

107TH CONGRESS
1ST SESSION

H. R. 1478

To protect the privacy of the individual with respect to the Social Security number and other personal information, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 4, 2001

Mr. KLECZKA introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Financial Services, 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

A BILL

To protect the privacy of the individual with respect to the Social Security number and other personal information, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*
- 2 **SECTION 1. SHORT TITLE.**
- 3 This Act may be cited as the “Personal Information
- 4 Privacy Act of 2001”.

1 SEC. 2. CONFIDENTIAL TREATMENT OF CREDIT HEADER
2 INFORMATION.

3 Section 603(d) of the Fair Credit Reporting Act (15
4 U.S.C. 1681a(d)) is amended by inserting after the first
5 sentence the following: “The term also includes any other
6 identifying information of the consumer, except the name,
7 address, and telephone number of the consumer if listed
8 in a residential telephone directory available in the locality
9 of the consumer.”.

10 SEC. 3. PROTECTING PRIVACY BY PROHIBITING USE OF
11 THE SOCIAL SECURITY NUMBER FOR COM-
12 MERCIAL PURPOSES WITHOUT CONSENT.

13 (a) IN GENERAL.—Part A of title XI of the Social
14 Security Act (42 U.S.C. 1301 et seq.) is amended by add-
15 ing at the end the following:

16 "PROHIBITION OF CERTAIN MISUSES OF THE SOCIAL
17 SECURITY ACCOUNT NUMBER

18 “SEC. 1148. (a) PROHIBITION OF COMMERCIAL AC-
19 QUISITION OR DISTRIBUTION.—No person may buy, sell,
20 offer for sale, take or give in exchange, or pledge or give
21 in pledge any information for the purpose, in whole or in
22 part, of conveying by means of such information any indi-
23 vidual’s social security account number, or any derivative
24 of such number, without the written consent of such indi-
25 vidual.

1 “(b) PROHIBITION OF USE AS PERSONAL IDENTI-
2 FICATION NUMBER.—No person may utilize any individ-
3 ual’s social security account number, or any derivative of
4 such number, for purposes of identification of such indi-
5 vidual without the written consent of such individual.

6 “(c) PREREQUISITES FOR CONSENT.—In order for
7 consent to exist under subsection (a) or (b), the person
8 engaged in, or seeking to engage in, an activity described
9 in such subsection shall—

10 “(1) inform the individual of all the purposes
11 for which the number will be utilized and the per-
12 sons to whom the number will be known; and

13 “(2) obtain affirmatively expressed consent in
14 writing.

15 “(d) EXCEPTIONS.—Nothing in this section shall be
16 construed to prohibit any use of social security account
17 numbers permitted or required under section 205(c)(2) of
18 this Act, section 7(a)(2) of the Privacy Act of 1974 (5
19 U.S.C. 552a note; 88 Stat. 1909), or section 6109(d) of
20 the Internal Revenue Code of 1986.

21 “(e) CIVIL ACTION IN UNITED STATES DISTRICT
22 COURT; DAMAGES; ATTORNEYS FEES AND COSTS; NON-
23 EXCLUSIVE NATURE OF REMEDY.—

24 “(1) IN GENERAL.—Any individual aggrieved
25 by any act of any person in violation of this section

1 may bring a civil action in a United States district
2 court to recover—

3 “(A) such preliminary and equitable relief
4 as the court determines to be appropriate; and

5 “(B) the greater of—

6 “(i) actual damages; and

7 “(ii) liquidated damages of \$25,000
8 or, in the case of a violation that was will-
9 ful and resulted in profit or monetary gain,
10 \$50,000.

11 “(2) ATTORNEY’S FEES AND COSTS.—In the
12 case of a civil action brought under paragraph (1)
13 in which the aggrieved individual has substantially
14 prevailed, the court may assess against the respond-
15 ent a reasonable attorney’s fee and other litigation
16 costs and expenses (including expert fees) reasonably
17 incurred.

18 “(3) STATUTE OF LIMITATIONS.—No action
19 may be commenced under this subsection more than
20 3 years after the date on which the violation was or
21 should reasonably have been discovered by the ag-
22 grieved individual.

23 “(4) NONEXCLUSIVE REMEDY.—The remedy
24 provided under this subsection shall be in addition to
25 any other lawful remedy available to the individual.

1 “(f) CIVIL MONEY PENALTIES.—

2 “(1) IN GENERAL.—Any person who the Com-
3 missioner of Social Security determines has violated
4 this section shall be subject, in addition to any other
5 penalties that may be prescribed by law, to—6 “(A) a civil money penalty of not more
7 than \$25,000 for each such violation, and8 “(B) a civil money penalty of not more
9 than \$500,000, if violations have occurred with
10 such frequency as to constitute a general busi-
11 ness practice.12 “(2) DETERMINATION OF VIOLATIONS.—Any
13 violation committed contemporaneously with respect
14 to the social security account numbers of 2 or more
15 individuals by means of mail, telecommunication, or
16 otherwise shall be treated as a separate violation
17 with respect to each such individual.18 “(3) ENFORCEMENT PROCEDURES.—The provi-
19 sions of section 1128A (other than subsections (a),
20 (b), (f), (h), (i), (j), and (m), and the first sentence
21 of subsection (c)) and the provisions of subsections
22 (d) and (e) of section 205 shall apply to civil money
23 penalties under this subsection in the same manner
24 as such provisions apply to a penalty or proceeding
25 under section 1128A(a), except that, for purposes of

1 this paragraph, any reference in section 1128A to
2 the Secretary shall be deemed a reference to the
3 Commissioner of Social Security.

4 “(4) COORDINATION WITH CRIMINAL ENFORCE-
5 MENT.—The Commissioner of Social Security shall
6 take such actions as are necessary and appropriate
7 to assure proper coordination of the enforcement of
8 the provisions of this section with criminal enforce-
9 ment under section 1028 of title 18, United States
10 Code (relating to fraud and related activity in con-
11 nection with identification documents). The Commis-
12 sioner shall enter into cooperative arrangements with
13 the Federal Trade Commission under section 5 of
14 the Identity Theft and Assumption Deterrence Act
15 of 1998 for purposes of achieving such coordination.

16 “(g) REGULATION BY STATES.—Nothing in this sec-
17 tion shall be construed to prohibit any State authority
18 from enacting or enforcing laws consistent with this sec-
19 tion for the protection of privacy.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) applies with respect to violations occurring
22 on and after the date which is 2 years after the date of
23 enactment of this Act.

24 (c) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—Any
25 person who refuses to do business with an individual be-

1 cause the individual will not consent to that person receiv-
2 ing the social security number of such individual shall be
3 considered to have committed an unfair or deceptive act
4 or practice in violation of section 5 of the Federal Trade
5 Commission Act (15 U.S.C. 45). Action may be taken
6 under such section 5 against such a person.

7 **SEC. 4. REPEAL OF CERTAIN PROVISIONS RELATING TO**
8 **DISTRIBUTION OF CONSUMER REPORTS IN**
9 **CONNECTION WITH CERTAIN TRANSACTIONS**
10 **NOT INITIATED BY THE CONSUMER.**

11 (a) **IN GENERAL.**—Paragraph (1) of section 604(c)
12 of the Fair Credit Reporting Act (15 U.S.C. 1681b(c))
13 is amended by striking “any credit or insurance trans-
14 action that is not initiated by the consumer only if—” and
15 all that follows through the end of such paragraph and
16 inserting “any credit or insurance transaction that is not
17 initiated by the consumer only if the consumer provides
18 express written authorization, in accordance with para-
19 graph (2), to the agency to provide such report in connec-
20 tion with any such transaction.”

21 (b) **FULL DISCLOSURE REQUIRED.**—Paragraph (2)
22 of section 604(c) of the Fair Credit Reporting Act (15
23 U.S.C. 1681b(c)) is amended to read as follows:

24 “(2) **FULL DISCLOSURE REQUIRED.**—

1 “(A) IN GENERAL.—No authorization re-
2 ferred to in paragraph (1) with respect to any
3 consumer shall be effective unless the consumer
4 receives a notice before such authorization is
5 provided which fully and fairly discloses, in ac-
6 cordance with regulations which the Federal
7 Trade Commission and the Board of Governors
8 of the Federal Reserve System shall jointly pre-
9 scribe, what specifically is being authorized by
10 the consumer and the potential positive and
11 negative effects the provision of such authoriza-
12 tion will have on the consumer.

13 “(B) FORM OF NOTICE.—The regulations
14 prescribed pursuant to subparagraph (A) shall
15 require that the notice required under such
16 subparagraph—

17 “(i) be prominently displayed on a
18 document which is separate from any other
19 document; or

20 “(ii) if the notice appears on a docu-
21 ment with other information, be placed in
22 a clear and conspicuous location on such
23 document and appear in type face which is
24 more conspicuous than the type face used

1 for any other information on such docu-
2 ment.”.

3 (c) TECHNICAL AND CONFORMING AMENDMENT.—
4 Subsection (e) of section 604 of the Fair Credit Reporting
5 Act (15 U.S.C. 1681b) is amended to read as follows:
6 “(e) [Repealed]”.

7 **SEC. 5. SALE OR TRANSFER OF TRANSACTION OR EXPERI-
8 ENCE INFORMATION PROHIBITED.**

9 (a) IN GENERAL.—The Fair Credit Reporting Act
10 (15 U.S.C. 1681 et seq.) is amended by adding at the end
11 the following new section:

12 **“§ 626. Transaction or experience information**

13 “(a) IN GENERAL.—No person doing business with
14 a consumer may sell, transfer, or otherwise provide to any
15 other person, for the purpose of marketing such informa-
16 tion to any other person, any transaction or experience
17 information without the consumer’s express written con-
18 sent.

19 “(b) TRANSACTION OR EXPERIENCE INFORMATION
20 DEFINED.—For purposes of this section, the term ‘trans-
21 action or experience information’ means any information
22 identifying the content or subject of 1 or more trans-
23 actions between the consumer and a person doing business
24 with a consumer, including any component part of any
25 transaction, any brand name involved, or any quantity or

1 category of merchandise involved in any part of the trans-
2 action.

3 “(c) EXCEPTIONS.—Subsection (a) shall not apply
4 with respect to the following:

5 “(1) Communication of transaction or experi-
6 ence information solely among persons related by
7 common ownership or affiliated by corporate control.

8 “(2) Information provided pursuant to the
9 order of a court having jurisdiction to issue such
10 order or pursuant to a subpoena issued in connec-
11 tion with proceedings before a Federal grand jury.

12 “(3) Information provided in connection with
13 the licensing or registration by a government agency
14 or department, or any transfer of such license or
15 registration, of any personal property bought, sold,
16 or transferred by the consumer.

17 “(4) Information required to be provided in
18 connection with any transaction in real estate.

19 “(5) Information required to be provided in
20 connection with perfecting a security interest in per-
21 sonal property.

22 “(6) Information relating to the amount of any
23 transaction or any credit extended in connection
24 with a transaction with a consumer.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—

2 Section 603(d)(2)(A) is amended by striking “(A) any—
3 ” and inserting “(A) subject to section 626, any—”.4 (c) CLERICAL AMENDMENT.—The table of sections
5 for the Fair Credit Reporting Act is amended by adding
6 at the end the following new item:

“626. Transaction or experience information.”.

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