

PROTECTING YOUR CREDIT SCORE ACT OF 2019

MARCH 12, 2020.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 5332]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 5332) to amend the Fair Credit Reporting Act to ensure that consumer reporting agencies are providing fair and accurate information reporting in consumer reports, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends 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 “Protecting Your Credit Score Act of 2019”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Establishment of online consumer portal landing page for consumer access to certain credit information.
- Sec. 3. Accuracy in consumer reports.
- Sec. 4. Improved dispute process for consumer reporting agencies.
- Sec. 5. Injunctive relief.
- Sec. 6. Increased transparency.
- Sec. 7. Consumer reporting agency registry.
- Sec. 8. Authority of Bureau with respect to consumer reporting agencies.
- Sec. 9. Bureau standards for protecting nonpublic information.
- Sec. 10. Report on data security risk assessments in examinations of consumer reporting agencies.
- Sec. 11. GAO study on the use of social security numbers.

SEC. 2. ESTABLISHMENT OF ONLINE CONSUMER PORTAL LANDING PAGE FOR CONSUMER ACCESS TO CERTAIN CREDIT INFORMATION.

(a) **IN GENERAL.**—Section 612(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681j(a)(1)) is amended by adding at the end the following:

“(D) **ONLINE CONSUMER PORTAL LANDING PAGE.**—

“(i) **IN GENERAL.**—Not later than 1 year after the date of enactment of this subparagraph, each consumer reporting agency described in section 603(p) shall jointly develop an online consumer portal landing page that gives each consumer unlimited free access to—

“(I) the consumer report of the consumer;

“(II) the means by which the consumer may exercise the rights of the consumer under subparagraph (E) and section 604(e);

“(III) the ability to initiate a dispute with the consumer reporting agency regarding the accuracy or completeness of any information in a report in accordance with section 611(a) or 623(a)(8);

“(IV) the ability to place and remove a security freeze on a consumer report for free under section 605A(i) and (j);

“(V) if the consumer reporting agency offers a product to consumers to prevent access to the consumer report of the consumer for the purpose of preventing identity theft, a disclosure to the consumer regarding the differences between that product and a security freeze as defined under section 605A(i) or (j);

“(VI) information on who has accessed the consumer report of the consumer over the last 24 months, and, as available, for what permissible purpose the consumer report was furnished in accordance with section 604 and section 609; and

“(VII) the credit score of the consumer in accordance with section 609(f)(7).

“(ii) **NO WAIVER.**—A consumer reporting agency described in section 603(p) may not require a consumer to waive any legal or privacy rights to access—

“(I) a portal established under this subparagraph; or

“(II) any of the services described in clause (i) that are provided through a portal established under this subparagraph.

“(iii) **NO ADVERTISING OR SOLICITATIONS.**—A portal established under this subparagraph may not contain any advertising, marketing offers, or other solicitations.

“(iv) **EXTENSION.**—The Bureau may allow the consumer reporting agencies an extension of 1 year to develop the online consumer portal landing page required under clause (i).

“(v) **RULE OF CONSTRUCTION.**—Nothing in this subparagraph may be construed as requiring a consumer reporting agency to disclose confidential proprietary information through the online consumer portal landing page.

“(E) **OPT-OUT OPTION.**—

“(i) **IN GENERAL.**—If a consumer reporting agency sells consumer information in a manner that is not included in a consumer report, the consumer reporting agency shall provide each consumer with a method (through a website, by phone, or in writing) by which the consumer may elect, free of charge, to not have the information of the consumer so sold.

“(ii) NO EXPIRATION.—An election made by a consumer under clause (i) shall expire on the date on which the consumer expressly revokes the election through a website, by phone, or in writing.”.

(b) CONFORMING AMENDMENT.—Section 612(f)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681j(f)(1)) is amended, in the matter preceding subparagraph (A), by adding “or that is made through the online consumer portal landing page established under subsection (a)(1)(D),” after “subsections (a) through (d),”.

SEC. 3. ACCURACY IN CONSUMER REPORTS.

Section 607(b) of the Fair Credit Reporting Act (15 U.S.C. 1681e) is amended to read as follows:

“(b) ENSURING ACCURACY.—

“(1) IN GENERAL.—In preparing a consumer report, each consumer reporting agency shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the consumer to whom the report relates.

“(2) MATCHING INFORMATION IN A FILE.—In assuring the maximum possible accuracy under paragraph (1), each consumer reporting agency described in section 603(p) shall ensure that, when including information in the file of a consumer, the consumer reporting agency—

“(A) matches all 9 digits of the social security number of the consumer with the information that the consumer reporting agency is including in the file; or

“(B) if a consumer does not have a social security number, matches information that includes the full legal name, date of birth, current address, and at least one former address of the consumer.

“(3) PERIODIC AUDITS.—Each consumer reporting agency shall perform periodic audits, on a schedule determined by the Bureau, on a representative sample of consumer reports of the agency to check for accuracy.”.

SEC. 4. IMPROVED DISPUTE PROCESS FOR CONSUMER REPORTING AGENCIES.

(a) RESPONSIBILITIES OF FURNISHERS OF INFORMATION TO CONSUMER REPORTING AGENCIES.—Section 623 of the Fair Credit Reporting Act (15 U.S.C. 1681s–2) is amended—

(1) in subsection (a)(8)—

(A) in subparagraph (E)(ii), by inserting “and consider” after “review”; and

(B) in subparagraph (F)—

(i) in clause (i)(II), by inserting “, and does not include any new or additional information that would be relevant to a reinvestigation” before the period at the end; and

(ii) by adding at the end the following new clause:

“(iv) NEW OR ADDITIONAL INFORMATION.—For purposes of clause (i)(II), the term ‘new or additional information’—

“(I) means information of a type designated by the Bureau; and

“(II) does not include information previously provided to the person.”; and

(2) in subsection (b)(1), by inserting “and consider” after “review”.

(b) BUREAU CREDIT REPORTING OMBUDSPERSON.—Section 611(a) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)) is amended by adding at the end the following:

“(8) BUREAU CREDIT REPORTING OMBUDSPERSON.—

“(A) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Bureau shall establish the position of credit reporting ombudsperson, whose specific duties shall include carrying out the Bureau’s responsibilities with respect to—

“(i) resolving persistent errors that are not resolved in a timely manner by a consumer reporting agency; and

“(ii) enhancing oversight of consumer reporting agencies by—

“(I) advising the Director of the Bureau, in consultation with the Office of Enforcement and the Office of Supervision of the Bureau, on any potential violations of paragraph (5) or any other applicable law by a consumer reporting agency, including appropriate corrective action for such a violation; and

“(II) making referrals to the Office of Supervision for supervisory action or the Office of Enforcement for enforcement action, as appropriate, in response to violations of paragraph (5) or any other applicable law by a consumer reporting agency.

“(B) REPORT.—The ombudsperson shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate an annual report including statistics and analysis on consumer complaints the Bureau receives

relating to consumer reports, as well as a summary of the supervisory actions and enforcement actions taken with respect to consumer reporting agencies during the year covered by the report.”.

(c) RESPONSIBILITIES OF CONSUMER REPORTING AGENCIES.—Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by adding at the end the following:

“(D) OBLIGATIONS OF CONSUMER REPORTING AGENCIES RELATING TO RE-INVESTIGATIONS.—Commensurate with the volume and complexity of disputes about which a consumer reporting agency receives notice, or reasonably anticipates to receive notice, under this paragraph, each consumer reporting agency shall—

“(i) maintain sufficient personnel to conduct reinvestigations of those disputes; and

“(ii) provide training with respect to the personnel described in clause (i).”;

(B) in paragraph (6)(B)—

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

“(ii) a copy of the consumer’s file and a consumer report that is based upon such file as revised, including a description of the specific modification or deletion of information, as a result of the reinvestigation;”;

(ii) by striking clause (iii) and redesignating clauses (iv) and (v) as clauses (vi) and (vii), respectively;

(iii) by inserting after clause (ii) the following:

“(iii) a description of the actions taken by the consumer reporting agency regarding the dispute;

“(iv) if applicable, contact information for any furnisher involved in responding to the dispute and a description of the role played by the furnisher in the reinvestigation process;

“(v) the options available to the consumer if the consumer is dissatisfied with the result of the reinvestigation, including—

“(I) submitting documents in support of the dispute;

“(II) adding a consumer statement of dispute to the file of the consumer pursuant to subsection (b);

“(III) filing a dispute with the furnisher pursuant to section 623(a)(8); and

“(IV) submitting a complaint against the consumer reporting agency or furnishers through the consumer complaint database of the Bureau or the State attorney general for the State in which the consumer resides.”;

(C) by striking paragraph (7) and redesignating paragraph (8) as paragraph (7); and

(D) in paragraph (7), as so redesignated, by striking “paragraphs (2), (6), and (7)” and inserting “paragraphs (2) and (6)”;

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

“(h) NOTIFICATION OF DELETION OF INFORMATION.—A consumer reporting agency described in section 603(p) shall communicate with other consumer reporting agencies described in section 603(p) to ensure that a dispute initiated with one consumer reporting agency is noted in a file maintained by such other consumer reporting agencies.”.

SEC. 5. INJUNCTIVE RELIEF.

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

(1) in section 616 (15 U.S.C. 1681n)—

(A) in subsection (a), by amending the subsection heading to read as follows: “DAMAGES”;

(B) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(C) by inserting after subsection (b) the following:

“(c) INJUNCTIVE RELIEF.—

“(1) IN GENERAL.—In addition to any other remedy under this section, a court may award injunctive relief to require compliance with the requirements imposed under this title with respect to any consumer.

“(2) ATTORNEY’S FEES.—In the event of any successful action for injunctive relief under this subsection, a court may award to the prevailing party reasonable attorney’s fees (as determined by the court) incurred by the prevailing party during the action.”; and

(2) in section 617 (15 U.S.C. 1681o)—

(A) in subsection (a), in the subsection heading, by striking “(a) IN GENERAL.—” and inserting “(a) DAMAGES.—”;

(B) by redesignating subsection (b) as subsection (c); and

(C) by inserting after subsection (a) the following:

“(b) INJUNCTIVE RELIEF.—

“(1) IN GENERAL.—In addition to any other remedy under this section, a court may award injunctive relief to require compliance with the requirements imposed under this title with respect to any consumer.

“(2) ATTORNEY’S FEES.—In the event of any successful action for injunctive relief under this subsection, a court may award to the prevailing party reasonable attorney’s fees (as determined by the court) incurred by the prevailing party during the action.”

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

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

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

SEC. 6. INCREASED TRANSPARENCY.

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

(1) in subsection (a)(3)(B)—

(A) in clause (i), by striking “and” at the end; and

(B) by striking clause (ii) and inserting the following:

“(ii) the address and telephone number of the person; and

“(iii) the permissible purpose, as available, of the person for obtaining the consumer report, including the specific type of credit product that is extended, reviewed, or collected, as described in section 604(a)(3)(A).”;

(2) in subsection (f)—

(A) by amending paragraph (7)(A) to read as follows:

“(A) supply the consumer with a credit score through the portal established under section 612(a)(1)(D) or upon request by the consumer, as applicable, that—

“(i) is derived from a credit scoring model that is widely distributed to users by that consumer reporting agency for the purpose of any extension of credit or other transaction designated by the consumer who is requesting the credit score; or

“(ii) is widely distributed to lenders of common consumer loan products and predicts the future credit behavior of the consumer; and”;

(B) in paragraph (8), by inserting “, except that a credit score shall be provided free of charge to the consumer if requested in connection with a free annual consumer report described in section 612(a) or through the online consumer portal landing page established under section 612(a)(1)(D)” before the period at the end; and

(3) in subsection (g)(1)—

(A) in subparagraph (A)(ii)—

(i) in the clause heading, by striking “SUBPARAGRAPH (D)” and inserting “SUBPARAGRAPH (C)”; and

(ii) by striking “subparagraph (D)” and inserting “subparagraph (C)”; and

(B) in subparagraph (B)(ii), by striking “consistent with subparagraph (C)”; and

(C) by striking subparagraph (C); and

(D) by redesignating subparagraphs (D) through (G) as subparagraphs (C) through (F), respectively.

(b) NOTIFICATION REQUIREMENTS.—

(1) ADVERSE INFORMATION NOTIFICATION.—

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

(i) in section 612 (15 U.S.C. 1681j), by striking subsection (b) and inserting the following:

“(b) FREE DISCLOSURE AFTER NOTICE OF ADVERSE ACTION OR OFFER OF CREDIT ON MATERIALLY LESS FAVORABLE TERM.—Not later than 30 days after the date on which a consumer reporting agency receives a notification under subsection (a)(2) or (h)(6) of section 615, or from a debt collection agency affiliated with the consumer reporting agency, the consumer reporting agency shall make to a consumer, without charge to the consumer, all disclosures that are made to a user of a consumer report in accordance with the rules prescribed by the Bureau.”; and

(ii) in section 615(a) (15 U.S.C. 1681m(a))—

- (I) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;
- (II) by inserting after paragraph (1) the following:
 - “(2) direct the consumer reporting agency that provided the consumer report that was used in the decision to take the adverse action to provide the consumer with the disclosures described in section 612(b);” and
 - (III) in paragraph (5), as so redesignated—
 - (aa) in the matter preceding subparagraph (A), by striking “of the consumer’s right”;
 - (bb) by striking subparagraph (A) and inserting the following:
 - “(A) that the consumer shall receive a copy of the consumer report with respect to the consumer, free of charge, from the consumer reporting agency that furnished the consumer report; and”;
 - (cc) in subparagraph (B), by inserting “of the right of the consumer” before “to dispute”.
 - (B) CONFORMING AMENDMENT.—Section 604(b)(2)(B)(i) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(2)(B)(i)) is amended by striking “section 615(a)(3)” and inserting “section 615(a)(4)”.
- (2) NOTIFICATION IN CASES OF LESS FAVORABLE TERMS.—Section 615(h) of the Fair Credit Reporting Act (15 U.S.C. 1681m(h)) is amended—
 - (A) in paragraph (1), by striking “paragraph (6)” and inserting “paragraph (7)”;
 - (B) in paragraph (2), by striking “paragraph (6)” and inserting “paragraph (7)”;
 - (C) in paragraph (5)(C), by striking “may obtain” and inserting “shall receive”;
 - (D) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and
 - (E) by inserting after paragraph (5) the following:
 - “(6) REPORTS PROVIDED TO CONSUMERS.—A person who uses a consumer report as described in paragraph (1) shall notify and direct the consumer reporting agency that provided the consumer report to provide the consumer with the disclosures described in section 612(b).”
 - (3) NOTIFICATION OF SUBSEQUENT SUBMISSIONS OF NEGATIVE INFORMATION.—Section 623(a)(7)(A)(ii) of the Fair Credit Reporting Act (15 U.S.C. 1681s-2(a)(7)(A)(ii)) is amended by striking “with respect to” and all that follows through the period at the end and inserting “without providing additional notice to the consumer, unless another person acquires the right to repayment connected to the additional negative information. The acquiring person shall be subject to the requirements of this paragraph and shall be required to send consumers the written notices described in this paragraph, if applicable.”.

SEC. 7. CONSUMER REPORTING AGENCY REGISTRY.

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

“(h) CONSUMER REPORTING AGENCY REGISTRY.—

“(1) ESTABLISHMENT OF REGISTRY.—Not later than 180 days after the date of enactment of this subsection, the Bureau shall establish a publicly available registry of consumer reporting agencies that includes—

“(A) each consumer reporting agency that compiles and maintains files on consumers on a nationwide basis;

“(B) each nationwide specialty consumer reporting agency;

“(C) all other consumer reporting agencies that are not included under section 603(p) or 603(x); and

“(D) links to any relevant websites of a consumer reporting agency described under subparagraphs (A) through (C).

“(2) REGISTRATION REQUIREMENT.—The Bureau shall establish a deadline, which shall be not later than 270 days after the date of the enactment of this subsection, by which each consumer reporting agency described in paragraph (1) shall be required to register in the registry established under such paragraph.”.

SEC. 8. AUTHORITY OF BUREAU WITH RESPECT TO CONSUMER REPORTING AGENCIES.

Section 1024(a)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5514(a)(1)) is amended—

(1) in subparagraph (D), by striking “or” at the end;

(2) in subparagraph (E), by striking the period at the end and inserting “; or”;

and

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

“(F) is a consumer reporting agency described under section 603(p) of the Fair Credit Reporting Act.”

SEC. 9. BUREAU STANDARDS FOR PROTECTING NONPUBLIC INFORMATION.

Title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.) is amended—

(1) in section 501, by adding at the end the following new subsection:

“(c) CONSUMER REPORTING AGENCY SAFEGUARDS.—The Bureau of Consumer Financial Protection shall establish, by rule, appropriate standards for consumer reporting agencies described under section 603(p) of the Fair Credit Reporting Act relating to administrative, technical, and physical safeguards to protect records and information as described in paragraphs (1) through (3) of subsection (b).”;

(2) in section 504(a)(1)(A), by striking “, except that the Bureau of Consumer Financial Protection shall not have authority to prescribe regulations with respect to the standards under section 501”; and

(3) in section 505(a)(8), by inserting “, other than under subsection (c) of section 501” after “section 501”.

SEC. 10. REPORT ON DATA SECURITY RISK ASSESSMENTS IN EXAMINATIONS OF CONSUMER REPORTING AGENCIES.

Not later than 90 days after the date of the enactment of this Act, the Director of the Bureau of Consumer Financial Protection shall assess whether examinations conducted by the Director of consumer reporting agencies described under section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) include sufficient processes to addresses any data security risks to the consumers of such agencies on which such agencies maintain and compile files. Along with the first semiannual report required under section 1016(b) of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5496(b)) to be submitted after the 90-day period after the date of the enactment of this Act, the Director shall submit to Congress a report containing the results of such assessment that includes—

(1) recommendations for improving the processes to addresses any such data security risks; and

(2) the progress of the Director on making any improvements described under paragraph (1).

SEC. 11. GAO STUDY ON THE USE OF SOCIAL SECURITY NUMBERS.

(a) STUDY.—The Comptroller General of the United States shall carry out a study on the feasibility and means of consumer reporting agencies replacing the use of social security numbers as identifiers with another type of Federal identification.

(b) REPORT.—Not later than the end of the 2-year period beginning on the date of the enactment of this Act, the Comptroller General shall issue a report to the Congress containing all findings and determinations made in carrying out the study required under subsection (a).

PURPOSE AND SUMMARY

On December 6, 2019, Representative Josh Gottheimer introduced H.R. 5332, the “Protecting Your Credit Score Act of 2019,” which directs the nationwide consumer reporting agencies (CRAs) to create a single online portal landing page for consumers to access free credit reports, credit scores, dispute errors, and place or lift security freezes. This landing page would also contain clear information on consumer rights and handling report disputes. The bill also codifies the Consumer Financial Protection Bureau’s (CFPB or Consumer Bureau) supervision of the nationwide CRAs and clarifies that the Consumer Bureau has authority, under the Gramm-Leach-Bliley Act, to prescribe and enforce data security safeguards for the nationwide CRAs. The bill provides for injunctive relief to allow a court to compel a CRA to fix an error or remove inaccurate information from a consumer report. The bill creates an Ombudsperson at the Consumer Bureau tasked with resolving persistent errors on reports that are not addressed in a timely fashion and allows the Ombudsperson to make referrals to the Offices of Supervision and Enforcement for corrective action in response to violations of applicable law by a CRA. Finally, the bill requires the Government Accountability Office (GAO) to conduct a

study on the feasibility and means of CRAs replacing the use of Social Security numbers as identifiers.

BACKGROUND AND NEED FOR LEGISLATION

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

According to the Consumer Bureau, many consumers believe consumer reports are “hard to get and hard to understand.”⁴ Unlike a consumer’s Federal right to obtain a free annual consumer report from each of the nationwide CRAs and nationwide specialty CRAs, in most cases, consumers have no legal right to their credit score.⁵ Unlike other businesses where dissatisfied and unhappy consumers can decide to stop doing business with a company, consumers have almost no control over whether furnishers provide information about them to CRAs that is compiled and maintained in the CRAs’ databases. Consumers’ concerns about credit reporting errors and their fears about stolen credit information and identity theft have also increased consumers’ purchases of credit monitoring services and other products from the nationwide CRAs, which have allowed these companies to profit, in part, from their own deficient practices.⁶

The Consumer Bureau has found that there is significant consumer confusion about the differences between the credit scores available to consumers and those that are sold to, and used by, creditors or lenders.⁷ This confusion can lead to consumers forming

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

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

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

⁴CFPB, “Consumer Voices on Credit Reports and Scores,” Feb. 2015, at 19, available at: https://files.consumerfinance.gov/f/201502_cfpb_report_consumer-voices-on-credit-reports-and-scores.pdf.

⁵The Dodd-Frank Act, amended the FCRA, to require “adverse action notices” (which are disclosures sent to consumers by creditors when a person has applied, but been denied, credit by a company to identify for the consumer, the CRA that the company obtained a report from to help make this decision) and “risk-based pricing notices” (which are disclosures sent to consumers by creditors informing a consumer that their request for new credit has been granted to them but, on materially less favorable terms and conditions, than the creditor has provided to other consumers to identify the CRA that the creditor obtained a report from to help make this decision) to include credit score disclosures.

⁶Consumer Voices on Credit Reports and Scores, *supra* note 4, at 13.

⁷*Id.* at 9.

inaccurate perceptions of their ability to access credit on affordable terms.⁸ In addition, CRAs frequently market consumer reporting products and services as “free” when they are actually paid-subscription services that automatically convert after a trial period.

In addition, following the Equifax data breach, which compromised at least 145.5 million consumers’ data, the GAO found that consumers have little control over what information credit reporting agencies have, and that Federal oversight could be improved, including by enhancing the Consumer Bureau’s oversight of CRAs and strengthening Federal enforcement of data safeguards.⁹

It is critical that Congress act swiftly to address these critical flaws and modernize the Fair Credit Reporting Act to ensure the credit reporting system works better for all Americans.

This legislation is supported by a coalition of consumer and community organizations.¹⁰ The National Association of Realtors also support this legislation.¹¹

This legislation was considered at a Financial Services Task Force on Financial Technology hearing on July 25th, 2019 and discussed at a full committee hearing on February 26, 2019.¹²

SECTION-BY-SECTION ANALYSIS

Section 1. Title; Table of contents

This section provides that H.R. 5332 may be cited as the “Protecting Your Credit Score Act of 2019.”

Section 2. Establishment of online consumer portal landing page for consumer access to certain credit information

This section adds a new subparagraph (D) to Section 612(a)(1) of the Fair Credit Reporting Act.

The new subparagraph (D) mandates that within one year of enactment, the three largest consumer reporting agencies described in section 603(p) must jointly develop an online portal that gives consumers unlimited free access to their consumer report, the ability to initiate disputes, the ability to lift and remove security freezes, information on who has accessed their report over the last two years, and their credit score. The portal cannot contain any advertising or solicitations. The CFPB may also grant the CRAs an additional year to create the portal if necessary.

⁸*Id.* at 18.

⁹Government Accountability Office, Consumer Data Protection: Actions Needed to Strengthen Oversight of Consumer Reporting Agencies 31 (2019), available at <https://www.gao.gov/products/GAO-19-196>.

¹⁰Supporting organizations include Americans for Financial Reform, Consumer Action, Consumer Federation of America, Consumer Reports, National Association of Consumer Advocates, National Consumer Law Center (on behalf of its low-income clients), U.S. PIRG, World Privacy Forum.

¹¹National Association of Realtors letter, available at <https://narfocus.com/billdatabase/clientfiles/172/2/3473.pdf>.

¹²Financial Services Task Force on Financial Technology Committee Hearing: “Examining the Use of Alternative Data in Underwriting and Credit Scoring to Expand Access to Credit” (2019). Hearing information available at <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=404003>. See also 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>.

Section 3. Accuracy in consumer reports

This section amends Section 607(b) of the Fair Credit Reporting Act.

In order to ensure the maximum possible accuracy of a consumer report, the amended section 607(b) provides that CRAs must match all nine digits of a social security number (SSN) to the consumer. If there is no SSN available, the CRAs must match the full legal name, date of birth, current address, and at least one previous address of the consumer. Each CRA must also conduct periodic audits on a sample of consumer reports to check for accuracy.

Section 4. Improved dispute process for consumer reporting agencies

Subsection (a) amends Section 623 of the Fair Credit Reporting Act by providing that the CRAs must “review and consider” disputes.

Subsection (b) amends section 611(a) of the Fair Credit Reporting Act by adding a new paragraph (8) that creates a Credit Reporting Ombudsperson at the CFPB in order to help resolve persistent errors that are not resolved in a timely manner as well as make referrals for supervisory and enforcement action, as may be appropriate, against CRAs. The Ombudsperson will support an annual report including an analysis of consumer complaints to the CFPB regarding credit reporting issues.

Subsection (c) further amends section 611(a) to mandate that CRAs must maintain and train enough personnel to conduct re-investigations of disputes, and provides for additional requirements with respect to such reinvestigations.

Section 5. Injunctive relief

This section amends the Fair Credit Reporting Act by adding a new subsection (c) to section 616 and a new subsection (b) to section 617 of such Act.

Under the new subsections added by this section, courts may award injunctive relief to require compliance with the Fair Credit Reporting Act. This section also authorizes courts to award costs and reasonable attorney’s fees.

This section also amends section 615(h)(8) of the Fair Credit Reporting Act to make certain conforming amendments.

Section 6: Increased transparency

This section amends Sections 604, 609, 612, and 615 of the Fair Credit Reporting Act.

Subsection (a) amends section 609 of the Fair Credit Reporting Act. The amended section 609 provides that upon request, the CRAs must disclose to the consumer the name, address, and telephone number of anyone that has accessed their consumer report, as well as for what purpose. It also provides that a credit score shall be provided free of charge if requested through the portal.

Paragraph (1) of subsection (b) amends and replaces section 612(b) of the Fair Credit Reporting Act to require that when a CRA receives notice of adverse action or offer of credit on materially less favorable terms on a consumer’s report, they shall disclose that information to the consumer within 30 days. This paragraph also makes a conforming amendment to section 604.

Paragraph (2) of subsection (b) amends section 615(h) of the Fair Credit Reporting Act to provide that a person that uses a consumer report to offer credit to a consumer on materially less favorable terms must inform the relevant CRA and direct the CRA to provide the disclosures described in the amended section 612(b).

Paragraph (3) of subsection (b) amends section 623 of the Fair Credit Reporting Act to ensure that consumers receive notice of subsequent submissions of negative information.

Section 7. Consumer reporting agency registry

This section amends Section 621 of the Fair Credit Reporting Act by adding a new subsection (h).

The new subsection (h) provides that within 180 days of the enactment of this subsection, the CFPB must establish a publicly available registry that includes all CRAs as well as links to any relevant websites of a CRA. It gives the CRAs 270 days to register in this registry.

Section 8. Authority of Bureau with respect to consumer reporting agencies

This section amends Section 1024(a)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act to codify the CFPB's supervisory authority over the CRAs.

Section 9. Bureau standards for protecting non-public information

This section amends section 501 of the Gramm-Leach-Bliley Act (GLBA) by clarifying the CFPB's authority over the CRAs relating to administrative, technical, and physical safeguards required by GLBA to protect records and sensitive information.

Section 10. Report on data security risk assessments in examinations of consumer reporting agencies

This section provides that within 90 days of the enactment of H.R. 5332, the CFPB Director shall assess whether Bureau examinations of the CRAs include sufficient processes to address any data security risks to the consumers that have files held by the CRAs. This section also provides that in the first semi-annual report to Congress after the enactment of the bill, the Director shall submit a report that includes recommendations for improving the processes to address any data security risks as well as the progress of the Bureau on making these improvements.

Section 11. GAO study on the use of social security numbers

This section directs the Comptroller General of the GAO to conduct a study on the feasibility and means of consumer reporting agencies replacing the use of social security numbers as identifiers with another type of federal identification. The GAO will have two years from the date of bill enactment to report the findings to Congress.

HEARINGS

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

(1) The Committee on Financial Services held a hearing, entitled "Who's Keeping Score? Holding Credit Bureaus Accountable and

Repairing a Broken System” to consider the “Comprehensive Consumer Credit Reporting Reform Act of 2019” (Title III of the discussion draft is substantially similar to H.R. 5332) on February 26, 2019. The two-panel hearing consisted of a panel with the 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 of modernizing the Fair Credit Reporting Act to better protect consumers and their data, as well as other legislation to help overcome those challenges.

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

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

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on December 11, 2019 and ordered H.R. 5332 to be reported favorably to the House with an amendment in the nature of a substitute by a vote of 31 yeas and 24 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. 5332:

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		
	Mr. Green	X	
	Mr. Cleaver	X	
	Mr. Perlmutter	X	
	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		
	Ms. Wexton	X	
	Mr. Lynch	X	
	Ms. Gabbard		
	Ms. Adams	X	
	Ms. Dean	X	
	Mr. Garcia (IL)	X	
	Ms. Garcia (TX)	X	
	Mr. Phillips	X	
34			
	Mr. McHenry, <i>Ranking Member</i>		X
	Mrs. Wagner		X
	Mr. King		X
	Mr. Lucas		X
	Mr. Posey		X
	Mr. Luetkenmeyer		X
	Mr. Huizenga		X
	Mr. Stivers		X
	Mr. Barr		X
	Mr. Tipton		X
	Mr. Williams		X
	Mr. Hill		X
	Mr. Emmer		X
	Mr. Zeldin		
	Mr. Loudermilk		X
	Mr. Mooney		X
	Mr. Davidson		X
	Mr. Budd		X
	Mr. Kustoff		
	Mr. Hollingsworth		X
	Mr. Gonzalez (OH)		X
	Mr. Rose		X
	Mr. Steil		X
	Mr. Gooden		X
	Mr. Riggleman		X
	Mr. Timmons		X
26			

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

Date: ___ 12/10/2019

Measure _ H.R. 5332

Amendment No. _____

Offered by: _____ Mr. Gottheimer, Final Passage

Agreed To	Yes	No	Prsnt	Wdrn
Voice Vote	Ayes		Nays	

Record Vote	FC
	31 Ayes- 24 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		
	Mr. Green		X
	Mr. Cleaver		X
	Mr. Perlmutter		X
	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		
	Ms. Wexton		X
	Mr. Lynch		X
	Ms. Gabbard		
	Ms. Adams		X
	Ms. Dean		X
	Mr. Garcia (IL)		X
	Ms. Garcia (TX)		X
	Mr. Phillips		X
34			
	Mr. McHenry, <i>Ranking Member</i>	X	
	Mrs. Wagner	X	
	Mr. King	X	
	Mr. Lucas	X	
	Mr. Posey	X	
	Mr. Luetkemeyer	X	
	Mr. Huizenga	X	
	Mr. Stivers	X	
	Mr. Barr	X	
	Mr. Tipton	X	
	Mr. Williams	X	
	Mr. Hill	X	
	Mr. Emmer	X	
	Mr. Zeldin		
	Mr. Loudermilk	X	
	Mr. Mooney	X	
	Mr. Davidson	X	
	Mr. Budd	X	
	Mr. Kustoff		
	Mr. Hollingsworth	X	
	Mr. Gonzalez (OH)	X	
	Mr. Rose	X	
	Mr. Steil	X	
	Mr. Gooden	X	
	Mr. Riggleman	X	
	Mr. Titumons	X	
26			

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

Date: ___ 12/10/2019

Measure _ H.R. 5332

Amendment No. ___ 8a

Offered by: ___ Mr. McHenry to Gottheimer ANS

Agreed To	Yes	No	Prsnt	Wdm
Voice Vote	Ayes		Nays	

Record Vote	FC
	24 Ayes- 31 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. 5332 are to increase easy access to free credit reports, scores, and credit file information for consumers.

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. 5332 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 21, 2020.

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. 5332, the Protecting Your Credit Score Act of 2019.

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

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

At a Glance			
H.R. 5332, Protecting Your Credit Score Act of 2019			
As ordered reported by the House Committee on Financial Services on December 11, 2019			
By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	1	15	25
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	1	15	25
Spending Subject to Appropriation (Outlays)	0	*	not estimated
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 2031?	< \$5 billion	Contains intergovernmental mandate?	Yes, Under Threshold
		Contains private-sector mandate?	Yes, Over Threshold
* = between zero and \$500,000.			

The bill would:

- Require the Consumer Financial Protection Bureau (CFPB) to issue rules that impose new requirements on consumer reporting agencies (CRAs) and entities that furnish information to CRAs
- Require the CFPB to hire a credit reporting ombudsman to coordinate bureau activity regarding CRAs
- Impose private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) by placing new requirements on CRAs, financial institutions, and entities that furnish information to CRAs
- Impose intergovernmental mandates as defined in UMRA by requiring users of consumer reports to notify CRAs of adverse actions taken against a consumer

Estimated budgetary effects would primarily stem from:

- Increases in direct spending for additional CFPB staff

Bill summary: H.R. 5332 would direct the Consumer Financial Protection Bureau (CFPB) to issue rules requiring consumer reporting agencies (CRAs) to provide consumers with free online access to their consumer reports and credit scores. The bill also would require CRAs to be staffed to adequately conduct reinvestigations of disputed information in consumers' files. The rules would establish standards for CRAs to safeguard consumer information and include a schedule for CRAs to audit the accuracy of personally identifiable information in consumer files.

H.R. 5332 also would require the CFPB to hire a credit-reporting ombudsman to identify and resolve persistent errors in CRAs' reports, enhance the bureau's supervision of CRAs, and report to the Congress annually about consumers' complaints. The bureau would be required to establish a public registry of CRAs and report to the Congress on whether its own examinations sufficiently address the security risks faced by consumers whose information is held by CRAs.

Finally, the bill would require the Government Accountability Office (GAO) to report to the Congress on the feasibility of CRAs' methods of identifying consumers' information.

Estimated Federal cost: The costs of the legislation fall within budget function 370 (commerce and housing credit).

Basis of estimate: CBO assumes that H.R. 5332 would be enacted in 2020. The CFPB has permanent authority, not subject to annual appropriation, to spend amounts transferred from the Federal Reserve. CBO’s estimates of the cost of the requirements in the bill are based on information from the CFPB and on the cost of similar activities.

In total, CBO estimates that enacting H.R. 5332 would increase direct spending by \$25 million over the 2020–2030 period. The components of that cost are detailed below.

- CBO estimates that the CFPB would need to hire 20 employees, at an annual cost of \$220,000 each, for about 18 months to issue the required rules for a total cost of \$7 million over the 2020–2021 period.
- CBO estimates that the CFPB would need to hire an ombudsman and five additional staff near the end of 2020 to fulfill various duties, at an initial annual cost of \$220,000 with adjustments in later years for inflation, or \$17 million over the 2020–2030 period.
- CBO estimates that the cost to the CFPB of other required activities would be \$1 million over the 2020–2030 period.
- CBO estimates that the cost for GAO to report to the Congress would be less than \$500,000 and would be subject to the availability of appropriated funds.

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 1.

TABLE 1.—CBO’S ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS OF H.R. 5332, THE PROTECTING YOUR CREDIT SCORE ACT OF 2019, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON FINANCIAL SERVICES ON DECEMBER 11, 2019

	By fiscal year, millions of dollars—													
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2020–2025	2020–2030	
	Net Increase in the Deficit													
Pay-As-You-Go Effect	1	7	1	2	2	2	2	2	2	2	2	15	25	

Increase in long-term deficits: CBO estimates that enacting H.R. 5332 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2031.

Mandates: The bill contains intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the costs of the intergovernmental mandates would fall below the UMRA threshold (\$84 million in 2020, adjusted annually for inflation). CBO estimates that the aggregate cost of the private-sector mandates would exceed the threshold established in UMRA (\$168 in 2020, adjusted annually for inflation).

Mandate that applies to private entities only: H.R. 5332 would impose new requirements on CRAs, financial institutions, entities

that furnish information to CRAs, and entities that use consumer reports to make personnel decisions.

Under current law, CRAs must provide annual consumer reports, for free, upon request by a consumer. H.R. 5332 would require CRAs to include the consumer's credit score for free with the consumer report. Using industry data, CBO estimates that CRAs would provide free credit scores in about 20 million consumer reports each year, at an average cost of approximately \$9.50 per score. Thus, CBO estimates that it would cost CRAs roughly \$198 million annually to comply with this requirement.

CRAs would be required to jointly develop an online portal to give consumers unlimited free access to various services including consumer reports, security freezes, and credit scores. According to industry sources, the cost to develop the portal would be roughly \$50 million.

H.R. 5332 would impose a number of other requirements on CRAs, which CBO estimates would impose small compliance costs. The bill would require CRAs to:

- Allow consumers to opt-out (free of charge) of having their information sold,
- Ensure the accuracy of information in consumer reports by matching social security numbers,
- Maintain a sufficient number of trained personnel to conduct reinvestigations of information under dispute by a consumer,
- Disclose new information to consumers regarding dispute reinvestigations and requests for their consumer report,
- Regularly audit information contained in consumer reports,
- Communicate with other CRAs to ensure a consumer's dispute is noted in their file at all relevant CRAs,
- Notify consumers within 30 days (current law requires notification within 60 days) of an adverse action taken against a consumer as the result of information contained in their consumer report, and
- Register with CFPB.

The bill would require CFPB to establish rules and appropriate standards for CRAs to safeguard and protect customer records and information. However, because the CFPB has not yet established those rules, CBO cannot determine the costs to comply.

The bill would require financial institutions that acquire a consumer's debt to provide notice to the consumer when supplying adverse information to a CRA. Because current law already requires a number of financial institutions to provide such notice, the cost to expand the requirement to a broader field of institutions would be small.

H.R. 5332 would require entities that furnish information to CRAs to reinvestigate disputes from consumers if the claimant presents new or additional information. To qualify for a reinvestigation, the consumer must supply information deemed acceptable by CFPB. Because CBO cannot anticipate the type of information that CFPB would deem acceptable or the number of new reinvestigations that would be requested, we cannot determine the cost of the mandate.

Mandate that applies both to public and private entities: The bill would require users of consumer reports to notify CRAs of any adverse actions taken against a consumer as a result of information contained in the report. That prohibition would impose an intergovernmental and private-sector mandate because individuals in both the public and private sector use consumer reports for background checks and personnel decisions. Current law already requires a number of the mandated entities to report information regarding an adverse action directly to consumers. Therefore, the incremental cost to notify CRAs would be small because the mandated entities already collect the information required to be disclosed under the bill.

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

Estimate reviewed by: Kim Cawley, Chief, Natural and Physical Resources Cost Estimates Unit; Susan Willie, Chief, Public and Private Mandates Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis; Theresa Gullo, Director of 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. 5332. 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. 5332, 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. 5332 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. 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. 5332 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. 5332, 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 italics, and existing law in which no change is proposed is shown in roman):

TITLE VI—CONSUMER CREDIT REPORTING

* * * * *

§ 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)] *section 615(a)(4)*; 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 arising from the receipt of medical services, products, or devices, where such information, other than account status or amounts, is restricted or reported using codes that do not identify, or do not provide information sufficient to infer, the specific provider or the nature of such services, products, or devices, as provided in section 605(a)(6).

(2) LIMITATION ON CREDITORS.—Except as permitted pursuant to paragraph (3)(C) or regulations prescribed under paragraph (5)(A), a creditor shall not obtain or use medical information (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 superseding the applicability of any other provision of Federal law relating to medical confidentiality.

* * * * *

§ 607. Compliance procedures

(a) Every consumer reporting agency shall maintain reasonable procedures designed to avoid violations of section 605 and to limit the furnishing of consumer reports to the purposes listed under section 604. These procedures shall require that prospective users of the information identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose. Every consumer reporting agency shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by such prospective user prior to furnishing such user a consumer report. No consumer reporting agency may furnish a consumer report to any person if it has reasonable grounds for believing that the consumer report will not be used for a purpose listed in section 604.

[(b) Whenever a consumer reporting agency prepares a consumer report it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.]

(b) *ENSURING ACCURACY.*—

(1) *IN GENERAL.*—*In preparing a consumer report, each consumer reporting agency shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the consumer to whom the report relates.*

(2) *MATCHING INFORMATION IN A FILE.*—*In assuring the maximum possible accuracy under paragraph (1), each consumer reporting agency described in section 603(p) shall ensure that, when including information in the file of a consumer, the consumer reporting agency—*

(A) matches all 9 digits of the social security number of the consumer with the information that the consumer reporting agency is including in the file; or

(B) if a consumer does not have a social security number, matches information that includes the full legal name, date of birth, current address, and at least one former address of the consumer.

(3) *PERIODIC AUDITS.*—*Each consumer reporting agency shall perform periodic audits, on a schedule determined by the Bu-*

reau, on a representative sample of consumer reports of the agency to check for accuracy.

(c) DISCLOSURE OF CONSUMER REPORTS BY USERS ALLOWED.—A consumer reporting agency may not prohibit a user of a consumer report furnished by the agency on a consumer from disclosing the contents of the report to the consumer, if adverse action against the consumer has been taken by the user based in whole or in part on the report.

(d) NOTICE TO USERS AND FURNISHERS OF INFORMATION.—

(1) NOTICE REQUIREMENT.—A consumer reporting agency shall provide to any person—

(A) who regularly and in the ordinary course of business furnishes information to the agency with respect to any consumer; or

(B) to whom a consumer report is provided by the agency;

a notice of such person's responsibilities under this title.

(2) CONTENT OF NOTICE.—The Bureau shall prescribe the content of notices under paragraph (1), and a consumer reporting agency shall be in compliance with this subsection if it provides a notice under paragraph (1) that is substantially similar to the Bureau prescription under this paragraph.

(e) PROCUREMENT OF CONSUMER REPORT FOR RESALE.—

(1) DISCLOSURE.—A person may not procure a consumer report for purposes of reselling the report (or any information in the report) unless the person discloses to the consumer reporting agency that originally furnishes the report—

(A) the identity of the end-user of the report (or information); and

(B) each permissible purpose under section 604 for which the report is furnished to the end-user of the report (or information).

(2) RESPONSIBILITIES OF PROCURERS FOR RESALE.—A person who procures a consumer report for purposes of reselling the report (or any information in the report) shall—

(A) establish and comply with reasonable procedures designed to ensure that the report (or information) is resold by the person only for a purpose for which the report may be furnished under section 604, including by requiring that each person to which the report (or information) is resold and that resells or provides the report (or information) to any other person—

(i) identifies each end user of the resold report (or information);

(ii) certifies each purpose for which the report (or information) will be used; and

(iii) certifies that the report (or information) will be used for no other purpose; and

(B) before reselling the report, make reasonable efforts to verify the identifications and certifications made under subparagraph (A).

(3) RESALE OF CONSUMER REPORT TO A FEDERAL AGENCY OR DEPARTMENT.—Notwithstanding paragraph (1) or (2), a person who procures a consumer report for purposes of reselling the report (or any information in the report) shall not disclose the

identity of the end-user of the report under paragraph (1) or (2) if—

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

(B) the agency or department certifies in writing to the person reselling the report that nondisclosure is necessary to protect classified information or the safety of persons employed by or contracting with, or undergoing investigation for work or contracting with the agency or department.

* * * * *

§ 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.]

(ii) the address and telephone number of the person; and

(iii) *the permissible purpose, as available, of the person for obtaining the consumer report, including the specific type of credit product that is extended, reviewed, or collected, as described in section 604(a)(3)(A).*

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

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

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

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

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

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

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

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

(1) COMMISSION SUMMARY OF RIGHTS REQUIRED.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

all of the information required by the Bureau under paragraph (1), and information on how to contact the Bureau to obtain more detailed information.

(e) INFORMATION AVAILABLE TO VICTIMS.—

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

(A) the victim;

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

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

(2) VERIFICATION OF IDENTITY AND CLAIM.—Before a business entity provides any information under paragraph (1), unless the business entity, at its discretion, otherwise has a high degree of confidence that it knows the identity of the victim making a request under paragraph (1), the victim shall provide to the business entity—

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

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

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

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

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

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

(ii) a properly completed—

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

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

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

(A) be in writing;

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) RULE OF CONSTRUCTION.—

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

(B) LIMITATION.—Except as provided in subparagraph (A), nothing in this subsection permits a business entity to disclose information, including information to law enforce-

ment under subparagraphs (B) and (C) of paragraph (1), that the business entity is otherwise prohibited from disclosing under any other applicable provision of Federal or State law.

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

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

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

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

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

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

(f) DISCLOSURE OF CREDIT SCORES.—

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

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

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

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

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

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

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

(A) CREDIT SCORE.—The term “credit score”—

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

(ii) does not include—

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) *supply the consumer with a credit score through the portal established under section 612(a)(1)(D) or upon request by the consumer, as applicable, that—*

(i) is derived from a credit scoring model that is widely distributed to users by that consumer reporting agency for the purpose of any extension of credit or other transaction designated by the consumer who is requesting the credit score; or

(ii) is widely distributed to lenders of common consumer loan products and predicts 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, *except that a credit score shall be provided free of charge to the consumer if requested in connection with a free annual consumer report described in section 612(a) or through the online consumer portal landing page established under section 612(a)(1)(D)*

(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)] SUBPARAGRAPH (C).—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)] *subparagraph (C)*

(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 un-

derwriting system used by an enterprise, and that score is disclosed to the person, the score shall be disclosed to the consumer **[(consistent with subparagraph (C))]**.

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

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

[(D)] (C) 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)] (D) 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)] (E) 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)] (F) 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.

* * * * *

§ 611. Procedure in case of disputed accuracy

(a) REINVESTIGATIONS OF DISPUTED INFORMATION.—

(1) REINVESTIGATION REQUIRED.—

(A) **IN GENERAL.—**Subject to subsection (f) and except as provided in subsection (g), if the completeness or accuracy of any item of information contained in a consumer’s file at a consumer reporting agency is disputed by the consumer and the consumer notifies the agency directly, or indirectly through a reseller, of such dispute, the agency shall, free of charge, conduct a reasonable reinvestigation to determine whether the disputed information is inaccurate and record the current status of the disputed information, or delete the item from the file in accordance with paragraph (5), before the end of the 30-day period beginning on the date on which the agency receives the notice of the dispute from the consumer or reseller.

(B) **EXTENSION OF PERIOD TO REINVESTIGATE.—**Except as provided in subparagraph (C), the 30-day period described in subparagraph (A) may be extended for not more than 15 additional days if the consumer reporting agency receives

information from the consumer during that 30-day period that is relevant to the reinvestigation.

(C) LIMITATIONS ON EXTENSION OF PERIOD TO REINVESTIGATE.—Subparagraph (B) shall not apply to any reinvestigation in which, during the 30-day period described in subparagraph (A), the information that is the subject of the reinvestigation is found to be inaccurate or incomplete or the consumer reporting agency determines that the information cannot be verified.

(D) OBLIGATIONS OF CONSUMER REPORTING AGENCIES RELATING TO REINVESTIGATIONS.—*Commensurate with the volume and complexity of disputes about which a consumer reporting agency receives notice, or reasonably anticipates to receive notice, under this paragraph, each consumer reporting agency shall—*

- (i) maintain sufficient personnel to conduct reinvestigations of those disputes; and*
- (ii) provide training with respect to the personnel described in clause (i).*

(2) PROMPT NOTICE OF DISPUTE TO FURNISHER OF INFORMATION.—

(A) IN GENERAL.—Before the expiration of the 5-business-day period beginning on the date on which a consumer reporting agency receives notice of a dispute from any consumer or a reseller in accordance with paragraph (1), the agency shall provide notification of the dispute to any person who provided any item of information in dispute, at the address and in the manner established with the person. The notice shall include all relevant information regarding the dispute that the agency has received from the consumer or reseller.

(B) PROVISION OF OTHER INFORMATION.—The consumer reporting agency shall promptly provide to the person who provided the information in dispute all relevant information regarding the dispute that is received by the agency from the consumer or the reseller after the period referred to in subparagraph (A) and before the end of the period referred to in paragraph (1)(A).

(3) DETERMINATION THAT DISPUTE IS FRIVOLOUS OR IRRELEVANT.—

(A) IN GENERAL.—Notwithstanding paragraph (1), a consumer reporting agency may terminate a reinvestigation of information disputed by a consumer under that paragraph if the agency reasonably determines that the dispute by the consumer is frivolous or irrelevant, including by reason of a failure by a consumer to provide sufficient information to investigate the disputed information.

(B) NOTICE OF DETERMINATION.—Upon making any determination in accordance with subparagraph (A) that a dispute is frivolous or irrelevant, a consumer reporting agency shall notify the consumer of such determination not later than 5 business days after making such determination, by mail or, if authorized by the consumer for that purpose, by any other means available to the agency.

- (C) CONTENTS OF NOTICE.—A notice under subparagraph (B) shall include—
- (i) the reasons for the determination under subparagraph (A); and
 - (ii) identification of any information required to investigate the disputed information, which may consist of a standardized form describing the general nature of such information.
- (4) CONSIDERATION OF CONSUMER INFORMATION.—In conducting any reinvestigation under paragraph (1) with respect to disputed information in the file of any consumer, the consumer reporting agency shall review and consider all relevant information submitted by the consumer in the period described in paragraph (1)(A) with respect to such disputed information.
- (5) TREATMENT OF INACCURATE OR UNVERIFIABLE INFORMATION.—
- (A) IN GENERAL.—If, after any reinvestigation under paragraph (1) of any information disputed by a consumer, an item of the information is found to be inaccurate or incomplete or cannot be verified, the consumer reporting agency shall—
- (i) promptly delete that item of information from the file of the consumer, or modify that item of information, as appropriate, based on the results of the reinvestigation; and
 - (ii) promptly notify the furnisher of that information that the information has been modified or deleted from the file of the consumer.
- (B) REQUIREMENTS RELATING TO REINSERTION OF PREVIOUSLY DELETED MATERIAL.—
- (i) CERTIFICATION OF ACCURACY OF INFORMATION.—If any information is deleted from a consumer's file pursuant to subparagraph (A), the information may not be reinserted in the file by the consumer reporting agency unless the person who furnishes the information certifies that the information is complete and accurate.
 - (ii) NOTICE TO CONSUMER.—If any information that has been deleted from a consumer's file pursuant to subparagraph (A) is reinserted in the file, the consumer reporting agency shall notify the consumer of the reinsertion in writing not later than 5 business days after the reinsertion or, if authorized by the consumer for that purpose, by any other means available to the agency.
 - (iii) ADDITIONAL INFORMATION.—As part of, or in addition to, the notice under clause (ii), a consumer reporting agency shall provide to a consumer in writing not later than 5 business days after the date of the reinsertion—
 - (I) a statement that the disputed information has been reinserted;
 - (II) the business name and address of any furnisher of information contacted and the telephone number of such furnisher, if reasonably available,

or of any furnisher of information that contacted the consumer reporting agency, in connection with the reinsertion of such information; and

(III) a notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the disputed information.

(C) PROCEDURES TO PREVENT REAPPEARANCE.—A consumer reporting agency shall maintain reasonable procedures designed to prevent the reappearance in a consumer's file, and in consumer reports on the consumer, of information that is deleted pursuant to this paragraph (other than information that is reinserted in accordance with subparagraph (B)(i)).

(D) AUTOMATED REINVESTIGATION SYSTEM.—Any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis shall implement an automated system through which furnishers of information to that consumer reporting agency may report the results of a reinvestigation that finds incomplete or inaccurate information in a consumer's file to other such consumer reporting agencies.

(6) NOTICE OF RESULTS OF REINVESTIGATION.—

(A) IN GENERAL.—A consumer reporting agency shall provide written notice to a consumer of the results of a reinvestigation under this subsection not later than 5 business days after the completion of the reinvestigation, by mail or, if authorized by the consumer for that purpose, by other means available to the agency.

(B) CONTENTS.—As part of, or in addition to, the notice under subparagraph (A), a consumer reporting agency shall provide to a consumer in writing before the expiration of the 5-day period referred to in subparagraph (A)—

(i) a statement that the reinvestigation is completed;

[(ii) a consumer report that is based upon the consumer's file as that file is revised as a result of the reinvestigation;

[(iii) a notice that, if requested by the consumer, a description of the procedure used to determine the accuracy and completeness of the information shall be provided to the consumer by the agency, including the business name and address of any furnisher of information contacted in connection with such information and the telephone number of such furnisher, if reasonably available;]

(ii) a copy of the consumer's file and a consumer report that is based upon such file as revised, including a description of the specific modification or deletion of information, as a result of the reinvestigation;

(iii) a description of the actions taken by the consumer reporting agency regarding the dispute;

(iv) if applicable, contact information for any furnisher involved in responding to the dispute and a description of the role played by the furnisher in the reinvestigation process;

(v) the options available to the consumer if the consumer is dissatisfied with the result of the reinvestigation, including—

(I) submitting documents in support of the dispute;

(II) adding a consumer statement of dispute to the file of the consumer pursuant to subsection (b);

(III) filing a dispute with the furnisher pursuant to section 623(a)(8); and

(IV) submitting a complaint against the consumer reporting agency or furnishers through the consumer complaint database of the Bureau or the State attorney general for the State in which the consumer resides;

[(iv)] (vi) a notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the information; and

[(v)] (vii) a notice that the consumer has the right to request under subsection (d) that the consumer reporting agency furnish notifications under that subsection.

[(7) DESCRIPTION OF REINVESTIGATION PROCEDURE.—A consumer reporting agency shall provide to a consumer a description referred to in paragraph (6)(B)(iii) by not later than 15 days after receiving a request from the consumer for that description.]

[(8)] (7) EXPEDITED DISPUTE RESOLUTION.—If a dispute regarding an item of information in a consumer's file at a consumer reporting agency is resolved in accordance with paragraph (5)(A) by the deletion of the disputed information by not later than 3 business days after the date on which the agency receives notice of the dispute from the consumer in accordance with paragraph (1)(A), then the agency shall not be required to comply with [paragraphs (2), (6), and (7)] paragraphs (2) and (6) with respect to that dispute if the agency—

(A) provides prompt notice of the deletion to the consumer by telephone;

(B) includes in that notice, or in a written notice that accompanies a confirmation and consumer report provided in accordance with subparagraph (C), a statement of the consumer's right to request under subsection (d) that the agency furnish notifications under that subsection; and

(C) provides written confirmation of the deletion and a copy of a consumer report on the consumer that is based on the consumer's file after the deletion, not later than 5 business days after making the deletion.

(8) BUREAU CREDIT REPORTING OMBUDSPERSON.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Bureau shall establish the position of credit reporting ombudsperson, whose specific duties shall include carrying out the Bureau's responsibilities with respect to—

(i) resolving persistent errors that are not resolved in a timely manner by a consumer reporting agency; and

(ii) *enhancing oversight of consumer reporting agencies by—*

(I) advising the Director of the Bureau, in consultation with the Office of Enforcement and the Office of Supervision of the Bureau, on any potential violations of paragraph (5) or any other applicable law by a consumer reporting agency, including appropriate corrective action for such a violation; and

(II) making referrals to the Office of Supervision for supervisory action or the Office of Enforcement for enforcement action, as appropriate, in response to violations of paragraph (5) or any other applicable law by a consumer reporting agency.

(B) REPORT.—The ombudsperson shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate an annual report including statistics and analysis on consumer complaints the Bureau receives relating to consumer reports, as well as a summary of the supervisory actions and enforcement actions taken with respect to consumer reporting agencies during the year covered by the report.

(b) If the reinvestigation does not resolve the dispute, the consumer may file a brief statement setting forth the nature of the dispute. The consumer reporting agency may limit such statements to not more than one hundred words if it provides the consumer with assistance in writing a clear summary of the dispute.

(c) Whenever a statement of a dispute is filed, unless there is reasonable grounds to believe that it is frivolous or irrelevant, the consumer reporting agency shall, in any subsequent consumer report containing the information in question, clearly note that it is disputed by the consumer and provide either the consumer's statement or a clear and accurate codification or summary thereof.

(d) Following any deletion of information which is found to be inaccurate or whose accuracy can no longer be verified or any notation as to disputed information, the consumer reporting agency shall, at the request of the consumer, furnish notification that the item has been deleted or the statement, codification or summary pursuant to subsection (b) or (c) to any person specifically designated by the consumer who has within two years prior thereto received a consumer report for employment purposes, or within six months prior thereto received a consumer report for any other purpose, which contained the deleted or disputed information.

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

(1) IN GENERAL.—The Commission shall—

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

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

(2) EXCLUSION.—Complaints received or obtained by the Bureau pursuant to its investigative authority under the Consumer Financial Protection Act of 2010 shall not be subject to paragraph (1).

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

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

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

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

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

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

(f) REINVESTIGATION REQUIREMENT APPLICABLE TO RESELLERS.—

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

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

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

(B) if—

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

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

(3) **RESPONSIBILITY OF CONSUMER REPORTING AGENCY TO NOTIFY CONSUMER THROUGH RESELLER.**—Upon the completion of a reinvestigation under this section of a dispute concerning the completeness or accuracy of any information in the file of a consumer by a consumer reporting agency that received notice of the dispute from a reseller under paragraph (2)—

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

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

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

(g) **DISPUTE PROCESS FOR VETERAN'S MEDICAL DEBT.**—

(1) **IN GENERAL.**—With respect to a veteran's medical debt, the veteran may submit a notice described in paragraph (2), proof of liability of the Department of Veterans Affairs for payment of that debt, or documentation that the Department of Veterans Affairs is in the process of making payment for authorized hospital care, medical services, or extended care services rendered to a consumer reporting agency or a reseller to dispute the inclusion of that debt on a consumer report of the veteran.

(2) **NOTIFICATION TO VETERAN.**—The Department of Veterans Affairs shall submit to a veteran a notice that the Department of Veterans Affairs has assumed liability for part or all of a veteran's medical debt.

(3) **DELETION OF INFORMATION FROM FILE.**—If a consumer reporting agency receives notice, proof of liability, or documentation under paragraph (1), the consumer reporting agency shall delete all information relating to the veteran's medical debt from the file of the veteran and notify the furnisher and the veteran of that deletion.

(h) **NOTIFICATION OF DELETION OF INFORMATION.**—*A consumer reporting agency described in section 603(p) shall communicate with other consumer reporting agencies described in section 603(p) to ensure that a dispute initiated with one consumer reporting agency is noted in a file maintained by such other consumer reporting agencies.*

SEC. 612. CHARGES FOR CERTAIN DISCLOSURES.

(a) **FREE ANNUAL DISCLOSURE.**—

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

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

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

(C) NATIONWIDE SPECIALTY CONSUMER REPORTING AGENCY.—

(i) IN GENERAL.—The Commission shall prescribe regulations applicable to each consumer reporting agency described in section 603(w) to require the establishment of a streamlined process for consumers to request consumer reports under subparagraph (A), which shall include, at a minimum, the establishment by each such agency of a toll-free telephone number for such requests.

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

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

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

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

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

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

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

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

(D) ONLINE CONSUMER PORTAL LANDING PAGE.—

(i) IN GENERAL.—*Not later than 1 year after the date of enactment of this subparagraph, each consumer reporting agency described in section 603(p) shall jointly develop an online consumer portal landing page that gives each consumer unlimited free access to—*

(I) the consumer report of the consumer;

(II) the means by which the consumer may exercise the rights of the consumer under subparagraph (E) and section 604(e);

(III) the ability to initiate a dispute with the consumer reporting agency regarding the accuracy or completeness of any information in a report in accordance with section 611(a) or 623(a)(8);

(IV) the ability to place and remove a security freeze on a consumer report for free under section 605A(i) and (j);

(V) if the consumer reporting agency offers a product to consumers to prevent access to the consumer report of the consumer for the purpose of preventing identity theft, a disclosure to the consumer regarding the differences between that product and a security freeze as defined under section 605A(i) or (j);

(VI) information on who has accessed the consumer report of the consumer over the last 24 months, and, as available, for what permissible purpose the consumer report was furnished in accordance with section 604 and section 609; and

(VII) the credit score of the consumer in accordance with section 609(f)(7).

(ii) **NO WAIVER.**—A consumer reporting agency described in section 603(p) may not require a consumer to waive any legal or privacy rights to access—

(I) a portal established under this subparagraph; or

(II) any of the services described in clause (i) that are provided through a portal established under this subparagraph.

(iii) **NO ADVERTISING OR SOLICITATIONS.**—A portal established under this subparagraph may not contain any advertising, marketing offers, or other solicitations.

(iv) **EXTENSION.**—The Bureau may allow the consumer reporting agencies an extension of 1 year to develop the online consumer portal landing page required under clause (i).

(v) **RULE OF CONSTRUCTION.**—Nothing in this subparagraph may be construed as requiring a consumer reporting agency to disclose confidential proprietary information through the online consumer portal landing page.

(E) **OPT-OUT OPTION.**—

(i) **IN GENERAL.**—If a consumer reporting agency sells consumer information in a manner that is not included in a consumer report, the consumer reporting agency shall provide each consumer with a method (through a website, by phone, or in writing) by which the consumer may elect, free of charge, to not have the information of the consumer so sold.

(ii) **NO EXPIRATION.**—An election made by a consumer under clause (i) shall expire on the date on which the consumer expressly revokes the election through a website, by phone, or in writing.

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

(3) **REINVESTIGATIONS.**—Notwithstanding the time periods specified in section 611(a)(1), a reinvestigation under that sec-

tion by a consumer reporting agency upon a request of a consumer that is made after receiving a consumer report under this subsection shall be completed not later than 45 days after the date on which the request is received.

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

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

(b) FREE DISCLOSURE AFTER NOTICE OF ADVERSE ACTION OR OFFER OF CREDIT ON MATERIALLY LESS FAVORABLE TERM.—*Not later than 30 days after the date on which a consumer reporting agency receives a notification under subsection (a)(2) or (h)(6) of section 615, or from a debt collection agency affiliated with the consumer reporting agency, the consumer reporting agency shall make to a consumer, without charge to the consumer, all disclosures that are made to a user of a consumer report in accordance with the rules prescribed by the Bureau.*

(c) FREE DISCLOSURE UNDER CERTAIN OTHER CIRCUMSTANCES.—Upon the request of the consumer, a consumer reporting agency shall make all disclosures pursuant to section 609 once during any 12-month period without charge to that consumer if the consumer certifies in writing that the consumer—

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

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

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

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

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

(f) REASONABLE CHARGES ALLOWED FOR CERTAIN DISCLOSURES.—

(1) IN GENERAL.—In the case of a request from a consumer other than a request that is covered by any of subsections (a) through (d), or that is made through the online consumer portal landing page established under subsection (a)(1)(D), a consumer reporting agency may impose a reasonable charge on a consumer—

(A) for making a disclosure to the consumer pursuant to section 609, which charge—

- (i) shall not exceed \$8; and
- (ii) shall be indicated to the consumer before making the disclosure; and

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

- (i) shall not exceed the charge that the agency would impose on each designated recipient for a consumer report; and
- (ii) shall be indicated to the consumer before furnishing such information.

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

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

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

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

* * * * *

§ 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) *direct the consumer reporting agency that provided the consumer report that was used in the decision to take the adverse action to provide the consumer with the disclosures described in section 612(b);*

~~[(2)]~~ (3) 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 ac-

tion 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)] (4) provide to the consumer orally, in writing, or electronically—

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

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

[(4)] (5) 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]

(A) that the consumer shall receive a copy of the consumer report with respect to the consumer, free of charge, from the consumer reporting agency that furnished the consumer report; and

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

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

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

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

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

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

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

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

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

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

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

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

(ii) does not include—

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

(II) information in a consumer report.

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

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

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

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

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

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

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

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

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

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

(B) be presented in such format and in such type size and manner as to be simple and easy to understand, as established by the Bureau, by rule, in consultation with the Federal Trade Commission, the Federal banking agencies, and the National Credit Union Administration.

(3) MAINTAINING CRITERIA ON FILE.—A person who makes an offer of credit or insurance to a consumer under a credit or insurance transaction described in paragraph (1) shall maintain on file the criteria used to select the consumer to receive the offer, all criteria bearing on credit worthiness or insurability, as applicable, that are the basis for determining whether or not to extend credit or insurance pursuant to the offer, and any requirement for the furnishing of collateral as a condition of the extension of credit or insurance, until the expiration of the 3-year period beginning on the date on which the offer is made to the consumer.

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

(e) RED FLAG GUIDELINES AND REGULATIONS REQUIRED.—

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

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

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

(C) prescribe regulations applicable to card issuers to ensure that, if a card issuer receives notification of a change of address for an existing account, and within a short period of time (during at least the first 30 days after such notification is received) receives a request for an additional or replacement card for the same account, the card issuer may not issue the additional or replacement card, unless the card issuer, in accordance with reasonable policies and procedures—

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

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

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

(2) CRITERIA.—

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

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

(3) CONSISTENCY WITH VERIFICATION REQUIREMENTS.—Guidelines established pursuant to paragraph (1) shall not be inconsistent with the policies and procedures required under section 5318(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)] *paragraph (7)*, 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)] paragraph (7)**

(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]** *shall receive* 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) **REPORTS PROVIDED TO CONSUMERS.**—*A person who uses a consumer report as described in paragraph (1) shall notify and direct the consumer reporting agency that provided the consumer report to provide the consumer with the disclosures described in section 612(b).*

[(6)] (7) 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)] (8) 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)] (9) ENFORCEMENT.—

(A) NO CIVIL ACTIONS.—Sections 616 and 617 shall not apply to any failure by any person to comply with this [section] 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.—] *DAMAGES.*—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) *INJUNCTIVE RELIEF.*—

(1) *IN GENERAL.*—*In addition to any other remedy under this section, a court may award injunctive relief to require compliance with the requirements imposed under this title with respect to any consumer.*

(2) *ATTORNEY'S FEES.*—*In the event of any successful action for injunctive relief under this subsection, a court may award to the prevailing party reasonable attorney's fees (as determined by the court) incurred by the prevailing party during the action.*

[(c)] (d) *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)] (e) *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) for such receipt shall not be in willful non-compliance with section 605(g) by reason of printing such expiration date on the receipt.

§ 617. Civil liability for negligent noncompliance

[(a) IN GENERAL.—]

(a) *DAMAGES.*—

Any person who is negligent in failing 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) any actual damages sustained by the consumer as a result of the failure; and
- (2) 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) *INJUNCTIVE RELIEF.*—

(1) *IN GENERAL.*—*In addition to any other remedy under this section, a court may award injunctive relief to require compliance with the requirements imposed under this title with respect to any consumer.*

(2) *ATTORNEY'S FEES.*—*In the event of any successful action for injunctive relief under this subsection, a court may award to the prevailing party reasonable attorney's fees (as determined by the court) incurred by the prevailing party during the action.*

[(b)] (c) *ATTORNEY'S FEES.*—On 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.

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

(3) ANNUAL SUMMARY REPORTS.—Each consumer reporting agency described in section 603(p) shall submit an annual summary report to the 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.

(h) CONSUMER REPORTING AGENCY REGISTRY.—

(1) ESTABLISHMENT OF REGISTRY.—*Not later than 180 days after the date of enactment of this subsection, the Bureau shall establish a publicly available registry of consumer reporting agencies that includes—*

(A) *each consumer reporting agency that compiles and maintains files on consumers on a nationwide basis;*

(B) *each nationwide specialty consumer reporting agency;*

(C) *all other consumer reporting agencies that are not included under section 603(p) or 603(x); and*

(D) *links to any relevant websites of a consumer reporting agency described under subparagraphs (A) through (C).*

(2) REGISTRATION REQUIREMENT.—*The Bureau shall establish a deadline, which shall be not later than 270 days after the date of the enactment of this subsection, by which each consumer reporting agency described in paragraph (1) shall be required to register in the registry established under such paragraph.*

* * * * *

SEC. 623. RESPONSIBILITIES OF FURNISHERS OF INFORMATION TO CONSUMER REPORTING AGENCIES.

(a) DUTY OF FURNISHERS OF INFORMATION TO PROVIDE ACCURATE INFORMATION.—

(1) PROHIBITION.—

(A) REPORTING INFORMATION WITH ACTUAL KNOWLEDGE OF ERRORS.—A person shall not furnish any information relating to a consumer to any consumer reporting agency if the person knows or has reasonable cause to believe that the information is inaccurate.

(B) REPORTING INFORMATION AFTER NOTICE AND CONFIRMATION OF ERRORS.—A person shall not furnish information relating to a consumer to any consumer reporting agency if—

- (i) the person has been notified by the consumer, at the address specified by the person for such notices, that specific information is inaccurate; and
- (ii) the information is, in fact, inaccurate.

(C) NO ADDRESS REQUIREMENT.—A person who clearly and conspicuously specifies to the consumer an address for notices referred to in subparagraph (B) shall not be subject to subparagraph (A); however, nothing in subparagraph (B) shall require a person to specify such an address.

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

(E) REHABILITATION OF PRIVATE EDUCATION LOANS.—

(i) IN GENERAL.—Notwithstanding any other provision of this section, a consumer may request a financial institution to remove from a consumer report a reported default regarding a private education loan, and such information shall not be considered inaccurate, if—

(I) the financial institution chooses to offer a loan rehabilitation program which includes, without limitation, a requirement of the consumer to make consecutive on-time monthly payments in a number that demonstrates, in the assessment of the financial institution offering the loan rehabilitation program, a renewed ability and willingness to repay the loan; and

(II) the requirements of the loan rehabilitation program described in subclause (I) are successfully met.

(ii) BANKING AGENCIES.—

(I) IN GENERAL.—If a financial institution is supervised by a Federal banking agency, the financial institution shall seek written approval concerning the terms and conditions of the loan rehabilitation program described in clause (i) from the appropriate Federal banking agency.

(II) FEEDBACK.—An appropriate Federal banking agency shall provide feedback to a financial institution within 120 days of a request for approval under subclause (I).

(iii) LIMITATION.—

(I) IN GENERAL.—A consumer may obtain the benefits available under this subsection with respect to rehabilitating a loan only 1 time per loan.

(II) RULE OF CONSTRUCTION.—Nothing in this subparagraph may be construed to require a financial institution to offer a loan rehabilitation program or to remove any reported default from a consumer report as a consideration of a loan rehabilitation program, except as described in clause (i).

(iv) DEFINITIONS.—For purposes of this subparagraph—

(I) the term “appropriate Federal banking agency” has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); and

(II) the term “private education loan” has the meaning given the term in section 140(a) of the Truth in Lending Act (15 U.S.C. 1650(a)).

(2) DUTY TO CORRECT AND UPDATE INFORMATION.—A person who—

(A) regularly and in the ordinary course of business furnishes information to one or more consumer reporting agencies about the person’s transactions or experiences with any consumer; and

(B) has furnished to a consumer reporting agency information that the person determines is not complete or accurate,

shall promptly notify the consumer reporting agency of that determination and provide to the agency any corrections to that information, or any additional information, that is necessary to make the information provided by the person to the agency complete and accurate, and shall not thereafter furnish to the agency any of the information that remains not complete or accurate.

(3) DUTY TO PROVIDE NOTICE OF DISPUTE.—If the completeness or accuracy of any information furnished by any person to any consumer reporting agency is disputed to such person by a consumer, the person may not furnish the information to any consumer reporting agency without notice that such information is disputed by the consumer.

(4) DUTY TO PROVIDE NOTICE OF CLOSED ACCOUNTS.—A person who regularly and in the ordinary course of business furnishes information to a consumer reporting agency regarding a consumer who has a credit account with that person shall notify the agency of the voluntary closure of the account by the consumer, in information regularly furnished for the period in which the account is closed.

(5) DUTY TO PROVIDE NOTICE OF DELINQUENCY OF ACCOUNTS.—(A) IN GENERAL.—A person who furnishes information to a consumer reporting agency regarding a delinquent account being placed for collection, charged to profit or loss, or subjected to any similar action shall, not later than 90 days after furnishing the information, notify the agency of the date of delinquency on the account, which shall be the month and year of the commencement of the delinquency on the account that immediately preceded the action.

(B) RULE OF CONSTRUCTION.—For purposes of this paragraph only, and provided that the consumer does not dispute the information, a person that furnishes information on a delinquent account that is placed for collection, charged for profit or loss, or subjected to any similar action, complies with this paragraph, if—

(i) the person reports the same date of delinquency as that provided by the creditor to which the account

was owed at the time at which the commencement of the delinquency occurred, if the creditor previously reported that date of delinquency to a consumer reporting agency;

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

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

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

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

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

(7) NEGATIVE INFORMATION.—

(A) NOTICE TO CONSUMER REQUIRED.—

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

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

additional notice to the customer.] *without providing additional notice to the consumer, unless another person acquires the right to repayment connected to the additional negative information. The acquiring person shall be subject to the requirements of this paragraph and shall be required to send consumers the written notices described in this paragraph, if applicable.*

(B) TIME OF NOTICE.—

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

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

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

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

(ii) must be clear and conspicuous.

(D) MODEL DISCLOSURE.—

(i) DUTY OF BUREAU.—The Bureau shall prescribe a brief model disclosure that a financial institution may use to comply with subparagraph (A), which shall not exceed 30 words.

(ii) USE OF MODEL NOT REQUIRED.—No provision of this paragraph may be construed to require a financial institution to use any such model form prescribed by the Bureau.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) explains the basis for the dispute; and

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

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

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

(ii) review *and consider* all relevant information provided by the consumer with the notice;

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

(iv) if the investigation finds that the information reported was inaccurate, promptly notify each consumer reporting agency to which the person furnished the inaccurate information of that determination and provide to the agency any correction to that information that is necessary to make the information provided by the person accurate.

(F) FRIVOLOUS OR IRRELEVANT DISPUTE.—

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

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

(II) the submission by a consumer of a dispute that is substantially the same as a dispute previously submitted by or for the consumer, either directly to the person or through a consumer reporting agency under subsection (b), with respect to which the person has already performed the person's duties under this paragraph or subsection (b), as applicable, *and does not include any new or additional information that would be relevant to a reinvestigation*

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

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

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

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

(iv) NEW OR ADDITIONAL INFORMATION.—*For purposes of clause (i)(II), the term "new or additional information"—*

(I) means information of a type designated by the Bureau; and

(II) does not include information previously provided to the person.

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

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

(b) DUTIES OF FURNISHERS OF INFORMATION UPON NOTICE OF DISPUTE.—

(1) IN GENERAL.—After receiving notice pursuant to section 611(a)(2) of a dispute with regard to the completeness or accuracy of any information provided by a person to a consumer reporting agency, the person shall—

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

(B) review *and consider* all relevant information provided by the consumer reporting agency pursuant to section 611(a)(2);

(C) report the results of the investigation to the consumer reporting agency;

(D) if the investigation finds that the information is incomplete or inaccurate, report those results to all other consumer reporting agencies to which the person furnished the information and that compile and maintain files on consumers on a nationwide basis; and

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

(i) modify that item of information;

(ii) delete that item of information; or

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

(2) DEADLINE.—A person shall complete all investigations, reviews, and reports required under paragraph (1) regarding information provided by the person to a consumer reporting agency, before the expiration of the period under section 611(a)(1) within which the consumer reporting agency is required to complete actions required by that section regarding that information.

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

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

(2) subsection (e) of this section, except that nothing in this paragraph shall limit, expand, or otherwise affect liability

under section 616 or 617, as applicable, for violations of subsection (b) of this section; or

(3) subsection (e) of section 615.

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

(e) ACCURACY GUIDELINES AND REGULATIONS REQUIRED.—

(1) GUIDELINES.—The Bureau shall, with respect to persons or entities that are subject to the enforcement authority of the Bureau under section 621—

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

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

(2) CRITERIA.—In developing the guidelines required by paragraph (1)(A), the Bureau shall—

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

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

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

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

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DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

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TITLE X—BUREAU OF CONSUMER FINANCIAL PROTECTION

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Subtitle B—General Powers of the Bureau

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SEC. 1024. SUPERVISION OF NONDEPOSITORY COVERED PERSONS.

(a) SCOPE OF COVERAGE.—

(1) **APPLICABILITY.**—Notwithstanding any other provision of this title, and except as provided in paragraph (3), this section shall apply to any covered person who—

(A) offers or provides origination, brokerage, or servicing of loans secured by real estate for use by consumers primarily for personal, family, or household purposes, or loan modification or foreclosure relief services in connection with such loans;

(B) is a larger participant of a market for other consumer financial products or services, as defined by rule in accordance with paragraph (2);

(C) the Bureau has reasonable cause to determine, by order, after notice to the covered person and a reasonable opportunity for such covered person to respond, based on complaints collected through the system under section 1013(b)(3) or information from other sources, that such covered person is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services;

(D) offers or provides to a consumer any private education loan, as defined in section 140 of the Truth in Lending Act (15 U.S.C. 1650), notwithstanding section 1027(a)(2)(A) and subject to section 1027(a)(2)(C); **[or]**

(E) offers or provides to a consumer a payday loan~~...~~; or

(F) is a consumer reporting agency described under section 603(p) of the Fair Credit Reporting Act.

(2) **RULEMAKING TO DEFINE COVERED PERSONS SUBJECT TO THIS SECTION.**—The Bureau shall consult with the Federal Trade Commission prior to issuing a rule, in accordance with paragraph (1)(B), to define covered persons subject to this section. The Bureau shall issue its initial rule not later than 1 year after the designated transfer date.

(3) RULES OF CONSTRUCTION.—

(A) **CERTAIN PERSONS EXCLUDED.**—This section shall not apply to persons described in section 1025(a) or 1026(a).

(B) **ACTIVITY LEVELS.**—For purposes of computing activity levels under paragraph (1) or rules issued thereunder, activities of affiliated companies (other than insured depository institutions or insured credit unions) shall be aggregated.

(b) SUPERVISION.—

(1) **IN GENERAL.**—The Bureau shall require reports and conduct examinations on a periodic basis of persons described in subsection (a)(1) for purposes of—

(A) assessing compliance with the requirements of Federal consumer financial law;

(B) obtaining information about the activities and compliance systems or procedures of such person; and

- (C) detecting and assessing risks to consumers and to markets for consumer financial products and services.
- (2) RISK-BASED SUPERVISION PROGRAM.—The Bureau shall exercise its authority under paragraph (1) in a manner designed to ensure that such exercise, with respect to persons described in subsection (a)(1), is based on the assessment by the Bureau of the risks posed to consumers in the relevant product markets and geographic markets, and taking into consideration, as applicable—
- (A) the asset size of the covered person;
 - (B) the volume of transactions involving consumer financial products or services in which the covered person engages;
 - (C) the risks to consumers created by the provision of such consumer financial products or services;
 - (D) the extent to which such institutions are subject to oversight by State authorities for consumer protection; and
 - (E) any other factors that the Bureau determines to be relevant to a class of covered persons.
- (3) COORDINATION.—To minimize regulatory burden, the Bureau shall coordinate its supervisory activities with the supervisory activities conducted by prudential regulators, the State bank regulatory authorities, and the State agencies that licence, supervise, or examine the offering of consumer financial products or services, including establishing their respective schedules for examining persons described in subsection (a)(1) and requirements regarding reports to be submitted by such persons. The sharing of information with such regulators, authorities, and agencies shall not be construed as waiving, destroying, or otherwise affecting any privilege or confidentiality such person may claim with respect to such information under Federal or State law as to any person or entity other than such Bureau, agency, supervisor, or authority.
- (4) USE OF EXISTING REPORTS.—The Bureau shall, to the fullest extent possible, use—
- (A) reports pertaining to persons described in subsection (a)(1) that have been provided or required to have been provided to a Federal or State agency; and
 - (B) information that has been reported publicly.
- (5) PRESERVATION OF AUTHORITY.—Nothing in this title may be construed as limiting the authority of the Director to require reports from persons described in subsection (a)(1), as permitted under paragraph (1), regarding information owned or under the control of such person, regardless of whether such information is maintained, stored, or processed by another person.
- (6) REPORTS OF TAX LAW NONCOMPLIANCE.—The Bureau shall provide the Commissioner of Internal Revenue with any report of examination or related information identifying possible tax law noncompliance.
- (7) REGISTRATION, RECORDKEEPING AND OTHER REQUIREMENTS FOR CERTAIN PERSONS.—
- (A) IN GENERAL.—The Bureau shall prescribe rules to facilitate supervision of persons described in subsection (a)(1) and assessment and detection of risks to consumers.

(B) RECORDKEEPING.—The Bureau may require a person described in subsection (a)(1), to generate, provide, or retain records for the purposes of facilitating supervision of such persons and assessing and detecting risks to consumers.

(C) REQUIREMENTS CONCERNING OBLIGATIONS.—The Bureau may prescribe rules regarding a person described in subsection (a)(1), to ensure that such persons are legitimate entities and are able to perform their obligations to consumers. Such requirements may include background checks for principals, officers, directors, or key personnel and bonding or other appropriate financial requirements.

(D) CONSULTATION WITH STATE AGENCIES.—In developing and implementing requirements under this paragraph, the Bureau shall consult with State agencies regarding requirements or systems (including coordinated or combined systems for registration), where appropriate.

(c) ENFORCEMENT AUTHORITY.—

(1) THE BUREAU TO HAVE ENFORCEMENT AUTHORITY.—Except as provided in paragraph (3) and section 1061, with respect to any person described in subsection (a)(1), to the extent that Federal law authorizes the Bureau and another Federal agency to enforce Federal consumer financial law, the Bureau shall have exclusive authority to enforce that Federal consumer financial law.

(2) REFERRAL.—Any Federal agency authorized to enforce a Federal consumer financial law described in paragraph (1) may recommend in writing to the Bureau that the Bureau initiate an enforcement proceeding, as the Bureau is authorized by that Federal law or by this title.

(3) COORDINATION WITH THE FEDERAL TRADE COMMISSION.—

(A) IN GENERAL.—The Bureau and the Federal Trade Commission shall negotiate an agreement for coordinating with respect to enforcement actions by each agency regarding the offering or provision of consumer financial products or services by any covered person that is described in subsection (a)(1), or service providers thereto. The agreement shall include procedures for notice to the other agency, where feasible, prior to initiating a civil action to enforce any Federal law regarding the offering or provision of consumer financial products or services.

(B) CIVIL ACTIONS.—Whenever a civil action has been filed by, or on behalf of, the Bureau or the Federal Trade Commission for any violation of any provision of Federal law described in subparagraph (A), or any regulation prescribed under such provision of law—

(i) the other agency may not, during the pendency of that action, institute a civil action under such provision of law against any defendant named in the complaint in such pending action for any violation alleged in the complaint; and

(ii) the Bureau or the Federal Trade Commission may intervene as a party in any such action brought by the other agency, and, upon intervening—

(I) be heard on all matters arising in such enforcement action; and

(II) file petitions for appeal in such actions.

(C) AGREEMENT TERMS.—The terms of any agreement negotiated under subparagraph (A) may modify or supersede the provisions of subparagraph (B).

(D) DEADLINE.—The agencies shall reach the agreement required under subparagraph (A) not later than 6 months after the designated transfer date.

(d) EXCLUSIVE RULEMAKING AND EXAMINATION AUTHORITY.—Notwithstanding any other provision of Federal law and except as provided in section 1061, to the extent that Federal law authorizes the Bureau and another Federal agency to issue regulations or guidance, conduct examinations, or require reports from a person described in subsection (a)(1) under such law for purposes of assuring compliance with Federal consumer financial law and any regulations thereunder, the Bureau shall have the exclusive authority to prescribe rules, issue guidance, conduct examinations, require reports, or issue exemptions with regard to a person described in subsection (a)(1), subject to those provisions of law.

(e) SERVICE PROVIDERS.—A service provider to a person described in subsection (a)(1) shall be subject to the authority of the Bureau under this section, to the same extent as if such service provider were engaged in a service relationship with a bank, and the Bureau were an appropriate Federal banking agency under section 7(c) of the Bank Service Company Act (12 U.S.C. 1867(c)). In conducting any examination or requiring any report from a service provider subject to this subsection, the Bureau shall coordinate with the appropriate prudential regulator, as applicable.

(f) PRESERVATION OF FARM CREDIT ADMINISTRATION AUTHORITY.—No provision of this title may be construed as modifying, limiting, or otherwise affecting the authority of the Farm Credit Administration.

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GRAMM-LEACH-BLILEY ACT

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TITLE V—PRIVACY

Subtitle A—Disclosure of Nonpublic Personal Information

SEC. 501. PROTECTION OF NONPUBLIC PERSONAL INFORMATION.

(a) PRIVACY OBLIGATION POLICY.—It is the policy of the Congress that each financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers’ nonpublic personal information.

(b) FINANCIAL INSTITUTIONS SAFEGUARDS.—In furtherance of the policy in subsection (a), each agency or authority described in sec-

tion 505(a), other than the Bureau of Consumer Financial Protection, shall establish appropriate standards for the financial institutions subject to their jurisdiction relating to administrative, technical, and physical safeguards—

(1) to insure the security and confidentiality of customer records and information;

(2) to protect against any anticipated threats or hazards to the security or integrity of such records; and

(3) to protect against unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to any customer.

(c) *CONSUMER REPORTING AGENCY SAFEGUARDS.*—*The Bureau of Consumer Financial Protection shall establish, by rule, appropriate standards for consumer reporting agencies described under section 603(p) of the Fair Credit Reporting Act relating to administrative, technical, and physical safeguards to protect records and information as described in paragraphs (1) through (3) of subsection (b).*

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SEC. 504. RULEMAKING.

(a) **REGULATORY AUTHORITY.**—

(1) **RULEMAKING.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (C), the Bureau of Consumer Financial Protection and the Securities and Exchange Commission shall have authority to prescribe such regulations as may be necessary to carry out the purposes of this subtitle with respect to financial institutions and other persons subject to their respective jurisdiction under section 505 (and notwithstanding subtitle B of the Consumer Financial Protection Act of 2010) [, except that the Bureau of Consumer Financial Protection shall not have authority to prescribe regulations with respect to the standards under section 501] .

(B) **CFTC.**—The Commodity Futures Trading Commission shall have authority to prescribe such regulations as may be necessary to carry out the purposes of this subtitle with respect to financial institutions and other persons subject to the jurisdiction of the Commodity Futures Trading Commission under section 5g of the Commodity Exchange Act.

(C) **FEDERAL TRADE COMMISSION AUTHORITY.**—Notwithstanding the authority of the Bureau of Consumer Financial Protection under subparagraph (A), the Federal Trade Commission shall have authority to prescribe such regulations as may be necessary to carry out the purposes of this subtitle with respect to any financial institution that is a person described in section 1029(a) of the Consumer Financial Protection Act of 2010.

(D) **RULE OF CONSTRUCTION.**—Nothing in this paragraph shall be construed to alter, affect, or otherwise limit the authority of a State insurance authority to adopt regulations to carry out this subtitle.

(2) **COORDINATION, CONSISTENCY, AND COMPARABILITY.**—Each of the agencies authorized under paragraph (1) to prescribe regulations shall consult and coordinate with the other such

agencies and, as appropriate, and with representatives of State insurance authorities designated by the National Association of Insurance Commissioners, for the purpose of assuring, to the extent possible, that the regulations prescribed by each such agency are consistent and comparable with the regulations prescribed by the other such agencies.

(3) PROCEDURES AND DEADLINE.—Such regulations shall be prescribed in accordance with applicable requirements of title 5, United States Code.

(b) AUTHORITY TO GRANT EXCEPTIONS.—The regulations prescribed under subsection (a) may include such additional exceptions to subsections (a) through (d) of section 502 as are deemed consistent with the purposes of this subtitle.

SEC. 505. ENFORCEMENT.

(a) IN GENERAL.—Subject to subtitle B of the Consumer Financial Protection Act of 2010, this subtitle and the regulations prescribed thereunder shall be enforced by the Bureau of Consumer Financial Protection, the Federal functional regulators, the State insurance authorities, and the Federal Trade Commission with respect to financial institutions and other persons subject to their jurisdiction under applicable law, as follows:

(1) Under section 8 of the Federal Deposit Insurance Act, by the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act, in the case of—

(A) national banks, Federal branches and Federal agencies of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers);

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, organizations operating under section 25 or 25A of the Federal Reserve Act, and bank holding companies and their nonbank subsidiaries or affiliates (except brokers, dealers, persons providing insurance, investment companies, and investment advisers);

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), insured State branches of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers); and

(D) savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation, and any subsidiaries of such savings associations (except brokers, dealers, persons providing insurance, investment companies, and investment advisers).

(2) Under the Federal Credit Union Act, by the Board of the National Credit Union Administration with respect to any federally insured credit union, and any subsidiaries of such an entity.

(3) Under the Securities Exchange Act of 1934, by the Securities and Exchange Commission with respect to any broker or dealer.

(4) Under the Investment Company Act of 1940, by the Securities and Exchange Commission with respect to investment companies.

(5) Under the Investment Advisers Act of 1940, by the Securities and Exchange Commission with respect to investment advisers registered with the Commission under such Act.

(6) Under State insurance law, in the case of any person engaged in providing insurance, by the applicable State insurance authority of the State in which the person is domiciled, subject to section 104 of this Act.

(7) Under the Federal Trade Commission Act, by the Federal Trade Commission for any other financial institution or other person that is not subject to the jurisdiction of any agency or authority under paragraphs (1) through (6) of this subsection.

(8) Under subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau of Consumer Financial Protection, in the case of any financial institution and other covered person or service provider that is subject to the jurisdiction of the Bureau and any person subject to this subtitle, but not with respect to the standards under section 501, *other than under subsection (c) of section 501*

(b) ENFORCEMENT OF SECTION 501.—

(1) IN GENERAL.—Except as provided in paragraph (2), the agencies and authorities described in subsection (a), other than the Bureau of Consumer Financial Protection, shall implement the standards prescribed under section 501(b) in the same manner, to the extent practicable, as standards prescribed pursuant to section 39(a) of the Federal Deposit Insurance Act are implemented pursuant to such section.

(2) EXCEPTION.—The agencies and authorities described in paragraphs (3), (4), (5), (6), and (7) of subsection (a) shall implement the standards prescribed under section 501(b) by rule with respect to the financial institutions and other persons subject to their respective jurisdictions under subsection (a).

(c) ABSENCE OF STATE ACTION.—If a State insurance authority fails to adopt regulations to carry out this subtitle, such State shall not be eligible to override, pursuant to section 47(g)(2)(B)(iii) of the Federal Deposit Insurance Act, the insurance customer protection regulations prescribed by a Federal banking agency under section 47(a) of such Act.

(d) DEFINITIONS.—The terms used in subsection (a)(1) that are not defined in this subtitle or otherwise defined in section 3(s) of the Federal Deposit Insurance Act shall have the same meaning as given in section 1(b) of the International Banking Act of 1978.

* * * * *

MINORITY VIEWS

American families should have the very best in modern technology to protect their consumer data and personal information. H.R. 5332 is a step backward. This bill is overly prescriptive and has the potential to jeopardize a consumer's personal information through the bill's reliance on Social Security numbers (SSNs) and lack of strong cybersecurity protections.

Committee Republicans have consistently expressed concern that the private sector and government rely on SSNs for identity verification. H.R. 5332 expands reliance on SSNs, which are no longer wholly confidential.

- H.R. 5332 requires credit reporting agencies to match all nine digits of a consumer's SSN before including any information in a consumer credit report—prohibiting valuable and otherwise accurate information from being included in a consumer's credit file and creating additional pressure to expand the collection of consumer SSNs.

The bill also continues the Democrats' goal of expanding the Consumer Financial Protection Bureau's (CFPB) unchecked power.

- This bill directs the CFPB to establish “administrative, technical, and physical safeguards,” for all credit reporting agencies. This responsibility is currently directed to prudential regulators under the *Gramm-Leach-Bliley Act*.¹

- The Democrats would create a new ombudsman within the CFPB allowing that person to make recommendations directly to the Bureau's Office of Enforcement and Office of Supervision for enforcement action.

During Committee consideration of the bill, Ranking Member Patrick McHenry (R-NC) offered an amendment which would have subjected the nationwide credit reporting agencies to cybersecurity supervision and examination by the CFPB.

- The amendment would have prohibited the use of SSNs in credit reports or as a method of verifying a consumer's identity.

- Democrats rejected this amendment on a party-line vote of 24–31.

H.R. 5332 is another attempt by Committee Democrats to expand the power of an unaccountable unconstitutional agency. Moreover, the bill jeopardizes consumers' personal information by expanding reliance on SSNs. Finally, the bill does nothing to address the long-standing cybersecurity concerns with credit reporting.

For these reasons, Committee Republicans oppose H.R. 5332.

ROGER WILLIAMS.
BARRY LOUDERMILK.

¹ https://docs.house.gov/meetings/BA/BA00/20191210/110323/BILLS-116-HR_-G000583-Amdt-6.pdf.

TREY HOLLINGSWORTH.
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DAVID KUSTOFF.
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WARREN DAVIDSON.
DENVER RIGGLEMAN.
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