

106TH CONGRESS  
2D SESSION

# H. R. 4332

To protect consumers from exorbitant fees for basic financial services, and  
for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 13, 2000

Ms. SCHAKOWSKY (for herself, Mr. HINCHEY, Ms. WATERS, and Mr. MARKEY) introduced the following bill; which was referred to the Committee on Banking and Financial Services, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To protect consumers from exorbitant fees for basic financial  
services, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Financial Consumers’ Bill of Rights Act”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purpose.

Sec. 3. Prohibition on exorbitant late fees on credit card accounts.

- Sec. 4. Prohibition on exorbitant fees for bounced checks.
- Sec. 5. Fair ATM fees for consumers.
- Sec. 6. Lifeline banking examination required under Community Reinvestment Act of 1977.
- Sec. 7. Preservation of bank fee report requirements.
- Sec. 8. Prohibition on arbitration clauses imposed on consumers without their consent.
- Sec. 9. Amendment to privacy provisions of the Gramm-Leach-Bliley Act.
- Sec. 10. Improved availability of antifraud hotline information.
- Sec. 11. Commission on alternatives to the use of Social Security numbers as identifying numbers in public records.
- Sec. 12. Three free teller transactions monthly.

## 1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—The Congress makes the following  
3 findings:

4 (1) A survey conducted jointly by the Consumer  
5 Federation of America and Consumer Action 1998  
6 found that 67 of 116 credit card issuers charged late  
7 fees in excess of \$25 while only two of the credit  
8 card issuers surveyed charged no late fee at all.

9 (2) The 1998 annual survey of Illinois voters by  
10 the Coalition for Consumer Rights found that 77  
11 percent of the voters supported a ban on surcharges  
12 on a consumer for the use of an automated teller  
13 machine operated by a financial institution other  
14 than the institution holding the accounts of the con-  
15 sumer.

16 (3) The 1999 survey of bank fees entitled “Big  
17 Banks, Bigger Fees” by the United States Public  
18 Interest Research Group found that large banks in-  
19 creased the fee imposed on consumers for writing

1 checks on insufficient funds by 10 percent from  
2 1997 to 1999.

3 **SEC. 3. PROHIBITION ON EXORBITANT LATE FEES ON**  
4 **CREDIT CARD ACCOUNTS.**

5 (a) IN GENERAL.—Section 127 of the Truth in Lend-  
6 ing Act (15 U.S.C. 1637) is amended by adding at the  
7 end the following new subsection:

8 “(h) LIMITATION ON LATE FEES.—

9 “(1) IN GENERAL.—In the case of any credit  
10 card account under an open-end consumer credit  
11 plan, the amount of any fee or additional finance  
12 charge which may be imposed for the failure to  
13 make a payment on an outstanding balance under  
14 such account by a particular date or by the end of  
15 a particular period shall not exceed the lesser of—

16 “(A) the amount equal to two times the  
17 amount most recently published by the Board  
18 pursuant to paragraph (2); or

19 “(B) the total balance of credit out-  
20 standing with respect to such account as of  
21 such date or the end of such period.”.

22 “(2) ANNUAL DETERMINATION OF AVERAGE  
23 COST.—The Board shall—

24 “(A) obtain annually a sample of all credi-  
25 tors which is representative on the basis of geo-

1 graphic location and asset size, of the cost to  
2 creditors resulting from failures of consumers  
3 to make payments on outstanding balances on  
4 credit card accounts under open-end consumer  
5 credit plans on a timely basis;

6 “(B) on the basis of the sample obtained  
7 under subparagraph (A), determine the average  
8 cost to all creditors resulting from failures de-  
9 scribed in such subparagraph; and

10 “(C) publish such amount in the Federal  
11 Register.”.

12 (b) ANNUAL REPORT TO CONGRESS REQUIRED.—

13 The Board of Governors of the Federal Reserve System  
14 shall prepare and submit to the Congress a report of the  
15 results of each survey conducted and determination made  
16 pursuant to section 127(h)(2).

17 (c) EFFECTIVE DATE.—The amendment made by

18 subsection (a) shall apply with respect to payments on an  
19 outstanding balance on a credit card account under an  
20 open-end consumer credit plan which become due after the  
21 end of the 6-month period beginning on the date of the  
22 enactment of this Act.

1 **SEC. 4. PROHIBITION ON EXORBITANT FEES FOR BOUNCED**  
2 **CHECKS.**

3 (a) IN GENERAL.—Section 607 of the Expedited  
4 Funds Availability Act (12 U.S.C. 4006) is amended by  
5 adding at the end the following new subsection:

6 “(f) LIMITATION ON FEES FOR INSUFFICIENT  
7 FUNDS OF THE DRAWER.—

8 “(1) ORIGINATING DEPOSITORY INSTITU-  
9 TION.—If—

10 “(A) a check which is drawn on or payable  
11 from an account at a depository institution is  
12 presented to such depository institution for pay-  
13 ment; and

14 “(B) the amount of the check exceeds the  
15 balance in the account,  
16 the amount of any fee or other charge which may be  
17 imposed by the depository institution against the ac-  
18 count due to the presentment of a check for which  
19 there are insufficient funds (whether or not the de-  
20 pository institution pays the check) may not exceed  
21 an amount equal to two times the amount most re-  
22 cently published by the Board pursuant to para-  
23 graph (4).

24 “(2) RECEIVING DEPOSITORY INSTITUTION.—In  
25 the case of a check drawn on an account at an origi-  
26 nating institution which is dishonored by the origi-

1       nating institution due to the lack of sufficient funds  
2       in such account to pay the check, a receiving deposi-  
3       tory institution may not impose any fee in connec-  
4       tion with handling such check, or any chargeback of  
5       any provisional settlement of such check, due to  
6       such dishonormment on the person who deposited or  
7       otherwise presented such check for negotiation.

8               “(3) FEES FOR OVERDRAFT PROTECTION NOT  
9       AFFECTED.—Paragraph (1) shall not be construed  
10      as affecting the finance charge otherwise applicable  
11      to an extension of credit resulting from the overdraft  
12      created in connection with the payment by an origi-  
13      nating depository institution of a check for which  
14      there were insufficient funds in the consumer’s ac-  
15      count.

16              “(4) ANNUAL DETERMINATION OF AVERAGE  
17      COST.—The Board shall—

18                      “(A) obtain annually, with the cooperation  
19                      of other Federal banking agencies (as defined  
20                      in section 3 of the Federal Deposit Insurance  
21                      Act), a sample of all depository institutions sub-  
22                      ject to the jurisdiction of the agency, which is  
23                      representative by geographic location and asset  
24                      size, of the cost to a depository institution for  
25                      processing checks for which there are insuffi-

1           cient funds for payment and either making the  
2           payment (without taking into account the over-  
3           draft created by the payment) or dishonoring  
4           and returning such check;

5           “(B) on the basis of the sample obtained  
6           under subparagraph (A), determine the average  
7           cost to all depository institutions resulting from  
8           processing checks for which there are insuffi-  
9           cient funds for payment; and

10           “(C) publish such amount in the Federal  
11           Register.”.

12           (b) ANNUAL REPORT.—The Board of Governors of  
13           the Federal Reserve System shall prepare and submit to  
14           the Congress a report of the results of each survey con-  
15           ducted and determination made pursuant to section  
16           607(f)(4) of the Expedited Funds Availability Act.

17           (c) EFFECTIVE DATE.—The amendment made by  
18           subsection (a) shall apply after the end of the 6-month  
19           period beginning on the date of the enactment of this Act.

20           **SEC. 5. FAIR ATM FEES FOR CONSUMERS.**

21           (a) DEFINITIONS.—Section 903 of the Electronic  
22           Fund Transfer Act (15 U.S.C. 1693a) is amended—

23           (1) in paragraph (10), by striking “and” at the  
24           end;

1           (2) in paragraph (11), by striking the period at  
2           the end and inserting a semicolon; and

3           (3) by adding at the end the following new  
4           paragraphs:

5           “(12) the term ‘electronic terminal surcharge’  
6           means a transaction fee assessed by a financial insti-  
7           tution that is the owner or operator of the electronic  
8           terminal; and

9           “(13) the term ‘electronic banking network’  
10          means a communications system linking financial in-  
11          stitutions through electronic terminals.”.

12          (b) IN GENERAL.—Section 905 of the Electronic  
13          Fund Transfer Act (12 U.S.C. 1693c) is amended by add-  
14          ing at the end the following new subsection:

15          “(d) LIMITATION ON FEES.—With respect to a trans-  
16          action conducted at an electronic terminal, an electronic  
17          terminal surcharge may not be assessed against a con-  
18          sumer if the transaction—

19                 “(1) does not relate to or affect an account held  
20                 by the consumer with the financial institution that  
21                 is the owner or operator of the electronic terminal;  
22                 and

23                 “(2) is conducted through a national or regional  
24                 electronic banking network.”.



1 (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply after the end of the 6-month period  
 3 beginning on the date of the enactment of this Act.

4 **SEC. 6. LIFELINE BANKING EXAMINATION REQUIRED**  
 5 **UNDER COMMUNITY REINVESTMENT ACT OF**  
 6 **1977.**

7 (a) IN GENERAL.—Section 804(a)(1) of the Commu-  
 8 nity Reinvestment Act of 1977 (12 U.S.C. 2903(a)(1)) is  
 9 amended by inserting “and the lifeline banking needs of  
 10 each such community” after “safe and sound operation  
 11 of such institution”.

12 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

13 (1) PURPOSES.—Section 802(b) of the Commu-  
 14 nity Reinvestment Act of 1977 (12 U.S.C. 2901(b))  
 15 is amended by inserting “and the lifeline banking  
 16 needs of such local communities” before the period  
 17 at the end.

18 (2) EVALUATIONS.—Section 807(a)(1) of the  
 19 Community Reinvestment Act of 1977 (12 U.S.C.  
 20 2906(a)(1)) is amended by striking “credit needs”  
 21 and inserting “credit and lifeline banking needs”.

22 **SEC. 7. PRESERVATION OF BANK FEE REPORT REQUIRE-**  
 23 **MENTS.**

24 (a) IN GENERAL.—Section 3003(a)(1) of the Federal  
 25 Reports Elimination and Sunset Act of 1995 (31 U.S.C.

1 1113 note) shall not apply to any report required to be  
 2 submitted under section 1002(b) of Financial Institutions  
 3 Reform, Recovery, and Enforcement Act of 1989.

4 (b) SUNSET OF REPORT.—Section 1002(b) of Finan-  
 5 cial Institutions Reform, Recovery, and Enforcement Act  
 6 of 1989 (12 U.S.C. 1811 note) is amended by adding at  
 7 the end the following new paragraph:

8 “(4) SUNSET.—Notwithstanding section 108(b)  
 9 of the Riegle-Neil Interstate Banking and Branching  
 10 Efficiency Act of 1994, no report shall be required  
 11 under this subsection after the end of the 10-year  
 12 period beginning on the date of the enactment of the  
 13 Financial Services Modernization Act of 1999.”.

14 (c) CREDIT UNIONS INCLUDED IN SURVEY.—Section  
 15 1002(a)(1) of Financial Institutions Reform, Recovery,  
 16 and Enforcement Act of 1989 (12 U.S.C. 1811 note) is  
 17 amended by inserting “, including credit unions” after  
 18 “insured depository institutions”.

19 **SEC. 8. PROHIBITION ON ARBITRATION CLAUSES IMPOSED**  
 20 **ON CONSUMERS WITHOUT THEIR CONSENT.**

21 (a) IN GENERAL.—The Consumer Credit Protection  
 22 Act (15 U.S.C. 1601 et seq.) is amended by adding at  
 23 the end the following:

# “TITLE X—DISPUTE RESOLUTION

## “SEC. 1001. SHORT TITLE; TABLE OF CONTENTS

“(a) SHORT TITLE.—This title may be cited as the  
“Consumer Fairness Act”.

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

### “TITLE X—DISPUTE RESOLUTION

“Sec. 1001. Short title; table of contents

“Sec. 1002. Definitions.

“Sec. 1003. Prohibition on arbitration clauses imposed on consumers with-  
out their consent.

## “SEC. 1002. DEFINITIONS.

“For purposes of this title, the following definitions  
shall apply:

“(1) CONSUMER.—The term “consumer”  
means any individual.

“(2) CONSUMER TRANSACTION.—The term  
‘consumer transaction’ means the sale or rental of  
goods, services, or real property, including an exten-  
sion of credit or the provision of any other financial  
product or service, to an individual in a transaction  
entered into primarily for personal, family, or house-  
hold purposes.

“(3) CONSUMER CONTRACT.—The term ‘con-  
sumer contract’ means any written, standardized

1 form contract between the parties to a consumer  
2 transaction.

3 **“SEC. 1003. PROHIBITION ON ARBITRATION CLAUSES IM-**  
4 **POSED ON CONSUMERS WITHOUT THEIR**  
5 **CONSENT.**

6 “(a) IN GENERAL.—A written provision in any con-  
7 sumer transaction or consumer contract which requires  
8 binding arbitration (whether by the terms of such trans-  
9 action or contract directly or at the request of any party  
10 to the transaction or contract) to resolve any controversy  
11 arising out of or related to the transaction or contract,  
12 or the failure to perform the whole or any part of the  
13 transaction or contract shall constitute a violation of this  
14 title, shall not be enforceable, and shall be treated as an  
15 unfair and deceptive trade act or practice under Federal  
16 or State law.

17 “(b) POST-CONTROVERSY AGREEMENTS.—Sub-  
18 section (a) shall not apply with respect to a written agree-  
19 ment to determine by binding arbitration an existing con-  
20 troversy arising out of a consumer transaction or con-  
21 sumer contract if the written agreement has been entered  
22 into by the parties to the consumer transaction or con-  
23 sumer contract after the controversy has arisen.

24 “(c) COMPLIANCE.—Compliance with the require-  
25 ments of this title shall be enforced in the same manner

1 as compliance with the requirements imposed under the  
2 preceding title are enforced under section 917 of such  
3 title.

4 “(d) COORDINATION WITH OTHER LAW.—No provi-  
5 sion of this section shall be construed as annulling, alter-  
6 ing, affecting, or superseding any Federal law, or the laws  
7 of any State, relating to arbitration in connection with  
8 consumer transactions or consumer contracts, except to  
9 the extent that those laws are inconsistent with the provi-  
10 sions of this section, and then only to the extent of the  
11 inconsistency.”.

12 (b) APPLICABILITY.—The amendments made by this  
13 section shall apply to all consumer transactions and con-  
14 sumer contracts entered into on, or after the date of the  
15 enactment of this Act, amendments entered into on or  
16 after such date of enactment to any consumer transaction  
17 or consumer contract without regard to the date such  
18 transaction was consummated or such contract entered  
19 into, and to all controversies pending or filed on, or arising  
20 after, the date of such date of enactment.

21 **SEC. 9. AMENDMENT TO PRIVACY PROVISIONS OF THE**  
22 **GRAMM-LEACH-BLILEY ACT.**

23 Title V of the Gramm-Leach-Bliley Act is amended  
24 to read as follows:

1           **“TITLE V—PRIVACY OF**  
2           **CONSUMER INFORMATION**  
3           **“Subtitle A—Disclosure of**  
4           **Nonpublic Personal Information**

5   **“SEC. 501. PROTECTION OF NONPUBLIC PERSONAL INFOR-**  
6                   **MATION.**

7           “(a) PRIVACY OBLIGATION POLICY.—It is the policy  
8 of the Congress that each financial institution has an af-  
9 firmative and continuing obligation to respect the privacy  
10 of its customers and to protect the security and confiden-  
11 tiality of those customers’ nonpublic personal information.

12          “(b) FINANCIAL INSTITUTIONS SAFEGUARDS.—In  
13 furtherance of the policy in subsection (a), each agency  
14 or authority described in section 504(a) shall establish by  
15 rule or order appropriate standards for the financial insti-  
16 tutions subject to their jurisdiction, and the Commission  
17 shall establish such standards for any financial institu-  
18 tions not subject to such jurisdiction, relating to adminis-  
19 trative, technical, and physical safeguards—

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

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

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

5   **“SEC. 502. OBLIGATIONS WITH RESPECT TO PERSONAL**  
6                   **INFORMATION.**

7           “(a) GENERAL REQUIREMENTS.—Except as other-  
8           wise provided in this subtitle, a financial institution may  
9           not, directly or through any affiliate, disclose or make an  
10          unrelated use of any nonpublic personal information col-  
11          lected by the financial institution in connection with any  
12          transaction with a consumer in any financial product or  
13          any financial service, unless such financial institution pro-  
14          vides or has provided to the consumer a notice that com-  
15          plies with section 503 and the rules thereunder.

16          “(b) OPT-IN REQUIRED FOR INFORMATION TRANS-  
17          FERS.—

18               “(1) AFFIRMATIVE CONSENT REQUIRED.—Each  
19           agency or authority described in section 504(a) shall  
20           by rule prohibit a financial institution that is subject  
21           to its jurisdiction from making available any non-  
22           public personal information to any affiliate or other  
23           person that is not an employee or agent of the insti-  
24           tution, unless the consumer to whom the information  
25           pertains—

1           “(A) has affirmatively consented in accord-  
2           ance with such rule to the transfer of such in-  
3           formation; and

4           “(B) has not withdrawn the consent.

5           “(2) FLEXIBILITY OF FORM.—A financial insti-  
6           tution may, in complying with paragraph (1),  
7           present the opportunity to consent in a clear and  
8           conspicuous manner that permits the consumer to  
9           consent—

10           “(A)(i) with respect to both affiliates and  
11           nonaffiliated persons;

12           “(ii) separately with respect to affiliates  
13           generally and nonaffiliated persons generally; or

14           “(iii) separately with respect to specified  
15           affiliates and nonaffiliated persons; and

16           “(B) separately with respect to specified fi-  
17           nancial and nonfinancial products and services  
18           that may be offered to the consumer.

19           “(3) DENIAL OF SERVICE PROHIBITED.—The  
20           rule prescribed pursuant to paragraph (1) shall pro-  
21           hibit a financial institution from denying any con-  
22           sumer a financial product or a financial service for  
23           the refusal by the consumer to grant the consent re-  
24           quired by such rule.



1       “(c) ACCESS TO AND CORRECTION OF INFORMATION  
2       VENDED TO THIRD PARTIES.—

3               “(1) RULE REQUIRED.—Each agency or au-  
4       thority described in section 504(a) shall by rule re-  
5       quire a financial institution that is subject to its ju-  
6       risdiction and that makes available nonpublic per-  
7       sonal information collected by the financial institu-  
8       tion to any person or entity other than an employee  
9       or agent of such institution to afford that  
10      consumer—

11               “(A) the opportunity to examine, upon re-  
12      quest, all nonpublic personal information that  
13      was so made available; and

14               “(B) the opportunity to dispute the accu-  
15      racy of any of such information, and to present  
16      evidence thereon.

17      “(d) LIMITATIONS ON THE SHARING OF ACCOUNT  
18      NUMBER INFORMATION FOR MARKETING PURPOSES.—A  
19      financial institution shall not disclose an account number  
20      or similar form of access number or access code for a cred-  
21      it card account, deposit account, or transaction account  
22      of a consumer to any affiliate or any nonaffiliated third  
23      party for use in telemarketing, direct mail marketing, or  
24      other marketing through electronic mail or other electronic  
25      means to the consumer.

1       “(e) LIMITS ON REUSE OF INFORMATION.—Except  
2 as otherwise provided in this subtitle, an affiliate or a non-  
3 affiliated third party that receives from a financial institu-  
4 tion nonpublic personal information under this section  
5 shall not, directly or through an affiliate of such receiving  
6 third party, disclose such information to any other person  
7 that is an affiliate or a nonaffiliated third party of both  
8 the financial institution and such receiving third party,  
9 unless such disclosure would be lawful if made directly to  
10 such other person by the financial institution.

11       “(f) GENERAL EXCEPTIONS.—Subsections (a) and  
12 (b) shall not prohibit the disclosure of nonpublic personal  
13 information—

14               “(1) as necessary to effect, administer, or en-  
15 force a transaction requested or authorized by the  
16 consumer, or in connection with—

17                       “(A) servicing or processing a financial  
18 product or service requested or authorized by  
19 the consumer;

20                       “(B) maintaining or servicing the con-  
21 sumer’s account with the financial institution;  
22 or

23                       “(C) a proposed or actual securitization,  
24 secondary market sale (including sales of serv-

1           icing rights), or similar transaction related to a  
2           transaction of the consumer;

3           “(2) with the consent or at the direction of the  
4           consumer;

5           “(3)(A) to protect the confidentiality or security  
6           of the financial institution’s records pertaining to  
7           the consumer, the service or product, or the trans-  
8           action therein; (B) to protect against or prevent ac-  
9           tual or potential fraud, unauthorized transactions,  
10          claims, or other liability; (C) for required institu-  
11          tional risk control, or for resolving customer disputes  
12          or inquiries; (D) to persons holding a legal or bene-  
13          ficial interest relating to the consumer; or (E) to  
14          persons acting in a fiduciary or representative capac-  
15          ity on behalf of the consumer;

16          “(4) to provide information to insurance rate  
17          advisory organizations, guaranty funds or agencies,  
18          applicable rating agencies of the financial institu-  
19          tion, and the institution’s attorneys, accountants,  
20          and auditors;

21          “(5) to the extent specifically permitted or re-  
22          quired under other provisions of law and in accord-  
23          ance with the Right to Financial Privacy Act of  
24          1978, to law enforcement agencies (including a Fed-  
25          eral functional regulator, the Secretary of the Treas-

1       ury with respect to subchapter II of chapter 53 of  
2       title 31, United States Code, and chapter 2 of title  
3       I of Public Law 91–508 (12 U.S.C. 1951–1959), a  
4       State insurance authority, or the Federal Trade  
5       Commission), self-regulatory organizations, or for an  
6       investigation on a matter related to public safety;

7               “(6)(A) to a consumer reporting agency in ac-  
8       cordance with the Fair Credit Reporting Act, or (B)  
9       from a consumer report reported by a consumer re-  
10      porting agency in accordance with the Fair Credit  
11      Reporting Act;

12             “(7) in connection with a proposed or actual  
13      sale, merger, transfer, or exchange of all or a por-  
14      tion of a business or operating unit if the disclosure  
15      of nonpublic personal information concerns solely  
16      consumers of such business or unit; or

17             “(8) to comply with Federal, State, or local  
18      laws, rules, and other applicable legal requirements;  
19      to comply with a properly authorized civil, criminal,  
20      or regulatory investigation or subpoena or summons  
21      by Federal, State, or local authorities; or to respond  
22      to judicial process or government regulatory authori-  
23      ties having jurisdiction over the financial institution  
24      for examination, compliance, or other purposes as  
25      authorized by law.

1 **“SEC. 503. NOTICE CONCERNING DISCLOSING INFORMA-**  
2 **TION.**

3 “(a) **RULE REQUIRED.**—Each agency or authority  
4 described in section 504(a) shall prescribe rules in accord-  
5 ance with this section to prohibit unfair and deceptive acts  
6 or practices in connection with the disclosing of nonpublic  
7 personal information or with making unrelated uses of  
8 such information. Such rules shall require any financial  
9 institution, through the use of a form that complies with  
10 the rules prescribed under subsection (b), to clearly and  
11 conspicuously disclose to the consumer at the time of es-  
12 tablishing a customer relationship with a consumer and  
13 not less than annually during the continuation of such  
14 relationship—

15 “(1) the categories of nonpublic personal infor-  
16 mation that are collected by the financial institution;

17 “(2) the practices and policies of the financial  
18 institution with respect to disclosing nonpublic per-  
19 sonal information, or making unrelated uses of such  
20 information, including—

21 “(A) the categories of persons to whom the  
22 information is or may be disclosed or who may  
23 be permitted to make unrelated uses of such in-  
24 formation, other than the persons to whom the  
25 information must be provided to effect, admin-  
26 ister, or enforce the transaction; and

1           “(B) the practices and policies of the insti-  
2           tution with respect to disclosing or making un-  
3           related uses of nonpublic personal information  
4           of persons who have ceased to be customers of  
5           the financial institution;

6           “(3) the policies that the institution maintains  
7           to protect the confidentiality and security of non-  
8           public personal information;

9           “(4) the practices and policies of the institution  
10          with respect to providing consumers the opportunity  
11          to examine and dispute information pursuant to the  
12          rule prescribed under section 502(c); and

13          “(5) the right of the consumer under such sec-  
14          tion to examine, upon request, the nonpublic per-  
15          sonal information, to dispute the accuracy of any of  
16          such information, and to present evidence thereon.

17          “(b) DESIGN OF NOTICE REQUIREMENTS.—In pre-  
18          scribing the form of a notice for purposes of subsection  
19          (a), each agency or authority described in section 504(a)  
20          shall ensure that consumers are provided a clear and con-  
21          spicuous disclosure that permits them to compare dif-  
22          ferences in the measures that the financial institution  
23          takes, and the policies that the institution has established,  
24          to protect the consumer’s privacy as compared to the  
25          measures taken and the policies established by other fi-

1 nancial institutions. Such form shall specifically identify  
2 the rights the institution affords consumers to grant or  
3 deny consent to (1) the disclosing of nonpublic personal  
4 information for any purpose other than as required in  
5 order to effect, administer, or enforce the consumer’s  
6 transaction, or (2) the making of an unrelated use of such  
7 information.

8 “(c) ADDITIONAL CONTENTS OF RULES; EXEMPTIVE  
9 RULES.—Each agency or authority described in section  
10 504(a) shall, by rule, and may by order—

11 “(1) specify the disclosures and uses of infor-  
12 mation which, for purposes of this subtitle and the  
13 rules prescribed thereunder, may be treated as nec-  
14 essary to effect, administer, or enforce a consumer’s  
15 transaction with respect to a variety of financial  
16 services and financial products;

17 “(2) specify timing requirements with respect to  
18 notices to new and existing customers, which shall  
19 not require notices more frequently than annually  
20 unless there has been a change in the information  
21 required to be disclosed pursuant to subsection (a);  
22 and

23 “(3) provide, consistent with the purposes of  
24 this subtitle, exemptions or temporary waivers to, or

1       delayed effective dates for, any requirement of this  
2       subtitle or the rules prescribed thereunder.

3   **“SEC. 504. ENFORCEMENT.**

4       “(a) IN GENERAL.—This subtitle and the rules pre-  
5       scribed thereunder shall be enforced by the Federal func-  
6       tional regulators, the State insurance authorities, and the  
7       Federal Trade Commission with respect to financial insti-  
8       tutions and other persons subject to their jurisdiction  
9       under applicable law, as follows:

10           “(1) Under section 8 of the Federal Deposit In-  
11       surance Act, in the case of—

12                   “(A) national banks, Federal branches and  
13       Federal agencies of foreign banks by the Office  
14       of the Comptroller of the Currency;

15                   “(B) member banks of the Federal Reserve  
16       System (other than national banks), branches  
17       and agencies of foreign banks (other than Fed-  
18       eral branches, Federal agencies, and insured  
19       State branches of foreign banks), commercial  
20       lending companies owned or controlled by for-  
21       eign banks, organizations operating under sec-  
22       tion 25 or 25A of the Federal Reserve Act,  
23       bank holding companies by the Board of Gov-  
24       ernors of the Federal Reserve System;



1           “(C) banks insured by the Federal Deposit  
2           Insurance Corporation (other than members of  
3           the Federal Reserve System), insured State  
4           branches of foreign banks by the Board of Di-  
5           rectors of the Federal Deposit Insurance Cor-  
6           poration; and

7           “(D) savings association the deposits of  
8           which are insured by the Federal Deposit In-  
9           surance Corporation by the Director of the Of-  
10          fice of Thrift Supervision.

11          “(2) Under the Federal Credit Union Act, by  
12          the Administrator of the National Credit Union Ad-  
13          ministration with respect to any Federal or state  
14          chartered credit union.

15          “(3) Under the Securities Exchange Act of  
16          1934, by the Securities and Exchange Commission  
17          with respect to any broker-dealer.

18          “(4) Under the Investment Company Act of  
19          1940, by the Securities and Exchange Commission  
20          with respect to investment companies.

21          “(5) Under the Investment Advisers Act of  
22          1940, by the Securities and Exchange Commission  
23          with respect to investment advisers registered with  
24          the Commission under such Act.

1           “(6) Under the Federal Home Loan Bank Act,  
2           by the Federal Housing Finance Board with respect  
3           to Federal home loan banks.

4           “(7) In the case of any person engaged in pro-  
5           viding insurance, by the State insurance authority,  
6           if that State has elected to become a participating  
7           State, notwithstanding any of the limitations of sec-  
8           tion 104 of the Gramm-Leach-Bliley Act.

9           “(8) Under the Federal Trade Commission Act,  
10          by the Federal Trade Commission for—

11               “(A) any other financial institution (other  
12               than a person engaged in providing insurance)  
13               or any other person that is not subject to the  
14               jurisdiction of any agency or authority under  
15               paragraphs (1) through (6) of this subsection;  
16               and

17               “(B) any person engaged in providing in-  
18               surance who is domiciled in a State that does  
19               not elect to become a participating State.

20          “(b) ENFORCEMENT OF SECTION 501.—

21               “(1) IN GENERAL.—Except as provided in para-  
22               graph (2), the agencies and authorities described in  
23               subsection (a) shall implement the standards pre-  
24               scribed under section 501(b) in the same manner, to  
25               the extent practicable, as standards prescribed pur-

1       suant to subsection (a) of section 39 of the Federal  
2       Deposit Insurance Act are implemented pursuant to  
3       such section.

4           “(2) EXCEPTION.—The agencies and authori-  
5       ties described in paragraphs (3), (4), (5), (7), and  
6       (8) of subsection (a) shall implement the standards  
7       prescribed under section 501(b) by rule with respect  
8       to the financial institutions subject to their respec-  
9       tive jurisdictions under subsection (a).

10       “(c) STATE ACTION FOR VIOLATIONS.—

11           “(1) AUTHORITY OF STATES.—In addition to  
12       such other remedies as are provided under State  
13       law, if the chief law enforcement officer of a State,  
14       or an official or agency designated by a State, has  
15       reason to believe that any person has violated or is  
16       violating this subtitle or a rule prescribed under this  
17       subtitle, other than section 501 or a rule prescribed  
18       under such section, the State—

19           “(A) may bring an action to enjoin such  
20       violation in any appropriate United States dis-  
21       trict court or in any other court of competent  
22       jurisdiction; and

23           “(B) may bring an action on behalf of the  
24       residents of the State to enforce compliance  
25       with such rule, to obtain damages, restitution,

1 or other compensation on behalf of residents of  
2 such State, or to obtain such further and other  
3 relief as the court may deem appropriate.

4 “(2) RIGHTS OF FEDERAL REGULATORS.—

5 “(A) PRIOR NOTICE.—The State shall  
6 serve prior written notice of any action under  
7 paragraph (1) upon the Federal Trade Commis-  
8 sion and provide the Federal Trade Commission  
9 with a copy of its complaint, except in any case  
10 in which such prior notice is not feasible, in  
11 which case the State shall serve such notice im-  
12 mediately upon instituting such action.

13 “(B) RIGHT TO INTERVENE.—The Federal  
14 Trade Commission shall transmit the notice re-  
15 ceived under subparagraph (A) to the agency or  
16 authority that has jurisdiction of the subject of  
17 the complaint, and such agency or authority  
18 shall have the right—

19 “(i) to intervene in an action under  
20 paragraph (1);

21 “(ii) upon so intervening, to be heard  
22 on all matters arising therein;

23 “(iii) to remove the action to the ap-  
24 propriate United States district court; and

25 “(iv) to file petitions for appeal.

1           “(3) INVESTIGATORY POWERS.—For purposes  
2           of bringing any action under this subsection, no pro-  
3           vision of this subsection shall be construed as pre-  
4           venting the chief law enforcement officer, or an offi-  
5           cial or agency designated by a State, from exercising  
6           the powers conferred on the chief law enforcement  
7           officer or such official by the laws of such State to  
8           conduct investigations or to administer oaths or af-  
9           firmations or to compel the attendance of witnesses  
10          or the production of documentary and other evi-  
11          dence.

12          “(4) LIMITATION ON STATE ACTION WHILE  
13          FEDERAL ACTION PENDING.—If a Federal agency or  
14          authority has instituted a civil action for a violation  
15          of this subtitle, no State may, during the pendency  
16          of such action, bring an action under this section  
17          against any defendant named in the complaint of the  
18          Federal agency or authority or such agency for any  
19          violation of this subtitle that is alleged in that com-  
20          plaint.

21          “(d) DEFINITIONS.—The terms used in subsection  
22          (a)(1) that are not defined in this subtitle or otherwise  
23          defined in section 3(s) of the Federal Deposit Insurance  
24          Act shall have the meaning given to them in section 1(b)  
25          of the International Banking Act of 1978.

1 **“SEC. 505. FAIR CREDIT REPORTING ACT AMENDMENT.**

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

4 “(1) in subsection (d), by striking everything  
5 following the end of the second sentence; and

6 “(2) by striking subsection (e) and inserting in  
7 lieu thereof the following:

8 “ ‘(e) REGULATORY AUTHORITY.—

9 “ ‘(1) The Federal banking agencies referred to  
10 in paragraphs (1) and (2) of subsection (b) shall  
11 jointly prescribe such regulations as necessary to  
12 carry out the purposes of this Act with respect to  
13 any persons identified under paragraphs (1) and (2)  
14 of subsection (b).

15 “ ‘(2) The Administrator of the National Credit  
16 Union Administration shall prescribe such regula-  
17 tions as necessary to carry out the purposes of this  
18 Act with respect to any persons identified under  
19 paragraph (3) of subsection (b).

20 “ ‘(3) The Federal Trade Commission shall pre-  
21 scribe such regulations as necessary to carry out the  
22 purposes of this Act with respect to any persons  
23 identified under subsection (a).’.

24 “(b) RELATION TO OTHER PROVISIONS.—Except for  
25 the amendment made by this section, nothing in this title  
26 shall be construed to modify, limit, or supersede the oper-

1 ation of the Fair Credit Reporting Act, and no inference  
2 shall be drawn on the basis of the provisions of this title  
3 regarding whether information is transaction or experience  
4 information under section 603 of such Act.

5 **“SEC. 506. STATE ELECTION TO PARTICIPATE.**

6 “(a) REGULATIONS.—The Secretary of the Treasury  
7 may promulgate such regulations as may be necessary to  
8 establish the procedures governing whether the election re-  
9 quired under section 504(a)(7) has been made.

10 “(b) DEADLINE.—The deadline for a State to elect  
11 to become a participating state is the first day of the first  
12 calendar quarter beginning after the close of the first leg-  
13 islative session of the State legislature that begins on or  
14 after the date the regulations required by section 504(a)  
15 are issued in final form. For purposes of the previous sen-  
16 tence, in the case of a State that has a 2-year legislative  
17 session, each year of such session shall be deemed to be  
18 a separate regular session of the State legislature.

19 **“SEC. 507. RELATION TO STATE LAWS.**

20 “(a) IN GENERAL.—This subtitle shall not be con-  
21 strued as superseding, altering, or affecting the statutes,  
22 regulations, orders, or interpretations in effect in any  
23 State, except to the extent that such statutes, regulations,  
24 orders, or interpretations are inconsistent with the provi-

1 sions of this subtitle, and then only to the extent of the  
 2 inconsistency.

3 “(b) GREATER PROTECTION UNDER STATE LAW.—  
 4 For purposes of this section, a State statute, regulation,  
 5 order, or interpretation is not inconsistent with the provi-  
 6 sions of this subtitle if the protection such statute, regula-  
 7 tion, order, or interpretation affords any person is greater  
 8 than the protection provided under this subtitle as deter-  
 9 mined by the Commission or a Federal functional regu-  
 10 lator, on its own motion or upon the petition of any inter-  
 11 ested party.

12 **“SEC. 508. DEFINITIONS.**

13 “As used in this subtitle:

14 “(1) COMMISSION.—The term ‘Commission’  
 15 means the Federal Trade Commission.

16 “(2) FEDERAL FUNCTIONAL REGULATOR.—The  
 17 term ‘Federal functional regulator’ means—

18 “(A) the Board of Governors of the Fed-  
 19 eral Reserve System;

20 “(B) the Office of the Comptroller of the  
 21 Currency;

22 “(C) the Board of Directors of the Federal  
 23 Deposit Insurance Corporation;

24 “(D) the Director of the Office of Thrift  
 25 Supervision;



1           “(E) the National Credit Union Adminis-  
2           tration Board; and

3           “(F) the Securities and Exchange Commis-  
4           sion.

5           “(3) FINANCIAL INSTITUTION.—The term ‘fi-  
6           nancial institution’ means any institution the busi-  
7           ness of which is engaging in financial activities or  
8           activities that are incidental or complementary to fi-  
9           nancial activities, as determined under section 4(k)  
10          of the Bank Holding Company Act of 1956.

11          “(4) NONPUBLIC PERSONAL INFORMATION.—

12               “(A) The term ‘nonpublic personal infor-  
13               mation’ means personally identifiable financial  
14               information—

15                   “(i) provided by a consumer to a fi-  
16                   nancial institution;

17                   “(ii) resulting from any transaction  
18                   with the consumer or the service performed  
19                   for the consumer; or

20                   “(iii) otherwise obtained by the finan-  
21                   cial institution.

22               “(B) Such term does not include publicly  
23               available information, as such term is defined  
24               by the regulations prescribed under section 504.

1                   “(C) Notwithstanding subparagraph (B),  
2                   such term—

3                   (i) shall include any list, description,  
4                   or other grouping of consumers (and pub-  
5                   licly available information pertaining to  
6                   them) that is derived using any personally  
7                   identifiable information other than publicly  
8                   available information; but

9                   “(ii) shall not include any list, de-  
10                  scription, or other grouping of consumers  
11                  (and publicly available information per-  
12                  taining to them) that is derived without  
13                  using any nonpublic personal information.

14               “(5) DIRECTORY INFORMATION.—The term  
15               ‘publicly available directory information’ means sub-  
16               scriber list information required to be made available  
17               for publication pursuant to section 222(e) of the  
18               Communications Act of 1934 (47 U.S.C. 222(3)).

19               “(6) UNRELATED USE.—The term ‘unrelated  
20               use’, when used with respect to information collected  
21               by the financial institution in connection with any  
22               transaction with a consumer in any financial product  
23               or any financial service, means any use other than  
24               a use that is necessary to effect, administer, or en-  
25               force such transaction.

1           “(7) AFFILIATE.—The term ‘affiliate’ means  
2           any company that controls, is controlled by, or is  
3           under common control with another company.

4           “(8) NONAFFILIATED THIRD PARTY.—The term  
5           ‘nonaffiliated third party’ means any entity that is  
6           not an affiliate of, or related by common ownership  
7           or affiliated by corporate control with, the financial  
8           institution, but does not include a joint employee of  
9           such institution.

10          “(9) NECESSARY TO EFFECT, ADMINISTER, OR  
11          ENFORCE.—The disclosing or use of nonpublic per-  
12          sonal information shall be treated as necessary to ef-  
13          fect or administer a transaction with a consumer if  
14          the disclosing or use—

15                 “(A) is required, or is a usual, appropriate,  
16                 or acceptable method, to carry out the trans-  
17                 action or the product or service business of  
18                 which the transaction is a part, and record or  
19                 service or maintain the consumer’s account in  
20                 the ordinary course of providing the financial  
21                 service or financial product, or to administer or  
22                 service benefits or claims relating to the trans-  
23                 action or the product or service business of  
24                 which it is a part, and includes—

1 “(i) providing the consumer or the  
2 consumer’s agent or broker with a con-  
3 firmation, statement, or other record of the  
4 transaction, or information on the status  
5 or value of the financial service or financial  
6 product; and

7 “(ii) the accrual or recognition of in-  
8 centives or bonuses associated with the  
9 transaction that are provided by the finan-  
10 cial institution or any other party;

11 “(B) is required, or is one of the lawful or  
12 appropriate methods, to enforce the rights of  
13 the financial institution or of other persons en-  
14 gaged in carrying out the financial transaction,  
15 or providing the product or service;

16 “(C) is required, or is a usual, appropriate,  
17 or acceptable method, for insurance under-  
18 writing at the consumer’s request or for rein-  
19 surance purposes, or for any of the following  
20 purposes as they relate to a consumer’s insur-  
21 ance: account administration, reporting, inves-  
22 tigating, or preventing fraud or material mis-  
23 representation, processing premium payments,  
24 processing insurance claims, administering in-  
25 surance benefits (including utilization review ac-

1           tivities), participating in research projects, or as  
 2           otherwise required or specifically permitted by  
 3           Federal or State law; or

4           “(D) the disclosure is required, or is a  
 5           usual, appropriate or acceptable method, in con-  
 6           nection with—

7                   “(i) the authorization, settlement, bill-  
 8                   ing, processing, clearing, transferring, rec-  
 9                   onciling, or collection of amounts charged,  
 10                  debited, or otherwise paid using a debit,  
 11                  credit or other payment card, check, or ac-  
 12                  count number, or by other payment means;

13                  “(ii) the transfer of receivables, ac-  
 14                  counts or interests therein; or

15                  “(iii) the audit of debit, credit or  
 16                  other payment information.

17       Each agency or authority described in section 504(a)  
 18       shall, consistent with the purposes of this subtitle,  
 19       prescribe by rule actions that shall, in a variety of  
 20       financial services, and with respect to a variety of fi-  
 21       nancial products, be treated as necessary to effect,  
 22       administer, or enforce a financial transaction.

23           “(10) FINANCIAL SERVICES; FINANCIAL PROD-  
 24       UCTS; TRANSACTION; RELATED TRANSACTION.—

25       Each agency or authority described in section 504(a)

1 shall, consistent with the purposes of this subtitle,  
 2 prescribe by rule definitions of the terms ‘financial  
 3 services’, ‘financial products’, ‘transaction’, ‘related  
 4 transaction’, and ‘unrelated third party’ for purposes  
 5 of this subtitle.

6 “(11) STATE INSURANCE AUTHORITY.—The  
 7 term ‘State insurance authority’ means, in the case  
 8 of any person engaged in providing insurance, the  
 9 State insurance authority of the State in which the  
 10 person is domiciled.

11 “(12) CONSUMER.—The term ‘consumer’  
 12 means an individual who obtains, from a financial  
 13 institution, financial products or services which are  
 14 to be used primarily for personal, family, or house-  
 15 hold purposes, and also means the legal representa-  
 16 tive of such an individual.

17 “(13) CUSTOMER RELATIONSHIP.—The term  
 18 ‘time of establishing a customer relationship’ shall  
 19 be defined by the regulations prescribed under sec-  
 20 tion 504.

21 **“SEC. 509. EFFECTIVE DATE.**

22 “This subtitle shall take effect 6 months after the  
 23 date on which rules are required to be prescribed under  
 24 section 504(a)(3), except—

1 “(1) to the extent that a later date is specified  
2 in the rules prescribed under section 504; and

3 “(2) that sections 504 and 506 shall be effective upon the enactment.

5 **“Subtitle B—Fraudulent Access to**  
6 **Financial Information**

7 **“SEC. 521. PRIVACY PROTECTION FOR CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.**

9 “(a) PROHIBITION ON OBTAINING CUSTOMER INFORMATION BY FALSE PRETENSES.—It shall be a violation  
10 of this subtitle for any person to obtain or attempt to obtain,  
11 or cause to be disclosed or attempt to cause to be  
12 disclosed to any person, customer information of a financial  
13 institution relating to another person—

15 “(1) by making a false, fictitious, or fraudulent  
16 statement or representation to an officer, employee,  
17 or agent of a financial institution;

18 “(2) by making a false, fictitious, or fraudulent  
19 statement or representation to a customer of a financial  
20 institution; or

21 “(3) by providing any document to an officer,  
22 employee, or agent of a financial institution, knowing  
23 that the document is forged, counterfeit, lost, or  
24 stolen, was fraudulently obtained, or contains a

1 false, fictitious, or fraudulent statement or represen-  
2 tation.

3 “(b) PROHIBITION ON SOLICITATION OF A PERSON  
4 TO OBTAIN CUSTOMER INFORMATION FROM FINANCIAL  
5 INSTITUTION UNDER FALSE PRETENSES.—It shall be a  
6 violation of this subtitle to request a person to obtain cus-  
7 tomer information of a financial institution, knowing that  
8 the person will obtain, or attempt to obtain, the informa-  
9 tion from the institution in any manner described in sub-  
10 section (a).

11 “(c) NONAPPLICABILITY TO LAW ENFORCEMENT  
12 AGENCIES.—No provision of this section shall be con-  
13 strued so as to prevent any action by a law enforcement  
14 agency, or any officer, employee, or agent of such agency,  
15 to obtain customer information of a financial institution  
16 in connection with the performance of the official duties  
17 of the agency.

18 “(d) NONAPPLICABILITY TO FINANCIAL INSTITU-  
19 TIONS IN CERTAIN CASES.—No provision of this section  
20 shall be construed so as to prevent any financial institu-  
21 tion, or any officer, employee, or agent of a financial insti-  
22 tution, from obtaining customer information of such finan-  
23 cial institution in the course of—



1           “(1) testing the security procedures or systems  
2           of such institution for maintaining the confiden-  
3           tiality of customer information;

4           “(2) investigating allegations of misconduct or  
5           negligence on the part of any officer, employee, or  
6           agent of the financial institution; or

7           “(3) recovering customer information of the fi-  
8           nancial institution which was obtained or received by  
9           another person in any manner described in sub-  
10          section (a) or (b).

11          “(e) NONAPPLICABILITY TO INSURANCE INSTITU-  
12          TIONS FOR INVESTIGATION OF INSURANCE FRAUD.—No  
13          provision of this section shall be construed so as to prevent  
14          any insurance institution, or any officer, employee, or  
15          agency of an insurance institution, from obtaining infor-  
16          mation as part of an insurance investigation into criminal  
17          activity, fraud, material misrepresentation, or material  
18          nondisclosure that is authorized for such institution under  
19          State law, regulation, interpretation, or order.

20          “(f) NONAPPLICABILITY TO CERTAIN TYPES OF CUS-  
21          TOMER INFORMATION OF FINANCIAL INSTITUTIONS.—No  
22          provision of this section shall be construed so as to prevent  
23          any person from obtaining customer information of a fi-  
24          nancial institution that otherwise is available as a public

1 record filed pursuant to the securities laws (as defined in  
2 section 3(a)(47) of the Securities Exchange Act of 1934).

3 **“SEC. 522. ADMINISTRATIVE ENFORCEMENT.**

4 “(a) ENFORCEMENT BY FEDERAL TRADE COMMIS-  
5 SION.—Compliance with this subtitle shall be enforced by  
6 the Federal Trade Commission in the same manner and  
7 with the same power and authority as the Commission has  
8 under the title VIII, the Fair Debt Collection Practices  
9 Act, to enforce compliance with such title.

10 “(b) NOTICE OF ACTIONS.—The Federal Trade Com-  
11 mission shall—

12 “(1) notify the Securities and Exchange Com-  
13 mission whenever the Federal Trade Commission ini-  
14 tiates an investigation with respect to a financial in-  
15 stitution subject to regulation by the Securities and  
16 Exchange Commission;

17 “(2) notify the Federal banking agency (as de-  
18 fined in section 3(z) of the Federal Deposit Insur-  
19 ance Act) whenever the Commission initiates an in-  
20 vestigation with respect to a financial institution  
21 subject to regulation by such Federal banking agen-  
22 cy; and

23 “(3) notify the appropriate State insurance reg-  
24 ulator whenever the Commission initiates an inves-

1       tigation with respect to a financial institution sub-  
2       ject to regulation by such regulator.

3       “(c) STATE ACTION FOR VIOLATIONS.—

4               “(1) AUTHORITY OF STATES.—In addition to  
5       such other remedies as are provided under State  
6       law, if the chief law enforcement officer of a State,  
7       or an official or agency designated by a State, has  
8       reason to believe that any person has violated or is  
9       violating this subtitle, the State—

10               “(A) may bring an action to enjoin such  
11       violation in any appropriate United States dis-  
12       trict court or in any other court of competent  
13       jurisdiction;

14               “(B) may bring an action on behalf of the  
15       residents of the State to recover damages of not  
16       more than \$1,000 for each violation; and

17               “(C) in the case of any successful action  
18       under subparagraph (A) or (B), shall be award-  
19       ed the costs of the action and reasonable attor-  
20       ney fees as determined by the court.

21       “(2) RIGHTS OF FEDERAL REGULATORS.—

22               “(A) PRIOR NOTICE.—The State shall  
23       serve prior written notice of any action under  
24       paragraph (1) upon the Federal Trade Commis-  
25       sion and provide the Federal Trade Commission

1 with a copy of its complaint, except in any case  
2 in which such prior notice is not feasible, in  
3 which case the State shall serve such notice im-  
4 mediately upon instituting such action.

5 “(B) RIGHT TO INTERVENE.—The Federal  
6 Trade Commission shall have the right—

7 “(i) to intervene in an action under  
8 paragraph (1);

9 “(ii) upon so intervening, to be heard  
10 on all matters arising therein;

11 “(iii) to remove the action to the ap-  
12 propriate United States district court; and

13 “(iv) to file petitions for appeal.

14 “(3) INVESTIGATORY POWERS.—For purposes  
15 of bringing any action under this subsection, no pro-  
16 vision of this subsection shall be construed as pre-  
17 venting the chief law enforcement officer, or an offi-  
18 cial or agency designated by a State, from exercising  
19 the powers conferred on the chief law enforcement  
20 officer or such official by the laws of such State to  
21 conduct investigations or to administer oaths or af-  
22 firmations or to compel the attendance of witnesses  
23 or the production of documentary and other evi-  
24 dence.

1           “(4) LIMITATION ON STATE ACTION WHILE  
2       FEDERAL ACTION PENDING.—If the Federal Trade  
3       Commission has instituted a civil action for a viola-  
4       tion of this subtitle, no State may, during the pend-  
5       ency of such action, bring an action under this sec-  
6       tion against any defendant named in the complaint  
7       of the Federal Trade Commission or such agency for  
8       any violation of this subtitle that is alleged in that  
9       complaint.

10   **“SEC. 523. CRIMINAL PENALTY.**

11       “(a) IN GENERAL.—Whoever knowingly and inten-  
12       tionally violates, or knowingly and intentionally attempts  
13       to violate, section 521 shall be fined in accordance with  
14       title 18, United States Code, or imprisoned for not more  
15       than 5 years, or both.

16       “(b) ENHANCED PENALTY FOR AGGRAVATED  
17       CASES.—Whoever violates, or attempts to violate, section  
18       521 while violating another law of the United States or  
19       as part of a pattern of any illegal activity involving more  
20       than \$100,000 in a 12-month period shall be fined twice  
21       the amount provided in subsection (b)(3) or (c)(3) (as the  
22       case may be) of section 3571 of title 18, United States  
23       Code, imprisoned for not more than 10 years, or both.

1   **“SEC. 524. RELATION TO STATE LAWS.**

2           “(a) IN GENERAL.—This subtitle shall not be con-  
3   strued as superseding, altering, or affecting the statutes,  
4   regulations, orders, or interpretations in effect in any  
5   State, except to the extent that such statutes, regulations,  
6   orders, or interpretations are inconsistent with the provi-  
7   sions of this subtitle, and then only to the extent of the  
8   inconsistency.

9           “(b) GREATER PROTECTION UNDER STATE LAW.—  
10   For purposes of this section, a State statute, regulation,  
11   order, or interpretation is not inconsistent with the provi-  
12   sions of this subtitle if the protection such statute, regula-  
13   tion, order, or interpretation affords any person is greater  
14   than the protection provided under this subtitle as deter-  
15   mined by the Commission, on its own motion or upon the  
16   petition of any interested party.

17   **“SEC. 525. AGENCY GUIDANCE.**

18           “‘In furtherance of the objectives of this subtitle, each  
19   Federal banking agency (as defined in section 3(z) of the  
20   Federal Deposit Insurance Act) and the Securities and  
21   Exchange Commission or self-regulatory organizations, as  
22   appropriate, shall review regulations and guidelines appli-  
23   cable to financial institutions under their respective juris-  
24   dictions and shall prescribe such revisions to such regula-  
25   tions and guidelines as may be necessary to ensure that  
26   such financial institutions have policies, procedures, and

1 controls in place to prevent the unauthorized disclosure  
2 of customer financial information and to deter and detect  
3 activities proscribed under section 521.

4 **“SEC. 526. REPORTS.**

5       “(a) REPORT TO THE CONGRESS.—Before the end of  
6 the 18-month period beginning on the date of the enact-  
7 ment of this Act, the Comptroller General, in consultation  
8 with the Federal Trade Commission, Federal banking  
9 agencies, the Securities and Exchange Commission, appro-  
10 priate Federal law enforcement agencies, and appropriate  
11 State insurance regulators, shall submit to the Congress  
12 a report on the following:

13               “(1) The efficacy and adequacy of the remedies  
14 provided in this subtitle in addressing attempts to  
15 obtain financial information by fraudulent means or  
16 by false pretenses.

17               “(2) Any recommendations for additional legis-  
18 lative or regulatory action to address threats to the  
19 privacy of financial information created by attempts  
20 to obtain information by fraudulent means or false  
21 pretenses.

22       “(b) ANNUAL REPORT BY ADMINISTERING AGEN-  
23 CIES.—The Federal Trade Commission and the Attorney  
24 General shall submit to Congress an annual report on

1 number and disposition of all enforcement actions taken  
2 pursuant to this subtitle.

3 **“SEC. 527. DEFINITIONS.**

4 “For purposes of this subtitle, the following defini-  
5 tions shall apply:

6 “(1) CUSTOMER.—The term ‘customer’ means,  
7 with respect to a financial institution, any person (or  
8 authorized representative of a person) to whom the  
9 financial institution provides a product or service,  
10 including that of acting as a fiduciary.

11 “(2) CUSTOMER INFORMATION OF A FINANCIAL  
12 INSTITUTION.—The term ‘customer information of a  
13 financial institution’ means any information main-  
14 tained by or for a financial institution which is de-  
15 rived from the relationship between the financial in-  
16 stitution and a customer of the financial institution  
17 and is identified with the customer.

18 “(3) DOCUMENT.—The term ‘document’ means  
19 any information in any form.

20 “(4) FINANCIAL INSTITUTION.—

21 “(A) IN GENERAL.—The term ‘financial  
22 institution’ means any institution engaged in  
23 the business of providing financial services to  
24 customers who maintain a credit, deposit, trust,



1 or other financial account or relationship with  
2 the institution.

3 “(B) CERTAIN FINANCIAL INSTITUTIONS  
4 SPECIFICALLY INCLUDED.—The term ‘financial  
5 institution’ includes any depository institution  
6 (as defined in section 19(b)(1)(A) of the Fed-  
7 eral Reserve Act), any broker or dealer, any in-  
8 vestment adviser or investment company, any  
9 insurance company, any loan or finance com-  
10 pany, any credit card issuer or operator of a  
11 credit card system, and any consumer reporting  
12 agency that compiles and maintains files on  
13 consumers on a nationwide basis (as defined in  
14 section 603(p)).

15 “(C) SECURITIES INSTITUTIONS.—For  
16 purposes of subparagraph (B)—

17 “(i) the terms ‘broker’ and ‘dealer’  
18 have the meanings provided in section 3 of  
19 the Securities Exchange Act of 1934 (15  
20 U.S.C. 78c);

21 “(ii) the term ‘investment adviser’ has  
22 the meaning provided in section 202(a)(11)  
23 of the Investment Advisers Act of 1940  
24 (15 U.S.C. 80b–2(a)); and

1 “(iii) the term ‘investment company’  
 2 has the meaning provided in section 3 of  
 3 the Investment Company Act of 1940 (15  
 4 U.S.C. 80a-3).

5 “(D) FURTHER DEFINITION BY REGULA-  
 6 TION.—The Federal Trade Commission, after  
 7 consultation with Federal banking agencies and  
 8 the Securities and Exchange Commission, may  
 9 prescribe regulations clarifying or describing  
 10 the types of institutions which shall be treated  
 11 as financial institutions for purposes of this  
 12 subtitle.”.

13 **SEC. 10. IMPROVED AVAILABILITY OF ANTIFRAUD HOTLINE**  
 14 **INFORMATION.**

15 (a) DUTY OF FURNISHERS OF INFORMATION TO  
 16 CONSUMER REPORTING AGENCY TO PROVIDE NUMBER  
 17 OF TOLL-FREE ANTIFRAUD HOT LINE.—Section 623(a)  
 18 of the Fair Credit Reporting Act (15 U.S.C. 1681s-2(a))  
 19 is amended by adding at the end the following new para-  
 20 graph:

21 “(6) DUTY TO PROVIDE TOLL-FREE ANTIFRAUD  
 22 TELEPHONE HOTLINE NUMBER.—

23 “(A) IN GENERAL.—A creditor who fur-  
 24 nishes information with respect to a consumer  
 25 to a consumer reporting agency shall provide

1 such agency with a toll-free telephone number  
2 at which the consumer can contact the creditor  
3 about potential fraud involving the consumer's  
4 relationship with the creditor.

5 “(B) KEEPING NUMBER CURRENT.—If a  
6 toll-free telephone number referred to in sub-  
7 paragraph (A) changes, the creditor who main-  
8 tains the number shall promptly report such  
9 change to any consumer reporting agency to  
10 whom the prior number was furnished pursuant  
11 to such subparagraph.

12 “(C) CREDITOR DEFINED.—For purposes  
13 of this paragraph, the term ‘creditor’ has the  
14 meaning given such term in section 103.”.

15 (b) INFORMATION REQUIRED TO BE INCLUDED IN  
16 CONSUMER REPORTS.—Section 609(a) of the Fair Credit  
17 Reporting Act (15 U.S.C. 1681g(a)) is amended by adding  
18 at the end the following new paragraphs:

19 “(6) ANTIFRAUD HOTLINES.—The following in-  
20 formation relating to fraud hotlines:

21 “(A) A toll-free telephone number at which  
22 the consumer can contact the consumer report-  
23 ing agency about potential fraud involving the  
24 consumer.

1           “(B) The toll-free telephone number at  
2           which the consumer can contact any creditor  
3           listed in the report about potential fraud involv-  
4           ing the consumer.

5           “(C) A toll-free telephone number and the  
6           address on the World Wide Web at which the  
7           consumer can contact the Federal Trade Com-  
8           mission about potential fraud involving the con-  
9           sumer.

10          “(7) FRAUD ALERT.—A statement that the  
11          consumer may request the consumer reporting agen-  
12          cy to—

13               “(A) maintain a fraud watch on the con-  
14               sumer’s file; and

15               “(B) request any user of information in  
16               the file to contact the consumer before opening  
17               or changing any account of or on behalf of the  
18               consumer.”.

19   **SEC. 11. COMMISSION ON ALTERNATIVES TO THE USE OF**  
20                   **SOCIAL SECURITY NUMBERS AS IDENTIFYING**  
21                   **NUMBERS IN PUBLIC RECORDS.**

22          (a) ESTABLISHMENT.—There is hereby established  
23          the Federal Commission on Alternative Identifying Num-  
24          bers (hereafter in this section referred to as the “Commis-  
25          sion”).

1 (b) DUTIES OF THE COMMISSION.—The Commission  
2 shall—

3 (1) develop a model alternative to the use of So-  
4 cial Security numbers as identifying numbers for in-  
5 dividuals in public documents, records, and licenses;  
6 and

7 (2) make recommendations for the implementa-  
8 tion of a model, and a time-frame for such imple-  
9 mentation, that would phase out the use of Social  
10 Security numbers as identifying numbers for individ-  
11 uals by any government, any government agency or  
12 department, or any other government establishment  
13 or public entity, other than for purposes of admin-  
14 istering the Social Security Act and the Internal  
15 Revenue Code of 1986.

16 (c) MEMBERSHIP.—

17 (1) NUMBER AND APPOINTMENT.—The Com-  
18 mission shall be composed of five members as fol-  
19 lows:

20 (A) The Chairman of the Federal Trade  
21 Commission.

22 (B) One member appointed by the Presi-  
23 dent from among the governors of the several  
24 States.

1           (C) One member appointed by the Presi-  
2           dent from among individuals who are mayors of  
3           cities in the United States.

4           (D) One member appointed by the Presi-  
5           dent from among individuals who, by virtue of  
6           their education, training, and experience as rep-  
7           resentatives of consumer organizations, are es-  
8           pecially qualified to represent consumers on the  
9           Commission.

10          (E) One member appointed by the Presi-  
11          dent from among individuals who, by virtue of  
12          their education, training, and experience in  
13          business or as representatives of businesses, are  
14          especially qualified to represent the business  
15          community on the Commission.

16          (2) POLITICAL AFFILIATION.—Not more than  
17          two members appointed under subparagraphs (B),  
18          (C), (D), and (E) of paragraph (1) may be of the  
19          same political party.

20          (3) CONTINUATION OF MEMBERSHIP.—If a  
21          member was appointed to the Commission as a gov-  
22          ernor or mayor and the member ceases to be a gov-  
23          ernor or mayor that member may continue as a  
24          member for not longer than the 30-day period begin-

1       ning on the date that member ceases to be a gov-  
2       ernor or mayor, as the case may be.

3           (4) TERMS.—Each member appointed under  
4       subparagraphs (B), (C), (D), and (E) of paragraph  
5       (1) shall be appointed for the life of the Commission.

6           (5) VACANCIES.—A vacancy in the Commission  
7       shall be filled in the manner in which the original  
8       appointment was made.

9           (6) NO COMPENSATION.—Members of the Com-  
10      mission appointed under subparagraphs (B), (C),  
11      (D), and (E) of paragraph (1) shall serve without  
12      pay.

13          (7) TRAVEL EXPENSES.—Each member of the  
14      Commission shall receive travel expenses, including  
15      per diem in lieu of subsistence, in accordance with  
16      sections 5702 and 5703 of title 5, United States  
17      Code.

18          (8) QUORUM.—A majority of the members of  
19      the Commission shall constitute a quorum but a  
20      lesser number may hold hearings.

21          (9) CHAIRPERSON.—The Chairman of the Fed-  
22      eral Trade Commission shall serve as the Chair-  
23      person of the Commission.

24          (c) STAFF.—

1           (1) EXPERTS AND CONSULTANTS.—The Com-  
2 mission may procure temporary and intermittent  
3 services under section 3109(b) of title 5, United  
4 States Code.

5           (2) STAFF OF FEDERAL TRADE COMMISSION.—  
6 The Chairman of the Federal Trade Commission  
7 may detail, on a reimbursable basis, any of the per-  
8 sonnel of that agency to the Commission to assist it  
9 in carrying out its duties under this section.

10          (d) POWERS OF THE COMMISSION.—

11           (1) HEARINGS AND SESSIONS.—The Commis-  
12 sion may, for the purpose of carrying out this sec-  
13 tion, hold hearings, sit and act at times and places,  
14 take testimony, and receive evidence as the Commis-  
15 sion considers appropriate.

16           (2) POWERS OF MEMBERS.—Any member of  
17 the Commission may, if authorized by the Commis-  
18 sion, take any action which the Commission is au-  
19 thorized to take by this section.

20           (3) OBTAINING OFFICIAL DATA.—The Commis-  
21 sion may secure directly from any department or  
22 agency of the United States information necessary  
23 to enable it to carry out this section. Upon request  
24 of the Chairperson of the Commission, the head of



1       that department or agency shall furnish that infor-  
2       mation to the Commission.

3           (4) **MAILS.**—The Commission may use the  
4       United States mails in the same manner and under  
5       the same conditions as other departments and agen-  
6       cies of the United States.

7           (5) **ADMINISTRATIVE SUPPORT SERVICES.**—  
8       Upon the request of the Commission, the Adminis-  
9       trator of General Services shall provide to the Com-  
10      mission, on a reimbursable basis, the administrative  
11      support services necessary for the Commission to  
12      carry out its responsibilities under this section.

13      (e) **REPORT.**—

14           (1) **IN GENERAL.**—The Commission shall sub-  
15      mit a report to the President and the Congress be-  
16      fore the end of the 1-year period beginning on the  
17      date of the enactment of this Act.

18           (2) **CONTENTS.**—The report shall contain a de-  
19      tailed statement of the findings and conclusions of  
20      the Commission, together with its recommendations  
21      for such legislative and administrative actions as the  
22      Commission considers appropriate.

23      (f) **TERMINATION.**—The Commission shall terminate  
24      upon the submission of the report under subsection (e).

1 **SEC. 12. THREE FREE TELLER TRANSACTIONS MONTHLY.**

2 Section 18 of Federal Deposit Insurance Act (12  
3 U.S.C. 1828) is amended by adding at the end the fol-  
4 lowing new subsection:

5 “(v) **THREE FREE TELLER TRANSACTIONS.**—Each  
6 insured depository institution shall allow each depositor to  
7 conduct banking business or otherwise engage in trans-  
8 actions directly with individuals employed by such institu-  
9 tion without charge on at least three separate occasions  
10 each month.”.

○