit limit on an existing credit account requested by a consumer, unless the user contacts the consumer in person or using the contact meth-

od described in subparagraph (A)(ii) to confirm that the application for a new credit plan or increase in credit limit, or request for an additional card is not the result of identity theft.

(i) **[NATIONAL SECURITY FREEZE.—] SECURITY FREEZES FOR CONSUMER REPORTS.—**

(1) **DEFINITIONS.—**For purposes of this subsection:

(A) The term “consumer reporting agency” means a consumer reporting agency described in section 603(p).

(B) The term “proper identification” has the meaning of such term as used under section 610.

(C) The term “security freeze” means a restriction that prohibits a consumer reporting agency from disclosing the contents of a consumer report that is subject to such security freeze to any person requesting the consumer report.

(2) **PLACEMENT OF SECURITY FREEZE.—**

(A) **IN GENERAL.—**Upon receiving a direct request from a consumer that a consumer reporting agency place a security freeze, and upon receiving proper identification from the consumer, the consumer reporting agency shall, free of charge, place the security freeze not later than—

(i) in the case of a request that is by toll-free telephone or secure electronic means, 1 business day after receiving the request directly from the consumer; or

(ii) in the case of a request that is by mail, 3 business days after receiving the request directly from the consumer.

(B) **CONFIRMATION AND ADDITIONAL INFORMATION.—**Not later than 5 business days after placing a security freeze under subparagraph (A), a consumer reporting agency shall—

(i) send confirmation of the placement to the consumer; and

(ii) inform the consumer of—

(I) the process by which the consumer may remove the security freeze, including a mechanism to authenticate the consumer; and

(II) the consumer’s right described in section 615(d)(1)(D).

(C) **NOTICE TO THIRD PARTIES.—**A consumer reporting agency may advise a third party that a security freeze has been placed with respect to a consumer under subparagraph (A).

(3) **REMOVAL OF SECURITY FREEZE.—**

(A) **IN GENERAL.—**A consumer reporting agency shall remove a security freeze placed on the consumer report of a consumer only in the following cases:

(i) Upon the direct request of the consumer.

(ii) The security freeze was placed due to a material misrepresentation of fact by the consumer.

(B) **NOTICE IF REMOVAL NOT BY REQUEST.—**If a consumer reporting agency removes a security freeze under subparagraph (A)(ii), the consumer reporting agency shall notify

the consumer in writing prior to removing the security freeze.

(C) REMOVAL OF SECURITY FREEZE BY CONSUMER REQUEST.—Except as provided in subparagraph (A)(ii), a security freeze shall remain in place until the consumer directly requests that the security freeze be removed. Upon receiving a direct request from a consumer that a consumer reporting agency remove a security freeze, and upon receiving proper identification from the consumer, the consumer reporting agency shall, free of charge, remove the security freeze not later than—

(i) in the case of a request that is by toll-free telephone or secure electronic means, 1 hour after receiving the request for removal; or

(ii) in the case of a request that is by mail, 3 business days after receiving the request for removal.

(D) THIRD-PARTY REQUESTS.—If a third party requests access to a consumer report of a consumer with respect to which a security freeze is in effect, where such request is in connection with an application for credit, and the consumer does not allow such consumer report to be accessed, the third party may treat the application as incomplete.

(E) TEMPORARY REMOVAL OF SECURITY FREEZE.—~~Upon receiving a direct request from a consumer under subparagraph (A)(i), if the consumer requests a temporary removal of a security freeze, the consumer reporting agency shall, in accordance with subparagraph (C),~~ *Upon receiving a direct request from a consumer for a temporary removal of a security freeze, a consumer reporting agency shall remove the security freeze for the period of time specified by the consumer.*

(4) EXCEPTIONS.—A security freeze shall not apply to the making of a consumer report for use of the following:

~~[(A) A person or entity, or a subsidiary, affiliate, or agent of that person or entity, or an assignee of a financial obligation owed by the consumer to that person or entity, or a prospective assignee of a financial obligation owed by the consumer to that person or entity in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment an account or contract including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owed for the account, contract, or negotiable instrument. For purposes of this subparagraph, “reviewing the account” includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.]~~

*(A) A person, or the person’s subsidiary, affiliate, agent, subcontractor, or assignee with whom the consumer has, or prior to assignment had, an authorized account, contract, or debtor-creditor relationship for the purposes of reviewing the active account or collecting the financial obligation owed on the account, contract, or debt.*

(B) Any Federal, State, or local agency, law enforcement agency, trial court, or private collection agency acting pursuant to a court order, warrant, or subpoena.

(C) A child support agency acting pursuant to part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

(D) A Federal agency or a State or its agents or assigns acting to investigate fraud or acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities, provided such responsibilities are consistent with a permissible purpose under section 604.

**[(E)]** By a person using credit information for the purposes described under section 604(c).】

**[(F)]** (E) Any person or entity administering a credit file monitoring subscription or similar service to which the consumer has subscribed.

**[(G)]** (F) Any person or entity for the purpose of providing a consumer with a copy of the consumer's consumer report or credit score, upon the request of the consumer.

**[(H)]** (G) Any person using the information in connection with the underwriting of insurance.

**[(I)]** Any person using the information for employment, tenant, or background screening purposes.】

**[(J)]** (H) Any person using the information for assessing, verifying, or authenticating a consumer's identity for purposes other than the granting of credit, or for investigating or preventing actual or potential fraud.

(5) NOTICE OF RIGHTS.—At any time a consumer is required to receive a summary of rights required under section 609, the following notice shall be included:

“CONSUMERS HAVE THE RIGHT TO OBTAIN A SECURITY FREEZE

“ ‘You have a right to place a ‘security freeze’ on your credit report, which will prohibit a consumer reporting agency from releasing information in your credit report without your express authorization. The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent. However, you should be aware that using a security freeze to take control over who gets access to the personal and financial information in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent request or application you make regarding a new loan, credit, mortgage, or any other account involving the extension of credit.’

“ ‘As an alternative to a security freeze, you have the right to place an initial or extended fraud alert on your credit file at no cost. An initial fraud alert is a 1-year alert that is placed on a consumer's credit file. Upon seeing a fraud alert display on a consumer's credit file, a business is required to take steps to verify the consumer's identity before extending new credit. If you are a victim of identity theft, you are entitled to an extended fraud alert, which is a fraud alert lasting 7 years.’

“ ‘A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on behalf of the person or entity, with which you have an existing account that requests in-

formation in your credit report for the purposes of reviewing or collecting the account. Reviewing the account includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.”.

(6) WEBPAGE.—

(A) CONSUMER REPORTING AGENCIES.—A consumer reporting agency shall establish a webpage that—

- (i) allows a consumer to request a security freeze;
- (ii) allows a consumer to request an **initial fraud alert** *1-year fraud alert*;
- (iii) allows a consumer to request an **extended fraud alert** *7-year fraud alert*;
- (iv) allows a consumer to request an active duty **fraud** alert;
- (v) allows a consumer to opt-out of the use of information in a consumer report to send the consumer a solicitation of credit or insurance, in accordance with section 615(d); and
- (vi) shall not be the only mechanism by which a consumer may request a security freeze.

(B) FTC.—The Federal Trade Commission shall establish a single webpage that includes a link to each webpage established under subparagraph (A) within the Federal Trade Commission’s website [www.Identitytheft.gov](http://www.Identitytheft.gov), or a successor website.

(7) *RELATION TO STATE LAW.—This subsection does not modify or supersede the laws of any State relating to security freezes or other similar actions, except to the extent those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. For purposes of this subsection, a term or provision of a State law is not inconsistent with the provisions of this subsection if the term or provision affords greater protection to the consumer than the protection provided under this subsection as determined by the Bureau.*

(j) NATIONAL PROTECTION FOR FILES AND CREDIT RECORDS OF PROTECTED CONSUMERS.—

(1) DEFINITIONS.—As used in this subsection:

(A) The term “consumer reporting agency” means a consumer reporting agency described in section 603(p).

(B) The term “protected consumer” means an individual who is—

- (i) under the age of 16 years at the time a request for the placement of a security freeze is made; or
- (ii) **an incapacitated person or a protected person** *a person for whom a guardian or conservator has been appointed.*

(C) The term “protected consumer’s representative” means a person who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer.

(D) The term “record” means a compilation of information that—

- (i) identifies a protected consumer;

(ii) is created by a consumer reporting agency solely for the purpose of complying with this subsection; and  
 (iii) may not be created or used to consider the protected consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

[(E) The term "security freeze" means a restriction that prohibits a consumer reporting agency from disclosing the contents of a consumer report that is the subject of such security freeze or, in the case of a protected consumer for whom the consumer reporting agency does not have a file, a record that is subject to such security freeze to any person requesting the consumer report for the purpose of opening a new account involving the extension of credit.]

(E) *The term "security freeze"—*

(i) *has the meaning given in subsection (i)(1)(C); and*  
 (ii) *with respect to a protected consumer for whom the consumer reporting agency does not have a file, means a record that is subject to a security freeze that a consumer reporting agency is prohibited from disclosing to any person requesting the consumer report for the purpose of opening a new account involving the extension of credit.*

(F) The term "sufficient proof of authority" means documentation that shows a protected consumer's representative has authority to act on behalf of a protected consumer and includes—

(i) an order issued by a court of law;  
 (ii) a lawfully executed and valid power of attorney;  
 (iii) a document issued by a Federal, State, or local government agency in the United States showing proof of parentage, including a birth certificate; or  
 (iv) with respect to a protected consumer who has been placed in a foster care setting, a written communication from a county welfare department or its agent or designee, or a county probation department or its agent or designee, certifying that the protected consumer is in a foster care setting under its jurisdiction.

(G) The term "sufficient proof of identification" means information or documentation that identifies a protected consumer and a protected consumer's representative and includes—

(i) a social security number or a copy of a social security card issued by the Social Security Administration;  
 (ii) a certified or official copy of a birth certificate issued by the entity authorized to issue the birth certificate; or  
 (iii) a copy of a driver's license, an identification card issued by the motor vehicle administration, or any other government issued identification.

(2) PLACEMENT OF SECURITY FREEZE FOR A PROTECTED CONSUMER.—

(A) IN GENERAL.—Upon receiving a direct request from a protected consumer’s representative that a consumer reporting agency place a security freeze, and upon receiving sufficient proof of identification and sufficient proof of authority, the consumer reporting agency shall, free of charge, place the security freeze not later than—

(i) in the case of a request that is by toll-free telephone or secure electronic means, 1 business day after receiving the request directly from the protected consumer’s representative; or

(ii) in the case of a request that is by mail, 3 business days after receiving the request directly from the protected consumer’s representative.

(B) CONFIRMATION AND ADDITIONAL INFORMATION.—Not later than 5 business days after placing a security freeze under subparagraph (A), a consumer reporting agency shall—

(i) send confirmation of the placement to the protected consumer’s representative; and

(ii) inform the protected consumer’s representative of the process by which the protected consumer may remove the security freeze, including a mechanism to authenticate the protected consumer’s representative.

(C) CREATION OF FILE.—If a consumer reporting agency does not have a file pertaining to a protected consumer when the consumer reporting agency receives a direct request under subparagraph (A), the consumer reporting agency shall create a record for the protected consumer.

(3) PROHIBITION ON RELEASE OF RECORD OR FILE OF PROTECTED CONSUMER.—After a security freeze has been placed under paragraph (2)(A), and unless the security freeze is removed in accordance with this subsection, a consumer reporting agency may not release the protected consumer’s consumer report, any information derived from the protected consumer’s consumer report, or any record created for the protected consumer.

(4) REMOVAL OF A PROTECTED CONSUMER SECURITY FREEZE.—

(A) IN GENERAL.—A consumer reporting agency shall remove a security freeze placed on the consumer report of a protected consumer only in the following cases:

(i) Upon the direct request of the protected consumer’s representative.

(ii) Upon the direct request of the protected consumer, if the protected consumer is not under the age of 16 years at the time of the request.

(iii) The security freeze was placed due to a material misrepresentation of fact by the protected consumer’s representative.

(B) NOTICE IF REMOVAL NOT BY REQUEST.—If a consumer reporting agency removes a security freeze under subparagraph (A)(iii), the consumer reporting agency shall notify the protected consumer’s representative in writing prior to removing the security freeze.



(C) REMOVAL OF FREEZE BY REQUEST.—Except as provided in subparagraph (A)(iii), a security freeze shall remain in place until a protected consumer’s representative or protected consumer described in subparagraph (A)(ii) directly requests that the security freeze be removed. Upon receiving a direct request from the protected consumer’s representative or protected consumer described in subparagraph (A)(ii) that a consumer reporting agency remove a security freeze, and upon receiving sufficient proof of identification and sufficient proof of authority, the consumer reporting agency shall, free of charge, remove the security freeze not later than—

(i) in the case of a request that is by toll-free telephone or secure electronic means, 1 hour after receiving the request for removal; or

(ii) in the case of a request that is by mail, 3 business days after receiving the request for removal.

(D) TEMPORARY REMOVAL OF SECURITY FREEZE.—Upon receiving a direct request from [a protected consumer or a protected consumer’s representative under subparagraph (A)(i)] *a protected consumer described under subparagraph (A)(ii) or a protected consumer’s representative*, if the protected consumer or protected consumer’s representative requests a temporary removal of a security freeze, the consumer reporting agency shall, in accordance with subparagraph (C), remove the security freeze for the period of time specified by the protected consumer or protected consumer’s representative.

(k) CREDIT MONITORING.—

(1) DEFINITIONS.—In this subsection:

(A) The term “active duty military consumer” includes a member of the National Guard.

(B) The term “National Guard” has the meaning given the term in section 101(c) of title 10, United States Code.

(2) CREDIT MONITORING.—A consumer reporting agency described in section 603(p) shall provide a free electronic credit monitoring service that, at a minimum, notifies a consumer of material additions or modifications to the file of the consumer at the consumer reporting agency to any consumer who provides to the consumer reporting agency—

(A) appropriate proof that the consumer is an active duty military consumer; and

(B) contact information of the consumer.

(3) RULEMAKING.—Not later than 1 year after the date of enactment of this subsection, the Federal Trade Commission shall promulgate regulations regarding the requirements of this subsection, which shall at a minimum include—

(A) a definition of an electronic credit monitoring service and material additions or modifications to the file of a consumer; and

(B) what constitutes appropriate proof.

[(4) APPLICABILITY.—

[(A) Sections 616 and 617 shall not apply to any violation of this subsection.

[(B) This subsection shall be enforced exclusively under section 621 by the Federal agencies and Federal and State officials identified in that section.]

[Section 208(a)(1) of H.R. 3622 (as reported) amends subsection (k) by striking paragraph (4) on the date of enactment. Subsection (k), as amended, is further amended by section 208(b), effective two years after the date of enactment, to read as follows:]

[(k) CREDIT MONITORING.—

[(1) DEFINITIONS.—In this subsection:

[(A) The term “active duty military consumer” includes a member of the National Guard.

[(B) The term “National Guard” has the meaning given the term in section 101(c) of title 10, United States Code.

[(2) CREDIT MONITORING.—A consumer reporting agency described in section 603(p) shall provide a free electronic credit monitoring service that, at a minimum, notifies a consumer of material additions or modifications to the file of the consumer at the consumer reporting agency to any consumer who provides to the consumer reporting agency—

[(A) appropriate proof that the consumer is an active duty military consumer; and

[(B) contact information of the consumer.

[(3) RULEMAKING.—Not later than 1 year after the date of enactment of this subsection, the Federal Trade Commission shall promulgate regulations regarding the requirements of this subsection, which shall at a minimum include—

[(A) a definition of an electronic credit monitoring service and material additions or modifications to the file of a consumer; and

[(B) what constitutes appropriate proof.

(k) *CREDIT MONITORING AND IDENTITY THEFT PROTECTION SERVICES.*—

(1) *IN GENERAL.*—Upon the direct request of a consumer, a consumer reporting agency described in section 603(p) that maintains a file on the consumer and has received appropriate proof of the identity of the requester (as described in section 1022.123 of title 12, Code of Federal Regulations) shall provide the consumer with credit monitoring and identity theft protection services not later than 1 business day after receiving such request sent by postal mail, toll-free telephone, or secure electronic means as established by the agency.

(2) *FEES.*—

(A) *CLASSES OF CONSUMERS.*—The Bureau may establish classes of consumers eligible to receive credit monitoring and identity theft protection services free of charge.

(B) *NO FEE.*—A consumer reporting agency described in section 603(p) may not charge a consumer a fee to receive credit monitoring and identity theft protection services if the consumer or a representative of the consumer—

(i) 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;

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

(iii) is a recipient of public welfare assistance;

(iv) is an active duty military consumer or a member of the National Guard (as defined in section 101(c) of title 10, United States Code);

(v) is 65 years of age or older; or

(vi) is a member of a class established by the Bureau under subparagraph (A).

(3) **BUREAU RULEMAKING.**—The Bureau shall issue regulations—

(A) to define the scope of credit monitoring and identity theft protection services required under this subsection; and

(B) to set a fair and reasonable fee that a consumer reporting agency may charge a consumer (other than a consumer described under paragraph (2)(B)) for such credit monitoring and identity theft protection services.

(4) **RELATION TO STATE LAW.**—This subsection does not modify or supersede of the laws of any State relating to credit monitoring and identity theft protection services or other similar actions, except to the extent those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. For purposes of this subsection, a term or provision of a State law is not inconsistent with the provisions of this subsection if the term or provision affords greater protection to the consumer than the protection provided under this subsection as determined by the Bureau.

\* \* \* \* \*

### **§ 605C. Credit restoration for victims of predatory mortgage lending**

(a) **IN GENERAL.**—A consumer reporting agency may not furnish any consumer report containing any adverse item of information relating to a covered residential mortgage loan (including the origination and servicing of such a loan, any loss mitigation activities related to such a loan, and any foreclosure, deed in lieu of foreclosure, or short sale related to such a loan), if the action or inaction to which the item of information relates—

(1) resulted from an unfair, deceptive, or abusive act or practice, or a fraudulent, discriminatory, or illegal activity of a financial institution, as determined by the Bureau or a court of competent jurisdiction; or

(2) is related to an unfair, deceptive, or abusive act, practice, or a fraudulent, discriminatory, or illegal activity of a financial institution that is the subject of a settlement agreement initiated on behalf of a consumer or consumers and that is between the financial institution and an agency or department of a local, State, or Federal Government, regardless of whether such settlement includes an admission of wrongdoing.

(b) **COVERED RESIDENTIAL MORTGAGE LOAN DEFINED.**—In this section, the term “covered residential mortgage loan” means any loan primarily for personal, family, or household use that is secured

by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling (as defined in section 103(w) of the Truth in Lending Act), including a loan in which the proceeds will be used for—

(1) a manufactured home (as defined in section 603 of the Housing and Community Development Act of 1974 (42 U.S.C. 5402));

(2) any installment sales contract, land contract, or contract for deed on a residential property; or

(3) a reverse mortgage transaction (as defined in section 103 of the Truth in Lending Act).

**§ 605D. Private education loan credit restoration for defrauded student borrowers who attend certain proprietary educational institution or career education programs**

(a) **PROCESS FOR CERTIFICATION AS A QUALIFYING PRIVATE EDUCATION LOAN BORROWER.**—

(1) **IN GENERAL.**—A consumer may submit a request to the Bureau, along with a defraudment claim, to be certified as a qualifying private education loan borrower with respect to a private education loan.

(2) **CERTIFICATION.**—The Bureau shall certify a consumer described in paragraph (1) as a qualifying private education loan borrower with respect to a private education loan if the Bureau or a court of competent jurisdiction determines that the consumer has a valid defraudment claim with respect to such loan.

(b) **REMOVAL OF ADVERSE INFORMATION.**—Upon receipt of a notice described in subsection (d)(5), a consumer reporting agency shall remove any adverse information relating to any private education loan with respect to which a consumer is a qualifying private education loan borrower from any consumer report within 45 calendar days of receipt of such notification.

(c) **DISCLOSURE.**—The Bureau shall disclose the results of a certification determination in writing to the consumer that provides a clear and concise explanation of the basis for the determination of whether such consumer is a qualifying private education loan borrower with respect to a private education loan and, as applicable, an explanation of the consumer's right to have adverse information relating to such loan removed from their consumer report by a consumer reporting agency.

(d) **PROCEDURES.**—The Bureau shall—

(1) establish procedures for a consumer to submit a request described in subsection (a);

(2) establish procedures to efficiently review, accept, and process such a request;

(3) develop ongoing outreach initiatives and education programs to inform consumers of the circumstances under which such consumer may be eligible to be certified as a qualifying private education loan borrower with respect to a private education loan;

(4) establish procedures, including the manner, form, and content of the notice informing a private educational loan holder of the prohibition on reporting any adverse information relat-

ing to a private education loan with respect to which a consumer is a qualifying private education loan borrower; and

(5) establish procedures, including the manner, form, and content of the notice informing a consumer reporting agency of the obligation to remove any adverse information as described in subsection (c).

(e) *STANDARDIZED REPORTING CODES.*—A consumer reporting agency shall develop standardized reporting codes for use by private education loan holders to identify and report a qualifying private education loan borrower's status of a request to remove any adverse information relating to any private education loan with respect to which such consumer is a qualifying private education loan borrower. A consumer report in which a person furnishes such codes shall be deemed to comply with the requirements for accuracy and completeness required under sections 623(a)(1) and 630. Such codes shall not appear on any report provided to a third party, and shall be removed from the consumer's credit report upon the successful restoration of the consumer's credit under this section.

(f) *DEFRAUDMENT CLAIM DEFINED.*—For purposes of this section, the term "defraudment claim" means a claim made with respect to a consumer who is a borrower of a private education loan with respect to a proprietary educational institution or career education program in which the consumer alleges that—

(1) the proprietary educational institution or career education program—

(A) engaged in an unfair, deceptive, or abusive act or practice, or a fraudulent, discriminatory, or illegal activity—

(i) as defined by State law of the State in which the proprietary educational institution or career education program is headquartered or maintains or maintained significant operations; or

(ii) under Federal law;

(B) is the subject of an enforcement order, a settlement agreement, a memorandum of understanding, a suspension of tuition assistance, or any other action relating to an unfair, deceptive, or abusive act or practice that is between the proprietary educational institution or career education program and an agency or department of a local, State, or Federal Government; or

(C) misrepresented facts to students or accrediting agencies or associations about graduation or gainful employment rates in recognized occupations or failed to provide the coursework necessary for students to successfully obtain a professional certification or degree from the proprietary educational institution or career education program; or

(2) the consumer has submitted a valid defense to repayment claim with respect to such loan, as determined by the Secretary of Education.

#### **§ 605E. Financial abuse prevention**

For a consumer who is the victim of intentionally abusive or harmful financial behavior, as determined by a court of competent jurisdiction including a family court, juvenile court, or other court

*with personal jurisdiction, that was conducted by a spouse, family or household member, caregiver, or person with whom such consumer had a dating relationship in a manner which resulted in the inclusion of an adverse item of information on the consumer report of the consumer, and the consumer did not participate in or consent to such behavior, the consumer may apply to a court of competent jurisdiction, including a family court, juvenile court, or other court with personal jurisdiction, for an order to require the removal of such adverse information from the consumer's file maintained by any consumer reporting agency.*

\* \* \* \* \*

### **§ 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)] *consumer reporting agency described in subsection (p) or (x) of section 603*, a toll-free telephone number established by [the agency] *such an agency*, at which personnel are accessible to consumers during normal business hours *and an Internet website address*;

(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] *outdated, required to be removed, 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】** *claim of fraudulent activity* 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】** *any fraudulent transaction* 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】** *fraudulent activity*—

**【(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.】**

- (i) a copy of an identity theft report; 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】** *fraudulent activity* 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) (8) 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)] (9) 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)] (10) 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], fraud, or a related crime.

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

[(13)] (12) 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.

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

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

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

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

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

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

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

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

(iii) ENTERPRISE DEFINED.—For purposes of this subparagraph, the term “enterprise” has the same mean-

ing as in paragraph (6) of section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

(C) DISCLOSURES OF CREDIT SCORES NOT OBTAINED FROM A CONSUMER REPORTING AGENCY.—A person that is subject to the provisions of this subsection and that uses a credit score, other than a credit score provided by a consumer reporting agency, may satisfy the obligation to provide a credit score by disclosing a credit score and associated key factors supplied by a consumer reporting agency.

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

“NOTICE TO THE HOME LOAN APPLICANT

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

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

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

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

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

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

- (i) explain the information provided pursuant to subsection (f);
- (ii) disclose any information other than a credit score or key factors, as defined in subsection (f);
- (iii) disclose any credit score or related information obtained by the user after a loan has closed;
- (iv) provide more than 1 disclosure per loan transaction; or

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

(F) NO OBLIGATION FOR CONTENT.—

(i) IN GENERAL.—The obligation of any person pursuant to this subsection shall be limited solely to providing a copy of the information that was received from the consumer reporting agency.

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

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

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

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

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

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**§ 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);

(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 un-

- able 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 af-



filiated 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 poli-

cies and procedures established by the card issuer in accordance with the regulations prescribed under subparagraph (B).

(2) CRITERIA.—

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

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

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

(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).
- (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 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】~~ *this subsection*.

(B) ADMINISTRATIVE ENFORCEMENT.—~~【This section】~~ *This subsection* shall be enforced exclusively under section 621 by the Federal agencies and officials identified in that section.

### § 616. Civil liability for willful noncompliance

(a) IN GENERAL.—Any person who willfully fails to comply with any requirement imposed under this title with respect to any consumer is liable to that consumer in an amount equal to the sum of—

(1)(A) any actual damages sustained by the consumer as a result of the failure or damages of not less than \$100 and not more than \$1,000; or

(B) in the case of liability of a natural person for obtaining a consumer report under false pretenses or knowingly without a permissible purpose, actual damages sustained by the consumer as a result of the failure or \$1,000, whichever is greater;

(2) such amount of punitive damages as the court may allow; and

(3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney’s fees as determined by the court.

(b) CIVIL LIABILITY FOR KNOWING NONCOMPLIANCE.—Any person who obtains a consumer report from a consumer reporting agency under false pretenses or knowingly without a permissible purpose shall be liable to the consumer reporting agency for actual damages sustained by the consumer reporting agency or \$1,000, whichever is greater.

(c) ATTORNEY’S FEES.—Upon a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for purposes of harassment, the court shall award to the prevailing party attorney’s fees reasonable in relation to the work expended in responding to the pleading, motion, or other paper.

(d) CLARIFICATION OF WILLFUL NONCOMPLIANCE.—For the purposes of this section, any person who printed an expiration date on any receipt provided to a consumer cardholder at a point of sale or transaction between December 4, 2004, and the date of the enactment of this subsection but otherwise complied with the requirements of ~~【section 605(g)】~~ *section 605(f)* for such receipt shall not be in willful noncompliance with ~~【section 605(g)】~~ *section 605(f)* by reason of printing such expiration date on the receipt.

\* \* \* \* \*

### § 621. Administrative enforcement

(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

(1) IN GENERAL.—The Federal Trade Commission shall be authorized to enforce compliance with the requirements imposed by this title under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), with respect to consumer reporting agen-

cies and all other persons subject thereto, except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under any of subparagraphs (A) through (G) of subsection (b)(1), and subject to subtitle B of the Consumer Financial Protection Act of 2010, subsection (b). For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement or prohibition imposed under this title shall constitute an unfair or deceptive act or practice in commerce, in violation of section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)), and shall be subject to enforcement by the Federal Trade Commission under section 5(b) of that Act with respect to any consumer reporting agency or person that is subject to enforcement by the Federal Trade Commission pursuant to this subsection, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act. The Federal Trade Commission shall have such procedural, investigative, and enforcement powers, including the power to issue procedural rules in enforcing compliance with the requirements imposed under this title and to require the filing of reports, the production of documents, and the appearance of witnesses, as though the applicable terms and conditions of the Federal Trade Commission Act were part of this title. Any person violating any of the provisions of this title shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act as though the applicable terms and provisions of such Act are part of this title.

(2) PENALTIES.—

(A) KNOWING VIOLATIONS.—Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, in the event of a knowing violation, which constitutes a pattern or practice of violations of this title, the Federal Trade Commission may commence a civil action to recover a civil penalty in a district court of the United States against any person that violates this title. In such action, such person shall be liable for a civil penalty of not more than \$2,500 per violation.

(B) DETERMINING PENALTY AMOUNT.—In determining the amount of a civil penalty under subparagraph (A), the court shall take into account the degree of culpability, any history of such prior conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(C) LIMITATION.—Notwithstanding paragraph (2), a court may not impose any civil penalty on a person for a violation of section 623(a)(1), unless the person has been enjoined from committing the violation, or ordered not to commit the violation, in an action or proceeding brought by or on behalf of the Federal Trade Commission, and has violated the injunction or order, and the court may not impose any civil penalty for any violation occurring before the date of the violation of the injunction or order.

## (b) ENFORCEMENT BY OTHER AGENCIES.—

(1) IN GENERAL.—Subject to subtitle B of the Consumer Financial Protection Act of 2010, compliance with the requirements imposed under this title with respect to consumer reporting agencies, persons who use consumer reports from such agencies, persons who furnish information to such agencies, and users of information that are subject to section 615(d) shall be enforced under—

(A) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), with respect to—

(i) any national bank or State savings association, and any Federal branch or Federal agency of a foreign bank;

(ii) any member bank of the Federal Reserve System (other than a national bank), a branch or agency of a foreign bank (other than a Federal branch, Federal agency, or insured State branch of a foreign bank), a commercial lending company owned or controlled by a foreign bank, and any organization operating under section 25 or 25A of the Federal Reserve Act; and

(iii) any bank or Federal savings association insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System) and any insured State branch of a foreign bank;

(B) the Federal Credit Union Act (12 U.S.C. 1751 et seq.), by the Administrator of the National Credit Union Administration with respect to any Federal credit union;

(C) subtitle IV of title 49, United States Code, by the Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Surface Transportation Board;

(D) the Federal Aviation Act of 1958 (49 U.S.C. App. 1301 et seq.), by the Secretary of Transportation, with respect to any air carrier or foreign air carrier subject to that Act;

(E) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act), by the Secretary of Agriculture, with respect to any activities subject to that Act;

(F) the Commodity Exchange Act, with respect to a person subject to the jurisdiction of the Commodity Futures Trading Commission;

(G) the Federal securities laws, and any other laws that are subject to the jurisdiction of the Securities and Exchange Commission, with respect to a person that is subject to the jurisdiction of the Securities and Exchange Commission; and

(H) subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau, with respect to any person subject to this title.

(2) INCORPORATED DEFINITIONS.—The terms used in paragraph (1) that are not defined in this title or otherwise defined



in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) have the same meanings as in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

(c) STATE ACTION FOR VIOLATIONS.—

(1) AUTHORITY OF STATES.—In addition to such other remedies as are provided under State law, if the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this title, the State—

(A) may bring an action to enjoin such violation in any appropriate United States district court or in any other court of competent jurisdiction;

(B) subject to paragraph (5), may bring an action on behalf of the residents of the State to recover—

(i) damages for which the person is liable to such residents under sections 616 and 617 as a result of the violation;

(ii) in the case of a violation described in any of paragraphs (1) through (3) of section 623(c), damages for which the person would, but for section 623(c), be liable to such residents as a result of the violation; or

(iii) damages of not more than \$1,000 for each willful or negligent violation; and

(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

(2) RIGHTS OF FEDERAL REGULATORS.—The State shall serve prior written notice of any action under paragraph (1) upon the Bureau and the Federal Trade Commission or the appropriate Federal regulator determined under subsection (b) and provide the Bureau and the Federal Trade Commission or appropriate Federal regulator with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Bureau and the Federal Trade Commission or appropriate Federal regulator shall have the right—

(A) to intervene in the action;

(B) upon so intervening, to be heard on all matters arising therein;

(C) to remove the action to the appropriate United States district court; and

(D) to file petitions for appeal.

(3) INVESTIGATORY POWERS.—For purposes of bringing any action under this subsection, nothing in this subsection shall prevent the chief law enforcement officer, or an official or agency designated by a State, from exercising the powers conferred on the chief law enforcement officer or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(4) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION PENDING.—If the Bureau, the Federal Trade Commission, or the appropriate Federal regulator has instituted a civil action or an administrative action under section 8 of the Federal De-

posit Insurance Act for a violation of this title, no State may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Bureau, the Federal Trade Commission, or the appropriate Federal regulator for any violation of this title that is alleged in that complaint.

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

(A) VIOLATION OF INJUNCTION REQUIRED.—A State may not bring an action against a person under paragraph (1)(B) for a violation described in any of paragraphs (1) through (3) of section 623(c), unless—

(i) the person has been enjoined from committing the violation, in an action brought by the State under paragraph (1)(A); and

(ii) the person has violated the injunction.

(B) LIMITATION ON DAMAGES RECOVERABLE.—In an action against a person under paragraph (1)(B) for a violation described in any of paragraphs (1) through (3) of section 623(c), a State may not recover any damages incurred before the date of the violation of an injunction on which the action is based.

(d) For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title any other authority conferred on it by law.

(e) REGULATORY AUTHORITY.—

(1) IN GENERAL.—The Bureau shall prescribe such regulations as are necessary to carry out the purposes of this title, except with respect to sections 615(e) and 628. The Bureau may prescribe regulations as may be necessary or appropriate to administer and carry out the purposes and objectives of this title, and to prevent evasions thereof or to facilitate compliance therewith. Except as provided in section 1029(a) of the Consumer Financial Protection Act of 2010, the regulations prescribed by the Bureau under this title shall apply to any person that is subject to this title, notwithstanding the enforcement authorities granted to other agencies under this section.

(2) DEFERENCE.—Notwithstanding any power granted to any Federal agency under this title, the deference that a court affords to a Federal agency with respect to a determination made by such agency relating to the meaning or interpretation of any provision of this title that is subject to the jurisdiction of such agency shall be applied as if that agency were the only agency authorized to apply, enforce, interpret, or administer the provisions of this title. The regulations prescribed by the Bureau under this title shall apply to any person that is subject to this title, notwithstanding the enforcement authorities granted to other agencies under this section.

## (f) COORDINATION OF CONSUMER COMPLAINT INVESTIGATIONS.—

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

(2) **MODEL FORM** STANDARDIZED AFFIDAVIT AND PROCEDURE FOR REPORTING IDENTITY THEFT.—**The Commission** *The Bureau*, in consultation with the Federal Trade Commission, the Federal banking agencies, and the National Credit Union Administration, shall develop a **model form** *standardized affidavit* and model procedures to be used by consumers who are victims of identity theft, *fraud, or a related crime, or otherwise are harmed by the unauthorized disclosure of the consumer's financial or personally identifiable information*, for contacting and informing creditors and consumer reporting agencies of the **fraud.** *identity theft, fraud, or other related crime. Such standardized affidavit and procedures shall not include a requirement that a consumer obtain a police report.*

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

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

\* \* \* \* \*

### § 625. Relation to State laws

(a) IN GENERAL.—Except as provided in subsections (b) and (c), this title does not annul, alter, affect, or exempt any person subject to the provisions of this title from complying with the laws of any State with respect to the collection, distribution, or use of any information on consumers, or for the prevention or mitigation of identity theft, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency.

(b) GENERAL EXCEPTIONS.—No requirement or prohibition may be imposed under the laws of any State—

(1) with respect to any subject matter regulated under—

(A) subsection (c) or (e) of section 604, relating to the prescreening of consumer reports;

(B) section 611, relating to the time by which a consumer reporting agency must take any action, including the provision of notification to a consumer or other person, in any procedure related to the disputed accuracy of information in a consumer's file, except that this subparagraph shall not apply to any State law in effect on the date of

enactment of the Consumer Credit Reporting Reform Act of 1996;

(C) subsections (a) and (b) of section 615, relating to the duties of a person who takes any adverse action with respect to a consumer;

(D) section 615(d), relating to the duties of persons who use a consumer report of a consumer in connection with any credit or insurance transaction that is not initiated by the consumer and that consists of a firm offer of credit or insurance;

(E) section 605, relating to information contained in consumer reports, except that this subparagraph shall not apply to any State law in effect on the date of enactment of the Consumer Credit Reporting Reform Act of 1996;

(F) section 623, relating to the responsibilities of persons who furnish information to consumer reporting agencies, except that this paragraph shall not apply—

(i) with respect to section 54A(a) of chapter 93 of the Massachusetts Annotated Laws (as in effect on the date of enactment of the Consumer Credit Reporting Reform Act of 1996); or

(ii) with respect to section 1785.25(a) of the California Civil Code (as in effect on the date of enactment of the Consumer Credit Reporting Reform Act of 1996);

(G) section 609(e), relating to information available to victims under section 609(e);

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

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

(J) subsections (i) and (j) of section 605A relating to security freezes; or

(K) subsection (k) of section 605A, relating to credit monitoring for active duty military consumers, as defined in that subsection;

(2) with respect to the exchange of information among persons affiliated by common ownership or common corporate control, except that this paragraph shall not apply with respect to subsection (a) or (c)(1) of section 2480e of title 9, Vermont Statutes Annotated (as in effect on the date of enactment of the Consumer Credit Reporting Reform Act of 1996);

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

(A) shall not apply with respect to sections 1785.10, 1785.16, and 1785.20.2 of the California Civil Code (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003) and section 1785.15 through section 1785.15.2 of such Code (as in effect on such date);

- (B) shall not apply with respect to sections 5–3–106(2) and 212–14.3–104.3 of the Colorado Revised Statutes (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003); and
- (C) shall not be construed as limiting, annulling, affecting, or superseding any provision of the laws of any State regulating the use in an insurance activity, or regulating disclosures concerning such use, of a credit-based insurance score of a consumer by any person engaged in the business of insurance;
- (4) with respect to the frequency of any disclosure under section 612(a), except that this paragraph shall not apply—
- (A) with respect to section 12–14.3–105(1)(d) of the Colorado Revised Statutes (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003);
- (B) with respect to section 10–1–393(29)(C) of the Georgia Code (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003);
- (C) with respect to section 1316.2 of title 10 of the Maine Revised Statutes (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003);
- (D) with respect to sections 14–1209(a)(1) and 14–1209(b)(1)(i) of the Commercial Law Article of the Code of Maryland (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003);
- (E) with respect to section 59(d) and section 59(e) of chapter 93 of the General Laws of Massachusetts (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003);
- (F) with respect to section 56:11–37.10(a)(1) of the New Jersey Revised Statutes (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003); or
- (G) with respect to section 2480c(a)(1) of title 9 of the Vermont Statutes Annotated (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003); or
- (5) with respect to the conduct required by the specific provisions of—
- (A) **[section 605(g)]** *section 605(f)*;
- (B) section 605A;
- (C) section 605B;
- (D) section 609(a)(1)(A);
- (E) section 612(a);
- (F) subsections (e), (f), and (g) of section 615;
- (G) section 621(f);
- (H) section 623(a)(6); or
- (I) section 628.
- (c) DEFINITION OF FIRM OFFER OF CREDIT OR INSURANCE.—Notwithstanding any definition of the term “firm offer of credit or insurance” (or any equivalent term) under the laws of any State, the definition of that term contained in section 603(l) shall be con-

strued to apply in the enforcement and interpretation of the laws of any State governing consumer reports.

(d) LIMITATIONS.—Subsections (b) and (c) do not affect any settlement, agreement, or consent judgment between any State Attorney General and any consumer reporting agency in effect on the date of enactment of the Consumer Credit Reporting Reform Act of 1996.

\* \* \* \* \*

**§ 630. Prohibition of certain factors related to Federal credit restoration or rehabilitation**

(a) RESTRICTION ON CREDIT SCORING MODELS.—A credit scoring model may not—

(1) take into consideration, in a manner adverse to a consumer's credit score or educational credit score, any information in a consumer report concerning the consumer's participation in credit restoration or rehabilitation under section 605C, 605D, or 605E; or

(2) treat negatively, in a manner adverse to a consumer's credit score or educational credit score, the absence of payment history data for an existing account, whether the account is open or closed, where the absence of such information is the result of a consumer's participation in credit restoration or rehabilitation under section 605C, 605D, or 605E.

(b) RESTRICTION ON PERSONS OBTAINING CONSUMER REPORTS.—A person who obtains a consumer report may not—

(1) take into consideration, in a manner adverse to a consumer, any information in a consumer report concerning the consumer's participation in credit restoration or rehabilitation under section 605C, 605D, or 605E; or

(2) treat negatively the absence of payment history data for an existing account, whether the account is open or closed, where the absence of such information is the result of a consumer's participation in credit restoration or rehabilitation under section 605C, 605D, or 605E.

(c) ACCURACY AND COMPLETENESS.—If a person who furnishes information to a consumer reporting agency requests the removal of information from a consumer report or a consumer reporting agency removes information from a consumer report in compliance with the requirements under section 605C, 605D, or 605E, or such information was removed pursuant at section 605(a)(11), such report shall be deemed to satisfy the requirements for accuracy and completeness with respect to such information.

(d) PROHIBITION RELATED TO ADVERSE ACTIONS AND RISK-BASED PRICING DECISIONS.—No person shall use information related to a consumer's participation in credit restoration or rehabilitation under section 605C, 605D, or 605E in connection with any determination of—

(1) the consumer's eligibility or continued eligibility for an extension of credit;

(2) the terms and conditions offered to a consumer regarding an extension of credit; or

(3) an adverse action made for employment purposes.

**§631. Voiding of certain contracts not in the public interest**

(a) *IN GENERAL.*—Any provision contained in a contract that requires a person to not follow a provision of this title, that is against the public interest, or that otherwise circumvents the purposes of this title shall be null and void.

(b) *RULE OF CONSTRUCTION.*—Nothing in subsection (a) shall be construed as affecting other provisions of a contract that are not described under subsection (a).

## MINORITY VIEWS

Committee Republicans are concerned that H.R. 3622, the *Restoring Unfairly Impaired Credit and Protecting Consumers Act*, will have the perverse effect of limiting consumer access to credit further alienating individuals from financial inclusion.

H.R. 3622, as amended, would reduce the timeframe adverse credit information remains on a consumer report from seven to four years for consumer debt information and from ten to seven years information for bankruptcies. The bill further requires certain fully paid debt be removed from consumer credit reports expeditiously.

Committee Republicans recognize the direct implications credit history and ability to repay have on American consumers. Removing predictive information has the potential to increase the cost of credit, particularly for those borrowers who have limited credit histories, because of the role credit reporting plays in the underwriting process. The number of defaults in the credit system also affects credit availability for the remaining millions of consumers. Moreover, requiring the expedited removal of debt from such reports will undermine the safety and soundness of financial institutions and the financial system more broadly. The federal government should not micromanage data used in this private sector process but instead work to establish sensible guardrails and consumer protections.

Notwithstanding H.R. 3622, Committee Republicans agree that aspects of the credit reporting process need reform, such as removing certain adverse information from consumer reports. For example, during the markup of H.R. 3622, Ranking Member McHenry and other Committee Republicans expressed support for provisions that remove adverse information for victims of predatory lending and financial abuse. In fact, Congressman Loudermilk offered an amendment that would require removal of adverse information related to predatory lending and financial abuse as well as paid, non-elective medical debt. The amendment was defeated by a party line vote of 26–32.

Finally, Committee Republicans believe that had additional hearings taken place, a bipartisan product reforming the consumer reporting industry could have been produced. Unfortunately, Committee Democrats defeated every Republican amendment offered during debate on consumer reporting while advancing numerous pieces of partisan legislation, including H.R. 3622. A bipartisan product would stand a much better chance of being signed into law. Needless partisanship does nothing to help consumers. Committee Republicans continue to stand ready to discuss these important issues with Democrats.

DAVID KUSTOFF.  
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LANCE GOODEN.



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