

108TH CONGRESS  
1ST SESSION

# H. R. 3296

To amend various provisions of the Consumer Credit Protection Act to provide relief for victims of identity theft, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 15, 2003

Mr. GERLACH introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend various provisions of the Consumer Credit Protection Act to provide relief for victims of identity theft, 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.**

4       This Act may be cited as the “Prevent Identity Theft  
5       From Affecting Lives and Livelihoods (PITFALL) Act”.

6       **SEC. 2. RELIEF FOR IDENTITY THEFT VICTIMS FROM**  
7       **CREDITORS.**

8       (a) IN GENERAL.—The Truth in Lending Act is  
9       amended by inserting after section 133 (15 U.S.C. 1643)  
10      the following new section:

1 **“§ 133A. Nonliability of identity theft victims**

2 “(a) IN GENERAL.—If—

3 “(1) a State maintains a procedure that pro-  
4 vides for the investigation by the chief law enforce-  
5 ment officer of the State, or an official or agency  
6 designated by the State, of a police report by any  
7 person alleging identity theft; and

8 “(2) the officer, official, or agency issues a no-  
9 fault letter upon completion of the investigation stat-  
10 ing that such person was the victim of identity theft  
11 with respect to any creditor,

12 such person shall not be liable for any credit extended in  
13 connection with the actions that such officer, official, or  
14 agency has determined to be involved in the identity theft,  
15 except as otherwise provided in this section.

16 “(b) DUTIES OF CREDITOR.—Upon receiving a copy  
17 of a no-fault letter described in subsection (a)(2) with re-  
18 spect to any person, the creditor, or any transferee, as-  
19 signee, or agent of the creditor—

20 “(1) may not attempt to collect any credit ex-  
21 tended in the name of such person which the no-  
22 fault letter identifies as having resulted from iden-  
23 tity theft and shall hold such person harmless for  
24 the obligation (including any real or personal prop-  
25 erty of such person in which the terms of any con-

1       tract or agreement involved in the identity theft pur-  
2       port to create a security interest for such credit);

3           “(2) may not furnish any information to a con-  
4       sumer reporting agency that identifies such credit as  
5       an obligation of such person;

6           “(3) shall provide a copy of the no-fault letter  
7       (and such other information as may be appropriate  
8       to indicate that the person is not liable under this  
9       section for the obligation) to—

10           “(A) any consumer reporting agency to  
11       which the creditor had furnished any such in-  
12       formation before the receipt of a copy of the no-  
13       fault letter; and

14           “(B) any office in which any such security  
15       interest was recorded;

16           “(4) may not transfer or assign the credit to  
17       any other person, including a debt collector (as de-  
18       fined in section 803), unless the creditor clearly  
19       states that the person in whose name the credit was  
20       extended is not liable for such obligation under this  
21       section;

22           “(5) shall provide a copy of the no-fault letter  
23       (and such other information as may be appropriate  
24       to indicate that the person is not liable under this  
25       section for the obligation) to any transferee or as-

1       signee, including a debt collector (as defined in sec-  
2       tion 803), to which the creditor had transferred or  
3       assigned the obligation before the receipt of the no-  
4       fault letter, or any agent acting on behalf of the  
5       creditor;

6               “(6) shall remove any lien filed against any real  
7       or personal property of such person to secure the re-  
8       payment of any such credit obligation by such per-  
9       son; and

10              “(7) shall comply with any requirement the  
11       Board and the Federal Trade Commission may  
12       jointly prescribe under this section.

13       “(c) SCOPE OF PROVISION.—The exemptions pro-  
14       vided in section 104 shall not apply to this section.

15       “(d) ADMINISTRATIVE AND JUDICIAL REVIEW.—Any  
16       creditor adversely affected by the determination by the  
17       chief law enforcement officer of any State, or an official  
18       or agency designated by the State, that is the basis for  
19       a no-fault letter described in subsection (a)(2) with respect  
20       to any person may—

21              “(1) seek any administrative review of such de-  
22       termination that is available under the law of such  
23       State;

24              “(2) provide such officer, official, or agency  
25       with additional relevant information and request fur-

1       ther investigation of the facts and circumstances in-  
2       volved in the alleged identity theft and a de novo re-  
3       view of the prior determination on the basis of any  
4       relevant information not taken into account in mak-  
5       ing the original determination; or

6               “(3) bring an action in any appropriate State  
7       court in such State to determine the validity of any  
8       claim by the creditor against such person with re-  
9       spect to any obligation to which the no-fault letter  
10      applies.

11      “(e) EFFECTIVE PERIOD.—This section shall cease  
12   to apply with respect to any credit extended to any person  
13   as of the earlier of—

14              “(1) the date that any determination, pursuant  
15      to an administrative review or redetermination under  
16      paragraph (1) or (2) of subsection (d), that such  
17      person was not the victim of identity theft becomes  
18      final; or

19              “(2) the date any decision of any Federal or  
20      State court that such person is obligated for such  
21      credit becomes final.

22      “(f) DEFINITIONS.—For purposes of this section, the  
23   following definitions shall apply:

24              “(1) IDENTITY THEFT.—The term ‘identity  
25      theft’ means a fraud committed using another per-

son’s identifying information, subject to such further definition as the Board and the Federal Trade Commission may prescribe, jointly, by regulation.

“(2) POLICE REPORT.—The term ‘police report’ means a copy of any official valid report filed by a person with any appropriate Federal, State, or local government law enforcement agency, or any comparable official government document that the Board and the Federal Trade Commission shall jointly prescribe in regulations, that is subject to a criminal penalty for false statements.”.

(b) STATE ENFORCEMENT AUTHORITY.—Section 130(e) of the Truth in Lending Act (15 U.S.C. 1640(e)) is amended by inserting “or section 133A” after section 129”.

**SEC. 3. TREATMENT OF CREDIT AND OTHER INFORMATION  
IN CASES OF IDENTITY THEFT.**

(a) IN GENERAL.—The Fair Credit Reporting Act is amended by inserting after section 605 (15 U.S.C. 1681c) the following new section:

**“§ 605A. Treatment of credit and other information in  
cases of identity theft**

“(a) IN GENERAL.—If—

“(1) a State maintains a procedure that provides for the investigation by the chief law enforce-

1       ment officer of the State, or an official or agency  
2       designated by the State, of a police report filed by  
3       any person alleging identity theft; and

4               “(2) the officer, official, or agency issues a no-  
5       fault letter upon completion of the investigation stat-  
6       ing that such person was the victim of identity theft,  
7       no information concerning any transaction involved in the  
8       identity theft with respect to such person may be included  
9       or maintained by a consumer reporting agency in any file  
10      of such person, except as otherwise provided in this section  
11      or taken into account in connection with preparing or pro-  
12      viding any credit scores or any other risk scores or predic-  
13      tors relating to the person.

14       “(b) DUTIES OF CONSUMER REPORTING AGENCY.—  
15      Upon receiving a copy of a no-fault letter described in sub-  
16      section (a)(2) with respect to any person, the consumer  
17      reporting agency—

18               “(1) shall remove any reference to any informa-  
19      tion described in subsection (a) that is covered by  
20      the no-fault letter from the file of such person;

21               “(2) may not provide any such information to  
22      any person, whether or not the information is in-  
23      cluded in a consumer report, for any purpose;

24               “(3) shall notify any user to which the con-  
25      sumer reporting agency had furnished any such in-

1       formation before the receipt of a copy of the no-fault  
2       letter that—

3               “(A) such information may not be used by  
4       the user for any purpose; and

5               “(B) under section 133A or 910A, the per-  
6       son is not liable for any obligation covered by  
7       the no-fault letter;

8               “(4) shall provide a copy of the no-fault letter  
9       (and such other information as may be appropriate  
10      to indicate that the person is not liable under section  
11      133A or 910A for the obligation) to the furnisher of  
12      such information to the consumer reporting agency  
13      (unless the no-fault letter was supplied by the fur-  
14      nisher); and

15              “(5) shall comply with any requirement the  
16      Board and the Federal Trade Commission may  
17      jointly prescribe under this section.

18              “(c) EFFECTIVE PERIOD.—This section shall cease  
19      to apply with respect to any information concerning any  
20      person that was covered by a no-fault letter described in  
21      subsection (a) as of the earlier of—

22              “(1) the date that any determination, pursuant  
23      to an administrative review or redetermination that  
24      such person was not the victim of identity theft be-  
25      comes final; or



1           “(2) the date any decision of any Federal or  
2           State court that such person is liable on the obliga-  
3           tion to which such information refers becomes final.

4           “(d) DEFINITIONS.—For purposes of this section  
5           (and sections 616, 617, 619, 620, 621, and 624 with re-  
6           spect to information and duties covered by this section),  
7           the following definitions shall apply:

8           “(1) CONSUMER REPORTING AGENCY.—The  
9           term ‘consumer reporting agency’ includes any per-  
10          son which—

11               “(A) for monetary fees or dues, or on a co-  
12               operative basis, regularly engages in whole or in  
13               part in the practice of assembling or evaluating  
14               credit information or other information on any  
15               person for the purpose of furnishing, to third  
16               parties, any written, oral, or other communica-  
17               tion of any information by a consumer report-  
18               ing agency bearing on a person’s credit worthi-  
19               ness, credit standing, credit capacity, character,  
20               general reputation, personal characteristics, or  
21               mode of living which is used or expected to be  
22               used or collected in whole or in part for the  
23               purpose of serving as a factor in establishing  
24               the person’s eligibility for—

25               “(i) credit or insurance;

1 “(ii) employment purposes; or

2 “(iii) any other purpose authorized  
3 under section 604; and

4 “(B) uses any means or facility of inter-  
5 state commerce for the purpose of preparing or  
6 furnishing such reports.

7 “(2) IDENTITY THEFT.—The term ‘identity  
8 theft’ means a fraud committed using another per-  
9 son’s identifying information, subject to such further  
10 definition as the Board and the Federal Trade Com-  
11 mission may prescribe, jointly, by regulation.

12 “(3) POLICE REPORT.—The term ‘police report’  
13 means a copy of any official valid report filed by a  
14 person with any appropriate Federal, State, or local  
15 government law enforcement agency, or any com-  
16 parable official government document that the  
17 Board and the Federal Trade Commission shall  
18 jointly prescribe in regulations, that is subject to a  
19 criminal penalty for false statements.”.

20 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

21 Section 623(a)(1)(A) of the Fair Credit Reporting Act (15  
22 U.S.C. 1681s–2(a)(1)(A)) is amended—

23 (1) by striking “relating to any consumer” and  
24 inserting “relating to any person”;

1           (2) by inserting before the period at the end  
 2           “or if the person knows or has reason to know that  
 3           the information relates to a transaction involving  
 4           identity theft”; and

5           (3) by inserting after the period, the following  
 6           new sentence: “For purposes of the preceding sen-  
 7           tence, a person shall be deemed to know or have rea-  
 8           son to know that information relates to a trans-  
 9           action involving identity theft if the person knows or  
 10          reasonably should have known that the information  
 11          or the transaction is described in a no-fault letter  
 12          issued by the chief law enforcement officer of the  
 13          State, or an official or agency designated by the  
 14          State, in accordance with section 605A(a), as involv-  
 15          ing identity theft.”.

16 **SEC. 4. DUTIES OF DEBT COLLECTORS IN CASES OF IDEN-**  
 17 **TITY THEFT.**

18          (a) IN GENERAL.—The Fair Debt Collection Prac-  
 19          tices Act is amended by inserting after section 808 (15  
 20          U.S.C. 1692f) the following new section:

21 **“§ 808A. Identity theft**

22          “(a) IN GENERAL.—If—

23                 “(1) a State maintains a procedure that pro-  
 24                 vides for the investigation by the chief law enforce-  
 25                 ment officer of the State, or an official or agency

1 designated by the State, of a police report filed by  
2 any person alleging identity theft; and

3 “(2) the officer, official, or agency issues a no-  
4 fault letter upon completion of the investigation stat-  
5 ing that such person was the victim of identity  
6 theft—

7 no obligation that is identified in the no-fault letter as  
8 being involved in the identity theft with respect to such  
9 person shall be treated as a debt of such person by any  
10 debt collector.

11 “(b) DUTIES OF DEBT COLLECTOR.—Upon receiving  
12 a copy of a no-fault described in subsection (a)(2) with  
13 respect to any person, a debt collector—

14 “(1) may not take any action, or attempt to  
15 take any action, directly or indirectly, against such  
16 person to collect on any obligation that is subject to  
17 subsection (a);

18 “(2) may not take any action, or attempt to  
19 take any action, to enforce any purported interest in  
20 any real or personal property of such person that is  
21 securing any such obligation;

22 “(3) if the debt collector is acting as an agent  
23 of the creditor or any other person with respect to  
24 collecting any such obligation, shall promptly notify  
25 the creditor or other person of the prohibition under

1       this section on collection and provide such creditor  
2       or other person with a copy of the no-fault letter;  
3       and

4               “(4) shall comply with any requirement the  
5       Board and the Federal Trade Commission may  
6       jointly prescribe under this section.

7       “(c) EFFECTIVE PERIOD.—This section shall cease  
8       to apply with respect to any obligation of any person that  
9       was covered by a no-fault letter described in subsection  
10      (a) as of the earlier of—

11              “(1) the date that any determination, pursuant  
12       to an administrative review or redetermination that  
13       such person was not the victim of identity theft with  
14       respect to such obligation becomes final; or

15              “(2) the date any decision of any Federal or  
16       State court that such person is liable on the obliga-  
17       tion becomes final.

18       “(d) DEFINITIONS.—For purposes of this section  
19       (and sections 813 and 814 with respect to obligations and  
20       duties covered by this section), the following definitions  
21       shall apply:

22              “(1) DEBT.—The term ‘debt’ includes any obli-  
23       gation or alleged obligation of any person to pay  
24       money, whether or not such obligation has been re-  
25       duced to judgment.

1           “(2) DEBT COLLECTOR.—The term ‘debt col-  
2       lector’ includes any person described in subpara-  
3       graphs (A), (B), (C), (D), (E), or (F) of section  
4       803(6).

5           “(3) IDENTITY THEFT.—The term ‘identity  
6       theft’ means a fraud committed using another per-  
7       son’s identifying information, subject to such further  
8       definition as the Board and the Federal Trade Com-  
9       mission may prescribe, jointly, by regulation.

10          “(4) POLICE REPORT.—The term ‘police report’  
11       means a copy of any official valid report filed by a  
12       person with any appropriate Federal, State, or local  
13       government law enforcement agency, or any com-  
14       parable official government document that the  
15       Board and the Federal Trade Commission shall  
16       jointly prescribe in regulations, that is subject to a  
17       criminal penalty for false statements.”.

18          (b) STATE ENFORCEMENT AUTHORITY.—Section  
19       814 of the Fair Debt Collection Practices Act (15 U.S.C.  
20       1692l) is amended by adding at the end the following new  
21       subsection:

22          “(e) STATE ACTION FOR VIOLATIONS.—

23               “(1) AUTHORITY OF STATES.—In addition to  
24       such other remedies as are provided under State  
25       law, whenever the chief law enforcement officer of a

1 State, or an official or agency designated by a State,  
2 has reason to believe that any person has violated or  
3 is violating this title, the State—

4 “(A) may bring an action to enjoin such  
5 violation;

6 “(B) may bring an action on behalf of its  
7 residents to recover damages for which the per-  
8 son is liable to such residents under section 813  
9 as a result of the violation; and

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

14 “(2) RIGHTS OF FEDERAL AGENCIES.—

15 “(A) NOTICE TO FEDERAL AGENCY.—The  
16 State shall serve prior written notice of any civil  
17 action under paragraph (1) upon the Federal  
18 agency responsible for enforcement under this  
19 section and provide such agency with a copy of  
20 its complaint, except in any case where such  
21 prior notice is not feasible, in which case the  
22 State shall serve such notice immediately upon  
23 instituting such action.

1           “(B) INTERVENTION.—The Federal agen-  
2           cy responsible for enforcement under this sec-  
3           tion shall have the right—

4                   “(i) to intervene in any action re-  
5                   ferred to in subparagraph (A);

6                   “(ii) upon so intervening, to be heard  
7                   on all matters arising in the action; and

8                   “(iii) to file petitions for appeal.

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

20          “(4) LIMITATION.—Whenever the Federal agen-  
21          cy responsible for enforcement under this section has  
22          instituted a civil action for violation of this title, no  
23          State may, during the pendency of such action,  
24          bring an action under this section against any de-  
25          fendant named in the complaint of such agency for



1 any violation of this title that is alleged in that com-  
2 plaint.”.

3 (c) TECHNICAL AND CONFORMING AMENDMENT.—  
4 Section 808 of the Fair Debt Collection Practices Act (15  
5 U.S.C. 1692f) is amended by adding at the end the fol-  
6 lowing new paragraphs:

7 “(9) Taking any action, or attempting to take  
8 any action, directly or indirectly, against any person  
9 to collect on any debt after the debt collector knows  
10 or has reason to believe that such person may be the  
11 victim of identity theft with regard to such debt.

12 “(10) Taking any action, attempting to take  
13 any action, or failing to remedy any prior action to  
14 enforce any purported interest in any real or per-  
15 sonal property of a person that is securing any debt  
16 after the debt collector knows or has reason to be-  
17 lieve that such person may be the victim of identity  
18 theft with regard to such debt.”.

19 **SEC. 5. RELIEF FOR IDENTITY THEFT VICTIMS FROM FI-**  
20 **NANCIAL INSTITUTIONS.**

21 (a) IN GENERAL.—The Electronic Fund Transfer  
22 Act is amended by inserting after section 910 (15 U.S.C.  
23 1693h) the following new section:

24 **“§ 910A. Nonliability of identity theft victims**

25 “(a) IN GENERAL.—If—

1           “(1) a State maintains a procedure that pro-  
2       vides for the investigation by the chief law enforce-  
3       ment officer of the State, or an official or agency  
4       designated by the State, of a police report by any  
5       person alleging identity theft; and

6           “(2) the officer, official, or agency issues a no-  
7       fault letter upon completion of the investigation stat-  
8       ing that such person was the victim of identity theft  
9       with respect to any electronic fund transfer from an  
10      account of such person at a financial institution—  
11      such person shall not be liable for any electronic fund  
12      transfer that such officer, official, or agency has deter-  
13      mined resulted from an identity theft, except as otherwise  
14      provided in this section.

15       “(b) DUTIES OF FINANCIAL INSTITUTION.—Upon re-  
16      ceiving a copy of a no-fault letter described in subsection  
17      (a)(2) with respect to any person, a financial institution—

18           “(1) shall immediately recredit the person’s ac-  
19       count for the amount of the electronic fund transfer,  
20       together with any interest due on such amount;

21           “(2) shall reimburse the account of the person  
22       for any fees imposed on such account in connection  
23       with or as a result of the electronic fund transfer  
24       that resulted from identity theft; and

1           “(3) shall comply with any requirement the  
2       Board and the Federal Trade Commission may  
3       jointly prescribe under this section.

4       “(c) ADMINISTRATIVE AND JUDICIAL REVIEW.—Any  
5       financial institution adversely affected by the determina-  
6       tion by the chief law enforcement officer of any State, or  
7       an official or agency designated by the State, that is the  
8       basis for a no-fault letter described in subsection (a)(2)  
9       with respect to any person may—

10           “(1) seek any administrative review of such de-  
11       termination that is available under the law of such  
12       State;

13           “(2) provide such officer, official, or agency  
14       with additional relevant information and request fur-  
15       ther investigation of the facts and circumstances in-  
16       volved in the alleged identity theft and a de novo re-  
17       view of the prior determination on the basis of any  
18       relevant information not taken into account in mak-  
19       ing the original determination; or

20           “(3) bring an action in any appropriate State  
21       court in such State to determine the validity of any  
22       claim by the creditor against such person with re-  
23       spect to any obligation to which the no-fault letter  
24       applies.

1       “(d) EFFECTIVE PERIOD.—This section shall cease  
2 to apply with respect to any electronic fund transfer ex-  
3 tended to any person as of the earlier of—

4               “(1) the date that any determination, pursuant  
5 to an administrative review or redetermination under  
6 paragraph (1) or (2) of subsection (c), that such  
7 person was not the victim of identity theft becomes  
8 final; or

9               “(2) the date any decision of any Federal or  
10 State court that such person is obligated for such  
11 credit becomes final.

12       “(e) DEFINITIONS.—For purposes of this section, the  
13 following definitions shall apply:

14               “(1) IDENTITY THEFT.—The term ‘identity  
15 theft’ means a fraud committed using another per-  
16 son’s identifying information, subject to such further  
17 definition as the Board and the Federal Trade Com-  
18 mission may prescribe, jointly, by regulation.

19               “(2) POLICE REPORT.—The term ‘police report’  
20 means a copy of any official valid report filed by a  
21 person with any appropriate Federal, State, or local  
22 government law enforcement agency, or any com-  
23 parable official government document that the  
24 Board and the Federal Trade Commission shall

1 jointly prescribe in regulations, that is subject to a  
2 criminal penalty for false statements.”.

3 (b) STATE ENFORCEMENT AUTHORITY.—Section  
4 917 of the Electronic Fund Transfer Act (15 U.S.C.  
5 1693o) is amended by adding at the end the following new  
6 subsection:

7 “(d) STATE ACTION FOR VIOLATIONS.—

8 “(1) AUTHORITY OF STATES.—In addition to  
9 such other remedies as are provided under State  
10 law, whenever the chief law enforcement officer of a  
11 State, or an official or agency designated by a State,  
12 has reason to believe that any person has violated or  
13 is violating this title, the State—

14 “(A) may bring an action to enjoin such  
15 violation;

16 “(B) may bring an action on behalf of its  
17 residents to recover damages for which the per-  
18 son is liable to such residents under section 915  
19 as a result of the violation; and

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

24 “(2) RIGHTS OF FEDERAL AGENCIES.—

1           “(A) NOTICE TO FEDERAL AGENCY.—The  
2           State shall serve prior written notice of any civil  
3           action under paragraph (1) upon the Federal  
4           agency responsible for enforcement under this  
5           section and provide such agency with a copy of  
6           its complaint, except in any case where such  
7           prior notice is not feasible, in which case the  
8           State shall serve such notice immediately upon  
9           instituting such action.

10           “(B) INTERVENTION.—The Federal agen-  
11           cy responsible for enforcement under this sec-  
12           tion shall have the right—

13                   “(i) to intervene in any action re-  
14                   ferred to in subparagraph (A);

15                   “(ii) upon so intervening, to be heard  
16                   on all matters arising in the action; and

17                   “(iii) to file petitions for appeal.

18           “(3) INVESTIGATORY POWERS.—For purposes  
19           of bringing any action under this subsection, no pro-  
20           vision of this subsection shall construed as pre-  
21           venting the chief law enforcement officer, or an offi-  
22           cial or agency designated by a State, from exercising  
23           the powers conferred on the chief law enforcement  
24           officer or such official by the laws of such State to  
25           conduct investigations or to administer oaths or af-

1       firmations or to compel the attendance of witnesses  
2       or the production of documentary and other evi-  
3       dence.

4               “(4) LIMITATION.—Whenever the Federal agen-  
5       cy responsible for enforcement under this section has  
6       instituted a civil action for violation of this title, no  
7       State may, during the pendency of such action,  
8       bring an action under this section against any de-  
9       fendant named in the complaint of such agency for  
10      any violation of this title that is alleged in that com-  
11      plaint.”.

12   **SEC. 6. RULES OF CONSTRUCTION.**

13       (a) MISTAKE OF FACT AND CONTRACT FORMA-  
14      TION.—No provision of any amendment made by this Act  
15      shall be construed as implying that a contract involving  
16      identity theft (as defined in such amendments) is a valid  
17      and enforceable contract with respect to the victim of the  
18      identity theft.

19       (b) FRAUD.—No provision of any amendment made  
20      by this Act shall be construed as implying that any at-  
21      tempt by any person to enforce, collect on, transfer, or  
22      assign a contract when such person knows or has reason  
23      to believe that a purported party to the contract is a victim  
24      of identity theft (as defined in such amendments) with re-

1 spect to such contract is not itself a fraudulent or other-  
 2 wise unlawful act under any Federal or State law.

3 (c) OTHER ACTION.—No provision of any amend-  
 4 ment made by this Act shall be construed as implying that  
 5 a person has no obligation to take any action with respect  
 6 to any alleged identity theft, including to correct any  
 7 record and to absolve any victim of the identity theft for  
 8 any liability arising from the theft, whether or not—

9 (1) a State has in effect any procedure de-  
 10 scribed in section 133A(a), 605(a), 808A(a), or  
 11 910A(a) of the Consumer Credit Protection Act; or

12 (2) the chief law enforcement officer of any  
 13 such State, or an official or agency designated by  
 14 the State, has initiated any investigation or issued  
 15 any no-fault letter or other statement pursuant to  
 16 such procedure.

17 **SEC. 7. CLERICAL AMENDMENTS.**

18 The Consumer Credit Protection Act (15 U.S.C.  
 19 1601 et seq.) is amended—

20 (1) in the table of sections for chapter 2 of title  
 21 I, by inserting after the item relating to section 133  
 22 the following new item:

“133A. Nonliability of identity theft victims.”;



1           (2) in the table of sections for title VI, by in-  
2           serting after the item relating to section 605 the fol-  
3           lowing new item:

“605A. Treatment of credit and other information in cases of identity theft.”;

4           (3) in the table of sections for title VIII, by in-  
5           serting after the item relating to section 808 the fol-  
6           lowing new item:

“808A. Identity theft.”;

7           and

8           (4) in the table of sections for title IX, by in-  
9           serting after the item relating to section 910 the fol-  
10          lowing new item:

“910A. Nonliability of identity theft victims.”.

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