

Stat. 2087, 2088, 2112; Pub. L. 111-319, §2(a), Dec. 18, 2010, 124 Stat. 3457.)

Editorial Notes

AMENDMENTS

2010—Subsec. (a)(2) to (4). Pub. L. 111-203, §1100F(1), added par. (2), redesignated former pars. (2) and (3) as (3) and (4), respectively, and substituted “paragraph (3)” for “paragraph (2)” in par. (4).

Subsec. (d)(2)(B). Pub. L. 111-203, §1088(a)(7), substituted “the Federal Trade Commission, the Federal banking agencies,” for “the Federal banking agencies”.

Pub. L. 111-203, §1088(a)(2)(C), substituted “the Bureau” for “the Commission”.

Subsec. (e)(1). Pub. L. 111-203, §1088(a)(8), substituted “the Federal Trade Commission, the Commodity Futures Trading Commission, and the Securities and Exchange Commission” for “and the Commission” in introductory provisions.

Subsec. (e)(4). Pub. L. 111-319 added par. (4).

Subsec. (h)(5)(E). Pub. L. 111-203, §1100F(2), added subpar. (E).

Subsec. (h)(6)(A). Pub. L. 111-203, §1088(a)(9), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: “The Commission and the Board shall jointly prescribe rules.”

2003—Subsec. (d)(2). Pub. L. 108-159, §213(a), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: “A statement under paragraph (1) shall include the address and toll-free telephone number of the appropriate notification system established under section 1681b(e) of this title.”

Subsec. (e). Pub. L. 108-159, §811(h), repealed Pub. L. 104-208, §2411(c). See 1996 Amendment note below.

Pub. L. 108-159, §114, added subsec. (e) and struck out former subsec. (e) designation that had been added with no heading or text by Pub. L. 104-208, §2411(c). See note above and 1996 Amendment note below.

Subsec. (f). Pub. L. 108-159, §154(b), added subsec. (f).

Subsec. (g). Pub. L. 108-159, §155, added subsec. (g).

Subsec. (h). Pub. L. 108-159, §311(a), added subsec. (h).

1996—Subsec. (a). Pub. L. 104-208, §2411(a), inserted heading and amended text of subsec. (a) generally. Prior to amendment, text read as follows: “Whenever credit or insurance for personal, family, or household purposes, or employment involving a consumer is denied or the charge for such credit or insurance is increased either wholly or partly because of information contained in a consumer report from a consumer reporting agency, the user of the consumer report shall so advise the consumer against whom such adverse action has been taken and supply the name and address of the consumer reporting agency making the report.”

Subsec. (b). Pub. L. 104-208, §2411(e), inserted subsec. heading, designated existing provisions as par. (1) and inserted heading, and added par. (2).

Subsec. (c). Pub. L. 104-208, §2411(d), substituted “this section” for “subsections (a) and (b) of this section”.

Subsec. (d). Pub. L. 104-208, §2411(b), added subsec. (d).

Subsec. (e). Pub. L. 104-208, §2411(c), which added subsec. (e) containing subsec. designation, but no heading or text, was repealed by Pub. L. 108-159, §811(h).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-319, §2(b), Dec. 18, 2010, 124 Stat. 3458, provided that: “The amendment made by this section [amending this section] shall become effective on the date of enactment of this Act [Dec. 18, 2010].”

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-159 subject to joint regulations establishing effective dates as prescribed by

Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108-159, set out as a note under section 1681 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 effective 365 days after Sept. 30, 1996, with special rule for early compliance, see section 2420 of Pub. L. 104-208, set out as a note under section 1681a of this title.

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section 504(d) of Pub. L. 90-321, as added by Pub. L. 91-508, set out as a note under section 1681 of this title.

REGULATIONS

Pub. L. 108-159, title II, §213(b), Dec. 4, 2003, 117 Stat. 1979, provided that: “Regulations required by section 615(d)(2) of the Fair Credit Reporting Act [15 U.S.C. 1681m(d)(2)], as amended by this section, shall be issued in final form not later than 1 year after the date of enactment of this Act [Dec. 4, 2003].”

§ 1681n. Civil liability for willful noncompliance

(a) In general

Any person who willfully fails to comply with any requirement imposed under this subchapter with respect to any consumer is liable to that consumer in an amount equal to the sum of—

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

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

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

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

(b) Civil liability for knowing noncompliance

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

(c) Attorney’s fees

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

(d) Clarification of willful noncompliance

For the purposes of this section, any person who printed an expiration date on any receipt provided to a consumer cardholder at a point of sale or transaction between December 4, 2004, and June 3, 2008, but otherwise complied with the requirements of section 1681c(g) of this title

for such receipt shall not be in willful non-compliance with section 1681c(g) of this title by reason of printing such expiration date on the receipt.

(Pub. L. 90-321, title VI, §616, as added Pub. L. 91-508, title VI, §601, Oct. 26, 1970, 84 Stat. 1134; amended Pub. L. 104-208, div. A, title II, §2412(a)-(c), (e)(1), Sept. 30, 1996, 110 Stat. 3009-446; Pub. L. 110-241, §3(a), June 3, 2008, 122 Stat. 1566.)

Editorial Notes

AMENDMENTS

2008—Subsec. (d). Pub. L. 110-241 added subsec. (d).

1996—Subsec. (a). Pub. L. 104-208, §2412(a), designated existing provisions as subsec. (a), inserted heading, and in introductory provisions substituted “Any person who” for “Any consumer reporting agency or user of information which”.

Subsec. (a)(1). Pub. L. 104-208, §2412(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “any actual damages sustained by the consumer as a result of the failure;”.

Subsec. (b). Pub. L. 104-208, §2412(c), added subsec. (b).

Subsec. (c). Pub. L. 104-208, §2412(e)(1), added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 effective 365 days after Sept. 30, 1996, with special rule for early compliance, see section 2420 of Pub. L. 104-208, set out as a note under section 1681a of this title.

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section 504(d) of Pub. L. 90-321, as added by Pub. L. 91-508, set out as a note under section 1681 of this title.

CONSTRUCTION

Pub. L. 108-159, title III, §312(f), Dec. 4, 2003, 117 Stat. 1993, provided that: “Nothing in this section, the amendments made by this section, or any other provision of this Act [see Short Title of 2003 Amendment note set out under section 1601 of this title] shall be construed to affect any liability under section 616 or 617 of the Fair Credit Reporting Act (15 U.S.C. 1681n, 1681o) that existed on the day before the date of enactment of this Act [Dec. 4, 2003].”

STATEMENT OF FINDINGS AND PURPOSE FOR 2008 AMENDMENT

Pub. L. 110-241, §2, June 3, 2008, 122 Stat. 1565, provided that:

“(a) FINDINGS.—The Congress finds as follows:

“(1) The Fair and Accurate Credit Transactions Act [of 2003] (commonly referred to as ‘FACTA’) [Pub. L. 108-159, see Short Title of 2003 Amendment note set out under section 1601 of this title] was enacted into law in 2003 and 1 of the purposes of such Act is to prevent criminals from obtaining access to consumers’ private financial and credit information in order to reduce identity theft and credit card fraud.

“(2) As part of that law, the Congress enacted a requirement, through an amendment to the Fair Credit Reporting Act [15 U.S.C. 1681 et seq.], that no person that accepts credit cards or debit cards for the transaction of business shall print more than the last 5 digits of the card number or the expiration date upon any receipt provided to the card holder at the point of the sale or transaction.

“(3) Many merchants understood that this requirement would be satisfied by truncating the account

number down to the last 5 digits based in part on the language of the provision as well as the publicity in the aftermath of the passage of the law.

“(4) Almost immediately after the deadline for compliance passed, hundreds of lawsuits were filed alleging that the failure to remove the expiration date was a willful violation of the Fair Credit Reporting Act even where the account number was properly truncated.

“(5) None of these lawsuits contained an allegation of harm to any consumer’s identity.

“(6) Experts in the field agree that proper truncation of the card number, by itself as required by the amendment made by the Fair and Accurate Credit Transactions Act [of 2003], regardless of the inclusion of the expiration date, prevents a potential fraudster from perpetrating identity theft or credit card fraud.

“(7) Despite repeatedly being denied class certification, the continued appealing and filing of these lawsuits represents a significant burden on the hundreds of companies that have been sued and could well raise prices to consumers without corresponding consumer protection benefit.

“(b) PURPOSE.—The purpose of this Act [amending this section and enacting provisions set out as notes under this section and section 1601 of this title] is to ensure that consumers suffering from any actual harm to their credit or identity are protected while simultaneously limiting abusive lawsuits that do not protect consumers but only result in increased cost to business and potentially increased prices to consumers.”

RETROACTIVE EFFECT OF 2008 AMENDMENT

Pub. L. 110-241, §3(b), June 3, 2008, 122 Stat. 1566, provided that: “The amendment made by subsection (a) [amending this section] shall apply to any action, other than an action which has become final, that is brought for a violation of [section] 605(g) of the Fair Credit Reporting Act [15 U.S.C. 1681c(g)] to which such amendment applies without regard to whether such action is brought before or after the date of the enactment of this Act [June 3, 2008].”

§ 1681o. Civil liability for negligent noncompliance

(a) In general

Any person who is negligent in failing to comply with any requirement imposed under this subchapter 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) 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.

(Pub. L. 90-321, title VI, §617, as added Pub. L. 91-508, title VI, §601, Oct. 26, 1970, 84 Stat. 1134; amended Pub. L. 104-208, div. A, title II, §2412(d), (e)(2), Sept. 30, 1996, 110 Stat. 3009-446, 3009-447; Pub. L. 108-159, title VIII, §811(e), Dec. 4, 2003, 117 Stat. 2012.)