

107TH CONGRESS
1ST SESSION

S. 30

To strengthen control by consumers over the use and disclosure of their personal financial and health information by financial institutions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 22, 2001

Mr. SARBANES (for himself, Mr. LEAHY, Mr. DODD, Mr. REED, Mr. KERRY, Mr. HARKIN, and Mr. EDWARDS) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To strengthen control by consumers over the use and disclosure of their personal financial and health information by financial institutions, 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 AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Financial Information Privacy Protection Act of 2001”.

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. Opt-out requirement for disclosure to affiliates and nonaffiliated third parties.
- Sec. 3. Restricting the transfer of information about personal spending habits.
- Sec. 4. Restricting the use of health information in making credit and other financial decisions.
- Sec. 5. Limits on redisclosure and reuse of information.
- Sec. 6. Consumer rights to access and correct information.
- Sec. 7. Improved enforcement authority.
- Sec. 8. Enhanced disclosure of privacy policies.
- Sec. 9. Limit on disclosure of account numbers.
- Sec. 10. General exceptions.
- Sec. 11. Definitions.
- Sec. 12. Issuance of implementing regulations.
- Sec. 13. FTC rulemaking authority under the Fair Credit Reporting Act.

1 SEC. 2. OPT-OUT REQUIREMENT FOR DISCLOSURE TO AF-
2 FILIATES AND NONAFFILIATED THIRD PAR-
3 TIES.

4 Section 502(a) of the Gramm-Leach-Bliley Act (15
 5 U.S.C. 6802(a)) is amended to read as follows:

6 “(a) DISCLOSURE OF NONPUBLIC PERSONAL INFOR-
 7 MATION.—Except as otherwise provided in this subtitle,
 8 a financial institution may not disclose any nonpublic per-
 9 sonal information to an affiliate or a nonaffiliated third
 10 party unless the financial institution—

11 “(1) has provided to the consumer a clear and
 12 conspicuous notice, in writing or electronic form or
 13 other form permitted by the regulations imple-
 14 menting this subtitle, of the categories of informa-
 15 tion that may be disclosed to the—

16 “(A) affiliate; or

17 “(B) nonaffiliated third party;

18 “(2) has given the consumer an opportunity,
 19 before the time that such information is initially dis-

1 closed, to direct that such information not be dis-
 2 closed to such—

3 “(A) affiliate; or

4 “(B) nonaffiliated third party; and

5 “(3) has given the consumer the ability to exer-
 6 cise the nondisclosure option described in paragraph
 7 (2) through the same method of communication by
 8 which the consumer received the notice described in
 9 paragraph (1) or another method at least as conven-
 10 ient to the consumer, and an explanation of how the
 11 consumer can exercise such option.”.

12 **SEC. 3. RESTRICTING THE TRANSFER OF INFORMATION**
 13 **ABOUT PERSONAL SPENDING HABITS.**

14 Section 502(b) of the Gramm-Leach-Bliley Act (15
 15 U.S.C. 6802(b)) is amended to read as follows:

16 “(b) RESTRICTION ON THE TRANSFER OF INFORMA-
 17 TION ABOUT PERSONAL SPENDING HABITS.—

18 “(1) IN GENERAL.—Notwithstanding subsection
 19 (a), if a financial institution provides a service to a
 20 consumer through which the consumer makes or re-
 21 ceives payments or transfers by check, debit card,
 22 credit card, or other similar instrument, the finan-
 23 cial institution shall not transfer to an affiliate or a
 24 nonaffiliated third party—

1 “(A) an individualized list of that con-
 2 sumer’s transactions or an individualized de-
 3 scription of that consumer’s interests, pref-
 4 erences, or other characteristics; or

5 “(B) any such list or description con-
 6 structed in response to an inquiry about a spe-
 7 cific, named individual;

8 if the list or description is derived from information
 9 collected in the course of providing that service.

10 “(2) RESTRICTION ON TRANSFER OF AGGRE-
 11 GATE LISTS CONTAINING CERTAIN HEALTH INFOR-
 12 MATION.—Notwithstanding subsection (a), a finan-
 13 cial institution shall not transfer to an affiliate or a
 14 nonaffiliated third party any aggregate list of con-
 15 sumers containing or derived from individually iden-
 16 tifiable health information.

17 “(3) EXCEPTIONS.—

18 “(A) IN GENERAL.—The financial institu-
 19 tion may disclose the information described in
 20 paragraph (1) or (2) to an affiliate or a non-
 21 affiliated third party if such financial
 22 institution—

23 “(i) has clearly and conspicuously re-
 24 quested in writing or in electronic form or
 25 other form permitted by the regulations

1 implementing this subtitle, that the con-
 2 sumer affirmatively consent to such disclo-
 3 sure; and

4 “(ii) has obtained from the consumer
 5 such affirmative consent and such consent
 6 has not been withdrawn.

7 “(B) RULE OF CONSTRUCTION.—This sub-
 8 section shall not be construed as preventing a
 9 financial institution from transferring the infor-
 10 mation described in paragraph (1) or (2) to an
 11 affiliate or a nonaffiliated third party for the
 12 purposes described in paragraph (1), (2), (3),
 13 (5), (7), (8), (9), or (10) of subsection (f).

14 “(C) SCOPE OF APPLICATION.—Paragraph
 15 (1) shall not apply to the transfer of aggregate
 16 lists of consumers.”.

17 **SEC. 4. RESTRICTING THE USE OF HEALTH INFORMATION**
 18 **IN MAKING CREDIT AND OTHER FINANCIAL**
 19 **DECISIONS.**

20 (a) RESTRICTION ON USE OF CONSUMER HEALTH
 21 INFORMATION.—Section 502(c) of the Gramm-Leach-Blie-
 22 ley Act (15 U.S.C. 6802(c)) is amended to read as follows:

23 “(c) USE OF CONSUMER HEALTH INFORMATION
 24 AVAILABLE FROM AFFILIATES AND NONAFFILIATED
 25 THIRD PARTIES.—In deciding whether, or on what terms,

1 to offer, provide, or continue to provide a financial product
 2 or service to a consumer, a financial institution shall not
 3 obtain or receive individually identifiable health informa-
 4 tion about the consumer from an affiliate or nonaffiliated
 5 third party, or evaluate or otherwise consider any such in-
 6 formation, unless the financial institution—

7 “(1) has clearly and conspicuously requested in
 8 writing or in electronic form or other form permitted
 9 by the regulations implementing this subtitle, that
 10 the consumer affirmatively consent to the transfer
 11 and use of that information with respect to a par-
 12 ticular financial product or service;

13 “(2) has obtained from the consumer such af-
 14 firmative consent and such consent has not been
 15 withdrawn; and

16 “(3) requires the same health information
 17 about all consumers as a condition for receiving the
 18 financial product or service.”.

19 (b) EXISTING PROTECTIONS FOR HEALTH INFORMA-
 20 TION NOT AFFECTED.—Subtitle A of title V of the
 21 Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.) is
 22 amended—

23 (1) by redesignating section 510 as section 512;
 24 and

1 (2) by inserting after section 509 the following
 2 new section:

3 **“SEC. 510. RELATION TO STANDARDS ESTABLISHED UNDER**
 4 **THE HEALTH INSURANCE PORTABILITY AND**
 5 **ACCOUNTABILITY ACT OF 1996.**

6 “Nothing in this subtitle shall be construed as—

7 “(1) modifying, limiting, or superseding stand-
 8 ards governing the privacy and security of individ-
 9 ually identifiable health information promulgated by
 10 the Secretary of Health and Human Services under
 11 sections 262(a) and 264 of the Health Insurance
 12 Portability and Accountability Act of 1996; or

13 “(2) authorizing the use or disclosure of indi-
 14 vidually identifiable health information in a manner
 15 other than as permitted by other applicable law.”.

16 (c) DEFINITION OF INDIVIDUALLY IDENTIFIABLE
 17 HEALTH INFORMATION.—Section 509 of the Gramm-
 18 Leach-Bliley Act (15 U.S.C. 6809) is amended by adding
 19 at the end the following new paragraph:

20 “(12) INDIVIDUALLY IDENTIFIABLE HEALTH
 21 INFORMATION.—The term ‘individually identifiable
 22 health information’ means any information, includ-
 23 ing demographic information obtained from or about
 24 an individual, that is described in section
 25 1171(6)(B) of the Social Security Act.”.

1 (d) TECHNICAL AND CONFORMING AMENDMENT.—
 2 Section 505(a)(6) of the Gramm-Leach-Bliley Act (15
 3 U.S.C. 6805(a)(6)) is amended by inserting before the pe-
 4 riod at the end “to the extent that the provisions of such
 5 section are not inconsistent with the provisions of this sub-
 6 title”.

7 **SEC. 5. LIMITS ON REDISCLOSURE AND REUSE OF INFOR-**
 8 **MATION.**

9 Section 502 of the Gramm-Leach-Bliley Act (15
 10 U.S.C. 6802) is amended—

11 (1) by redesignating subsections (d) and (e) as
 12 subsections (e) and (f), respectively; and

13 (2) by inserting after subsection (c) the fol-
 14 lowing new subsection:

15 “(d) LIMITS ON REDISCLOSURE AND REUSE OF IN-
 16 FORMATION.—

17 “(1) IN GENERAL.—An affiliate or a non-
 18 affiliated third party that receives nonpublic per-
 19 sonal information from a financial institution shall
 20 not disclose such information to any other person
 21 unless such disclosure would be lawful if made di-
 22 rectly to such other person by the financial institu-
 23 tion.

24 “(2) DISCLOSURE UNDER A GENERAL EXCEP-
 25 TION.—Notwithstanding paragraph (1), any person

1 that receives nonpublic personal information from a
 2 financial institution in accordance with one of the
 3 general exceptions in subsection (f) may use or dis-
 4 close such information only—

5 “(A) as permitted under that general ex-
 6 ception; or

7 “(B) under another general exception in
 8 subsection (f), if necessary to carry out the pur-
 9 pose for which the information was disclosed by
 10 the financial institution.”.

11 **SEC. 6. CONSUMER RIGHTS TO ACCESS AND CORRECT**
 12 **INFORMATION.**

13 Subtitle A of title V of the Gramm-Leach-Bliley Act
 14 (15 U.S.C. 6801 et seq.) is amended by inserting after
 15 section 510 (as added by section 4(b) of this Act), the
 16 following new section:

17 **“SEC. 511. ACCESS TO AND CORRECTION OF INFORMATION.**

18 “(a) ACCESS.—

19 “(1) IN GENERAL.—Upon the request of a con-
 20 sumer, a financial institution shall make available to
 21 the consumer information about the consumer that
 22 is under the control of, and reasonably available to,
 23 the financial institution.

24 “(2) EXCEPTIONS.—Notwithstanding para-
 25 graph (1), a financial institution—

1 “(A) shall not be required to disclose to a
2 consumer any confidential commercial informa-
3 tion, such as an algorithm used to derive credit
4 scores or other risk scores or predictors;

5 “(B) shall not be required to create new
6 records in order to comply with the consumer’s
7 request;

8 “(C) shall not be required to disclose to a
9 consumer any information assembled by the fi-
10 nancial institution, in a particular matter, as
11 part of the financial institution’s efforts to com-
12 ply with laws preventing fraud, money laun-
13 dering, or other unlawful conduct; and

14 “(D) shall not disclose any information re-
15 quired to be kept confidential by any other Fed-
16 eral law.

17 “(b) CORRECTION.—A financial institution shall pro-
18 vide a consumer the opportunity to dispute the accuracy
19 of any information disclosed to the consumer pursuant to
20 subsection (a), and to present evidence thereon. A finan-
21 cial institution shall correct or delete material information
22 identified by a consumer that is materially incomplete or
23 inaccurate.

24 “(c) COORDINATION AND CONSULTATION.—In pre-
25 scribing regulations implementing this section, the Federal

1 agencies specified in section 504(a) shall consult with one
 2 another to ensure that the rules—

3 “(1) impose consistent requirements on the fi-
 4 nancial institutions under their respective jurisdic-
 5 tions;

6 “(2) take into account conditions under which
 7 financial institutions do business both in the United
 8 States and in other countries; and

9 “(3) are consistent with the principle of tech-
 10 nology neutrality.

11 “(d) CHARGES FOR DISCLOSURES.—A financial insti-
 12 tution may impose a reasonable charge for making a dis-
 13 closure under this section, which charge must be disclosed
 14 to the consumer before making the disclosure. ”.

15 **SEC. 7. IMPROVED ENFORCEMENT AUTHORITY.**

16 (a) COMPLIANCE WITH PRIVACY POLICY.—Section
 17 503 of the Gramm-Leach-Bliley Act (15 U.S.C. 6803) is
 18 amended by adding at the end the following new sub-
 19 section:

20 “(c) COMPLIANCE WITH PRIVACY POLICY.—A finan-
 21 cial institution’s failure to comply with any of its policies
 22 or practices disclosed to a consumer under this section
 23 constitutes a violation of the requirements of this sec-
 24 tion.”.

1 (b) UNFAIR AND DECEPTIVE TRADE PRACTICE.—
 2 Section 505(a)(7) of the Gramm-Leach-Bliley Act (15
 3 U.S.C. 6805(a)(7)) is amended by adding at the end the
 4 following new sentence: “A violation of any requirement
 5 of this subtitle, or the regulations of the Federal Trade
 6 Commission prescribed under this subtitle, by a financial
 7 institution or other person described in this paragraph
 8 shall constitute an unfair or deceptive act or practice in
 9 commerce in violation of section 5(a) of the Federal Trade
 10 Commission Act.”.

11 (c) SUPPLEMENTAL STATE ENFORCEMENT FOR FTC
 12 REGULATED ENTITIES.—Section 505 of the Gramm-
 13 Leach-Bliley Act (15 U.S.C. 6805) is amended by adding
 14 at the end the following new subsection:

15 “(e) STATE ACTION FOR VIOLATIONS.—

16 “(1) AUTHORITY OF THE STATES.—In addition
 17 to such other remedies as are provided under State
 18 law, if the attorney general of a State, or an officer
 19 authorized by the State, has reason to believe that
 20 any financial institution or other person described in
 21 section 505(a)(7) has violated or is violating this
 22 subtitle or the regulations prescribed thereunder by
 23 the Federal Trade Commission, the State may—

24 “(A) bring an action on behalf of the resi-
 25 dents of the State to enjoin such violation in

1 any appropriate United States district court or
2 in any other court of competent jurisdiction;
3 and

4 “(B) bring an action on behalf of the resi-
5 dents of the State to enforce compliance with
6 this subtitle and the regulations prescribed
7 thereunder by the Federal Trade Commission,
8 to obtain damages, restitution, or other com-
9 pensation on behalf of the residents of such
10 State, or to obtain such further and other relief
11 as the court may deem appropriate.

12 “(2) RIGHTS OF THE FEDERAL TRADE COMMIS-
13 SION.—The State shall serve prior written notice of
14 any action under paragraph (1) upon the Federal
15 Trade Commission and shall provide the Commission
16 with a copy of its complaint; provided that, if such
17 prior notice is not feasible, the State shall serve such
18 notice immediately upon instituting such action. The
19 Federal Trade Commission shall have the right—

20 “(A) to move to stay the action, pending
21 the final disposition of a pending Federal mat-
22 ter as described in paragraph (4);

23 “(B) to intervene in an action under para-
24 graph (1);

1 “(C) upon so intervening, to be heard on
2 all matters arising therein;

3 “(D) to remove the action to the appro-
4 priate United States district court; and

5 “(E) to file petitions for appeal.

6 “(3) INVESTIGATORY POWERS.—For purposes
7 of bringing any action under this subsection, nothing
8 in this subsection shall prevent the attorney general,
9 or officers of such State who are authorized by such
10 State to bring such actions, from exercising the pow-
11 ers conferred on the attorney general or such offi-
12 cers by the laws of such State to conduct investiga-
13 tions or to administer oaths or affirmations or to
14 compel the attendance of witnesses or the production
15 of documentary and other evidence.

16 “(4) LIMITATION ON STATE ACTION WHILE
17 FEDERAL ACTION IS PENDING.—If the Federal
18 Trade Commission has instituted an action for a vio-
19 lation of this subtitle, no State may, during the
20 pendency of such action, bring an action under this
21 section against any defendant named in the com-
22 plaint of the Commission for any violation of this
23 subtitle that is alleged in that complaint.”.

24 (d) STATE ACTION FOR VIOLATIONS OF BAN ON
25 PRETEXT CALLING.—Section 522 of the Gramm-Leach-

1 Bliley Act (15 U.S.C. 6822) is amended by adding at the
2 end the following new subsection:

3 “(c) STATE ACTION FOR VIOLATIONS.—

4 “(1) AUTHORITY OF THE STATES.—In addition
5 to such other remedies as are provided under State
6 law, if the attorney general of a State, or an officer
7 authorized by the State, has reason to believe that
8 any person (other than a person described in sub-
9 section (b)(1)) has violated or is violating this sub-
10 title, the State may—

11 “(A) bring an action on behalf of the resi-
12 dents of the State to enjoin such violation in
13 any appropriate United States district court or
14 in any other court of competent jurisdiction;
15 and

16 “(B) bring an action on behalf of the resi-
17 dents of the State to enforce compliance with
18 this subtitle, to obtain damages, restitution, or
19 other compensation on behalf of the residents of
20 such State, or to obtain such further and other
21 relief as the court may deem appropriate.

22 “(2) RIGHTS OF FEDERAL AGENCIES.—The
23 State shall serve prior written notice of any action
24 commenced under paragraph (1) upon the Attorney
25 General and the Federal Trade Commission, and

1 shall provide the Attorney General and the Commis-
2 sion with a copy of the complaint; provided that, if
3 such prior notice is not feasible, the State shall serve
4 such notice immediately upon instituting such ac-
5 tion. The Attorney General and the Federal Trade
6 Commission shall have the right—

7 “(A) to move to stay the action, pending
8 the final disposition of a pending Federal mat-
9 ter as described in paragraph (4);

10 “(B) to intervene in an action under para-
11 graph (1);

12 “(C) upon so intervening, to be heard on
13 all matters arising therein;

14 “(D) to remove the action to the appro-
15 priate United States district court; and

16 “(E) to file petitions for appeal.

17 “(3) INVESTIGATORY POWERS.—For purposes
18 of bringing any action under this subsection, nothing
19 in this subsection shall prevent the attorney general,
20 or officers of such State who are authorized by such
21 State to bring such actions, from exercising the pow-
22 ers conferred on the attorney general or such offi-
23 cers by the laws of such State to conduct investiga-
24 tions or to administer oaths or affirmations or to

1 compel the attendance of witnesses or the production
2 of documentary and other evidence.

3 “(4) LIMITATION ON STATE ACTION WHILE
4 FEDERAL ACTION IS PENDING.—If the Attorney
5 General has instituted a criminal proceeding or the
6 Federal Trade Commission has instituted a civil ac-
7 tion for a violation of this subtitle, no State may,
8 during the pendency of such proceeding or action,
9 bring an action under this section against any de-
10 fendant named in the criminal proceeding or civil ac-
11 tion for any violation of this subtitle that is alleged
12 in that proceeding or action.”.

13 **SEC. 8. ENHANCED DISCLOSURE OF PRIVACY POLICIES.**

14 (a) TIMING OF NOTICE TO CONSUMERS.—Section
15 503(a) of the Gramm-Leach-Bliley Act (15 U.S.C.
16 6803(a)) is amended to read as follows:

17 “(a) DISCLOSURE REQUIRED.—

18 “(1) TIME OF DISCLOSURE.—A financial insti-
19 tution shall provide a disclosure that complies with
20 paragraph (2)—

21 “(A) to an individual upon the individual’s
22 request;

23 “(B) as part of an application for a finan-
24 cial product or service from the financial insti-
25 tution; and

1 “(C) to a consumer, prior to establishing a
 2 customer relationship with the consumer and
 3 not less frequently than annually during the
 4 continuation of such relationship.

5 “(2) DISCLOSURE FORMAT.—The disclosure re-
 6 quired by paragraph (1) shall be a clear and con-
 7 spicuous notice, in writing or in electronic form or
 8 other form permitted by the regulations imple-
 9 menting this subtitle, of such financial institution’s
 10 policies and practices with respect to—

11 “(A) disclosing nonpublic personal infor-
 12 mation to affiliates and nonaffiliated third par-
 13 ties, consistent with section 502, including the
 14 categories of information that may be disclosed;

15 “(B) disclosing nonpublic personal infor-
 16 mation of persons who have ceased to be cus-
 17 tomers of the financial institution; and

18 “(C) protecting the nonpublic personal in-
 19 formation of consumers.

20 Such disclosure shall be made in accordance with the
 21 regulations implementing this subtitle.”.

22 (b) NOTICE OF RIGHTS TO ACCESS AND CORRECT
 23 INFORMATION.—Section 503(b)(2) of the Gramm-Leach-
 24 Bliley Act (15 U.S.C. 6803(b)(2)) is amended by inserting
 25 “, and a statement of the consumer’s right to access and

1 correct such information, consistent with section 511”
 2 after “institution”.

3 (c) TECHNICAL AND CONFORMING AMENDMENT.—
 4 Section 503(b)(1)(A) of the Gramm-Leach-Bliley Act (15
 5 U.S.C. 6803(b)(1)(A)) is amended by striking “502(e)”
 6 and inserting “502(f)”.

7 **SEC. 9. LIMIT ON DISCLOSURE OF ACCOUNT NUMBERS.**

8 Section 502 of the Gramm-Leach-Bliley Act (15
 9 U.S.C. 6802) is amended in subsection (e) (as so redesign-
 10 nated by section 5) by inserting “affiliate or” before “non-
 11 affiliated third party”.

12 **SEC. 10. GENERAL EXCEPTIONS.**

13 Section 502(f) of the Gramm-Leach-Bliley Act (15
 14 U.S.C. 6802)) (as so redesignated by section 5 of this Act)
 15 is amended—

16 (1) in the matter preceding paragraph (1), by
 17 striking “Subsections (a) and (b)” and inserting
 18 “Subsection (a)”;

19 (2) in paragraph (1)—

20 (A) by striking “or” at the end of subpara-
 21 graph (B);

22 (B) by inserting “or” after the semicolon
 23 at the end of subparagraph (C); and

24 (C) by inserting after subparagraph (C)
 25 the following new subparagraph:

1 “(D) performing services for or functions
2 solely on behalf of the financial institution with
3 respect to the financial institution’s own cus-
4 tomers, including marketing of the financial in-
5 stitution’s own products or services to the fi-
6 nancial institution’s customers;”;

7 (3) in paragraph (4), by striking “, and the in-
8 stitution’s attorneys, accountants, and auditors”;

9 (4) in paragraph (5), by inserting “section 21
10 of the Federal Deposit Insurance Act,” after “title
11 31, United States Code,”;

12 (5) in paragraph (7), by striking “or” at the
13 end;

14 (6) in paragraph (8), by striking the period and
15 inserting a semicolon; and

16 (7) by adding at the end the following new
17 paragraphs:

18 “(9) in order to facilitate customer service, such
19 as maintenance and operation of consolidated cus-
20 tomer call centers or the use of consolidated cus-
21 tomer account statements; or

22 “(10) to the institution’s attorneys, account-
23 ants, and auditors.”.

1 **SEC. 11. DEFINITIONS.**

2 Section 509 of the Gramm-Leach-Bliley Act (15
3 U.S.C. 6809) is amended—

4 (1) in paragraph (3)—

5 (A) by striking “(3) FINANCIAL INSTITU-
6 TION” and all that follows through “The term
7 ‘financial institution’” and inserting “(3) FI-
8 NANCIAL INSTITUTION.—The term ‘financial in-
9 stitution’”; and

10 (B) by striking subparagraphs (B), (C),
11 and (D);

12 (2) by amending paragraph (4) to read as fol-
13 lows:

14 “(4) NONPUBLIC PERSONAL INFORMATION.—

15 The term ‘nonpublic personal information’ means—

16 “(A) any personally identifiable informa-
17 tion, including a Social Security number—

18 “(i) provided by a consumer to a fi-
19 nancial institution, in an application or
20 otherwise, to obtain a financial product or
21 service from the financial institution;

22 “(ii) resulting from any transaction
23 between a financial institution and a con-
24 sumer involving a financial product or
25 service; or

1 “(iii) obtained by the financial institu-
 2 tion about a consumer in connection with
 3 providing a financial product or service to
 4 that consumer, other than publicly avail-
 5 able information, as such term is defined
 6 by the regulations prescribed under section
 7 504; and

8 “(B) any list, description or other grouping
 9 of one or more consumers of the financial insti-
 10 tution and publicly available information per-
 11 taining to them.”; and

12 (3) in paragraph (9), by inserting “applies for
 13 or” before “obtains”.

14 **SEC. 12. ISSUANCE OF IMPLEMENTING REGULATIONS.**

15 (a) IN GENERAL.—The Federal agencies specified in
 16 section 504(a) of the Gramm-Leach-Bliley Act (15 U.S.C.
 17 6804(a)) shall prescribe regulations implementing the
 18 amendments to subtitle A of title V of the Gramm-Leach-
 19 Bliley Act made by this Act, and shall include such re-
 20 quirements determined to be appropriate to prevent their
 21 circumvention or evasion.

22 (b) COORDINATION, CONSISTENCY, AND COM-
 23 PARABILITY.—The regulations issued under subsection (a)
 24 shall be issued in accordance with the requirements of sec-
 25 tion 504(a) of the Gramm-Leach-Bliley Act (15 U.S.C.

1 6804(a)), except that the deadline in section 504(a)(3)
2 shall not apply.

3 **SEC. 13. FTC RULEMAKING AUTHORITY UNDER THE FAIR**
4 **CREDIT REPORTING ACT.**

5 Section 621(e) of the Fair Credit Reporting Act (15
6 U.S.C. 1681s(e)) is amended by adding at the end the fol-
7 lowing new paragraph:

8 “(3) REGULATIONS.—The Federal Trade Com-
9 mission shall prescribe such regulations as necessary
10 to carry out the provisions of this title with respect
11 to any persons identified under paragraph (1) of
12 subsection (a). Prior to prescribing such regulations,
13 the Federal Trade Commission shall consult with the
14 Federal banking agencies referred to in paragraph
15 (1) of this subsection in order to ensure, to the ex-
16 tent possible, comparability and consistency with the
17 regulations issued by the Federal banking agencies
18 under that paragraph.”.

○