

115TH CONGRESS
2D SESSION

H. R. 6192

To amend the Credit Repair Organizations Act to facilitate the development of consumer credit services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2018

Mr. ROYCE of California introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Energy and 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

A BILL

To amend the Credit Repair Organizations Act to facilitate the development of consumer credit 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.**

4 This Act may be cited as the “Credit Services Protec-
5 tion Act of 2018”.

6 **SEC. 2. PROTECTION OF CONSUMER CREDIT SERVICES.**

7 (a) IN GENERAL.—The Credit Repair Organizations
8 Act (15 U.S.C. 1679 et seq.) is amended—

1 (1) by striking “title” each place such term ap-
 2 pears and inserting “chapter”;

3 (2) by striking **“TITLE IV—CREDIT RE-**
 4 **PAIR ORGANIZATIONS”** and inserting
 5 **“TITLE IV—CONSUMER CREDIT SERV-**
 6 **ICES”**;

7 (3) by inserting before the table of contents for
 8 such Act the following:

9 **“CHAPTER 1—CREDIT REPAIR”;**

10 (4) in section 403(3)(B)—

11 (A) in clause (ii), by striking “or” at the
 12 end;

13 (B) in clause (iii), by striking the period
 14 and inserting “; or”; and

15 (C) by adding at the end the following:

16 “(iv) any authorized credit services
 17 provider to the extent such provider offers,
 18 sells, provides, or performs credit and iden-
 19 tity protection services or credit education
 20 services (as such terms are defined, respec-
 21 tively, under section 423).”; and

22 (5) by inserting after section 413 the following:

23 **“CHAPTER 2—CREDIT AND IDENTITY**
 24 **PROTECTION AND CREDIT EDUCATION**

“Sec. 421. Short title.

“Sec. 422. Findings.

“Sec. 423. Definitions.

“Sec. 424. Promotion of credit and identity protection services and credit education services.

“Sec. 425. Applicability of Credit Repair Organizations Act to activities of authorized credit services providers other than credit and identity protection services or credit education services.

“Sec. 426. Relation to State law.

“Sec. 427. Process for registering as authorized credit services provider.

1 **“SEC. 421. SHORT TITLE.**

2 “This chapter may be cited as the ‘Credit Services
3 Protection Act’.

4 **“SEC. 422. FINDINGS.**

5 “The Congress makes the following findings:

6 “(1) Consumer reports and credit scores have
7 become widely available to consumers. In order to
8 fully benefit from such access, however, consumers
9 also need the tools to understand and improve their
10 credit standing. By doing so consumers can gain
11 greater access to credit and on better terms, which
12 can help alleviate poverty, sustain the middle class,
13 and grow the economy.

14 “(2) As cyber-attacks and data breaches have
15 proliferated, consumers’ credit standing has also be-
16 come increasingly threatened by identity theft,
17 fraud, and other forms of unauthorized access. To
18 help protect against these threats, consumers turn to
19 credit monitoring and other credit and identity pro-
20 tection tools and services.

21 “(3) Enacted in 1996, the Credit Repair Orga-
22 nizations Act (15 U.S.C. 1679 et seq.) remains an

1 important law to protect consumers from exploi-
 2 tation, but in recent years the law also has worked
 3 to prevent credit education and credit and identity
 4 theft protection services from reaching consumers.

5 “(4) The provision of credit and identity protec-
 6 tion services and credit education services should be
 7 accompanied by reasonable and appropriate con-
 8 sumer protections.

9 “(5) Persons who choose to register as an au-
 10 thorized credit services provider pursuant to section
 11 427 and who offer, sell, provide, or perform credit
 12 and identity protection services and credit education
 13 services should have the certainty of a safe harbor
 14 from the Credit Repair Organizations Act that this
 15 chapter providers.

16 **“SEC. 423. DEFINITIONS.**

17 “For the purposes of this chapter, the following defi-
 18 nitions apply:

19 “(1) AUTHORIZED CREDIT SERVICES PRO-
 20 VIDER.—The term ‘authorized credit services pro-
 21 vider’ means a person that has registered as an au-
 22 thorized credit services provider under section 427.

23 “(2) CREDIT.—The term ‘credit’ has the mean-
 24 ing given that term under section 403 of the Credit
 25 Repair Organizations Act.

1 “(3) CREDIT AND IDENTITY PROTECTION SERV-
2 ICE.—The term ‘credit and identity protection serv-
3 ice’—

4 “(A) means any service offered, sold, pro-
5 vided, or performed to or for consumers for the
6 express or implied purpose of protecting a con-
7 sumer’s credit standing or to detect or prevent
8 the commission or remediate the consequences
9 of identity theft, fraud, data breach, or other
10 unauthorized financial or credit-related activity;
11 and

12 “(B) does not include—

13 “(i) advising or assisting in any activ-
14 ity described in subparagraphs (A) through
15 (C) of section 427(b)(2);

16 “(ii) any services marketed to a con-
17 sumer during a call or session with a con-
18 sumer reporting agency (as defined under
19 section 603(f) of the Fair Credit Reporting
20 Act) regarding the exercise of any con-
21 sumer right under the Fair Credit Report-
22 ing Act or applicable State laws prior to
23 the consumer reporting agency meeting its
24 obligations under the Fair Credit Report-

ing Act or applicable State law required
for such call or session; or

“(iii) any services provided without
compliance with sections 424(c) and
424(d).

“(4) CREDIT EDUCATION SERVICE.—The term
‘credit education service’—

“(A) means any service offered, sold, pro-
vided, or performed to or for consumers for the
express or implied purpose of counseling, edu-
cating, or assisting consumers in under-
standing, managing, or prospectively improving
their credit standing, consumer report, credit
scores, or access to credit; and

“(B) does not include—

“(i) advising or assisting in any activ-
ity described in subparagraphs (A) through
(C) of section 427(b)(2);

“(ii) any services marketed to a con-
sumer during a call or session with a con-
sumer reporting agency (as defined under
section 603(f) of the Fair Credit Reporting
Act) regarding the exercise of any con-
sumer right under the Fair Credit Report-
ing Act or applicable State laws prior to

1 the consumer reporting agency meeting its
 2 obligations under the Fair Credit Report-
 3 ing Act or applicable State law required
 4 for such call or session; or

5 “(iii) any services provided without
 6 compliance with sections 424(c) and
 7 424(d).

8 “(5) CONSUMER.—The term ‘consumer’ has the
 9 meaning given that term under section 403 of the
 10 Credit Repair Organizations Act.

11 “(6) CONSUMER REPORT.—The term ‘consumer
 12 report’ has the meaning given that term under sec-
 13 tion 603 of the Fair Credit Reporting Act.

14 **“SEC. 424. PROMOTION OF CREDIT AND IDENTITY PROTEC-**
 15 **TION SERVICES AND CREDIT EDUCATION**
 16 **SERVICES.**

17 “(a) INAPPLICABILITY OF THE CREDIT REPAIR OR-
 18 GANIZATIONS ACT TO CREDIT AND IDENTITY PROTEC-
 19 TION SERVICES AND CREDIT EDUCATION SERVICES.—
 20 The Credit Repair Organizations Act (15 U.S.C. 1679 et
 21 seq.) shall not apply to any authorized credit services pro-
 22 vider to the extent such provider offers, sells, provides, or
 23 performs credit and identity protection services or credit
 24 education services.

1 “(b) PROHIBITED PRACTICES.—No authorized credit
2 services provider may—

3 “(1) make any statement, or counsel or advise
4 any consumer to make any statement, which is un-
5 true or misleading (or which, upon the exercise of
6 reasonable care, should be known by the authorized
7 credit services provider officer, employee, agent, or
8 other person to be untrue or misleading) with re-
9 spect to any consumer’s credit worthiness, credit
10 standing, or credit capacity to—

11 “(A) any consumer reporting agency (as
12 defined under section 603(f) of the Fair Credit
13 Reporting Act); or

14 “(B) any person—

15 “(i) who has extended credit to the
16 consumer; or

17 “(ii) to whom the consumer has ap-
18 plied or is applying for an extension of
19 credit;

20 “(2) make any statement, or counsel or advise
21 any consumer to make any statement, the intended
22 effect of which is to alter the consumer’s identifica-
23 tion to prevent the display of the consumer’s credit
24 record, history, or rating for the purpose of con-

1 cealing adverse information that is accurate and not
2 obsolete to—

3 “(A) any consumer reporting agency (as
4 defined under section 603(f) of the Fair Credit
5 Reporting Act); or

6 “(B) any person—

7 “(i) who has extended credit to the
8 consumer;

9 “(ii) to whom the consumer has ap-
10 plied or is applying for an extension of
11 credit; or

12 “(iii) who has a permissible purpose
13 to obtain a consumer report under section
14 604 of the Fair Credit Reporting Act (15
15 U.S.C. 1681b) and is making an eligibility
16 determination in a transaction initiated by
17 the consumer;

18 “(3) make or use any untrue or misleading
19 statement of the services offered by the authorized
20 credit services provider; or

21 “(4) engage, directly or indirectly, in any act,
22 practice, or course of business that constitutes or re-
23 sults directly in the commission of, or attempt to
24 commit, a fraud or deception on any person in con-

1 nection with the offer or sale of the services of the
2 authorized credit services provider.

3 “(c) MANDATORY DISCLOSURE.—Except as other-
4 wise provided by law, an authorized credit services pro-
5 vider shall disclose, in writing or electronically, the fol-
6 lowing disclosure, or a substantially similar disclosure, to
7 the consumer prior to the authorized credit services pro-
8 vider commencing credit and identity protection services
9 or credit education services to the consumer:

10 “Consumer Credit File Rights

11 “You have a right to dispute inaccurate information
12 in your credit report free of charge by contacting the cred-
13 it bureau directly. However, neither you nor any other
14 company or organization has the right to have accurate,
15 current, and verifiable information removed from your
16 credit report. Under Federal law, the credit bureau must
17 remove accurate, negative information from your report
18 only if it is over 7 years old. Bankruptcy information can
19 be reported for 10 years. It is unlawful to conceal, distort,
20 or otherwise provide misleading information to a credit bu-
21 reau.

22 “You have a right to obtain a free copy of your credit
23 report annually from each of the three nationwide credit
24 bureaus at www.annualcreditreport.com.

1 “You have a right to obtain a copy of your credit
2 report from a credit bureau at any other time for a reason-
3 able fee. There is no fee, however, if you have been turned
4 down for credit, employment, insurance, or a rental dwell-
5 ing because of information in your credit report within the
6 preceding 60 days. The credit bureau must provide at no
7 cost to you someone to explain to you any information in
8 the credit file disclosure you receive from the credit report-
9 ing agency. You are entitled to receive a free copy of your
10 credit report if you are unemployed and intend to apply
11 for employment in the next 60 days, if you are a recipient
12 of public welfare assistance, or if you have reason to be-
13 lieve that there is inaccurate information in your credit
14 report due to fraud.

15 “Credit bureaus are required to follow reasonable
16 procedures to ensure that the information they report is
17 accurate. However, mistakes may occur.

18 “You may, on your own, notify a credit bureau in
19 writing, through a toll-free telephone number established
20 by the credit bureau or through a function of the credit
21 bureau’s website, if available, that you dispute the accu-
22 racy of information in your credit file. The credit bureau
23 must then investigate your dispute and modify or remove
24 inaccurate or incomplete information. The credit bureau
25 may not charge any fee for this service. Any pertinent in-

1 formation and copies of all documents you have concerning
2 an error should be given to the credit bureau.

3 “If the credit bureau’s investigation does not resolve
4 the dispute to your satisfaction, you may send a brief
5 statement to the credit bureau, to be kept in your file,
6 explaining why you think the record is inaccurate. The
7 credit bureau must include a summary of your statement
8 about disputed information with any report it issues about
9 you.

10 “There are many different credit score models that
11 can give an assessment of your relative risk of default for
12 the same credit report. This risk of default is typically
13 expressed in a three-digit number known as a credit score.

14 “There are various types of credit scores, and lenders
15 use a variety of different types of credit scores to make
16 lending decisions.

17 “The Federal Trade Commission is one of the agen-
18 cies that regulates credit bureaus. For more information
19 visit www.consumer.ftc.gov. You may also contact the Bu-
20 reau of Consumer Financial Protection at
21 www.consumerfinance.gov.

22 “(d) RIGHT TO TERMINATION OF CONTRACT.—

23 “(1) IN GENERAL.—A consumer shall have the
24 right to terminate a contract for credit and identity
25 theft protection services and credit education serv-

1 ices within three business days beginning on the
2 date that the consumer enters into such contract
3 with the authorized credit services provider.

4 “(2) REASONABLE VALUE PROVIDED.—If a
5 consumer terminates a contract pursuant to para-
6 graph (1), the authorized credit services provider
7 shall be entitled to the reasonable value for services
8 actually rendered prior to termination, not to exceed
9 the total amount paid by the consumer, but an au-
10 thorized credit services provider is not entitled to re-
11 tain any fees if no services were rendered.

12 “(e) ENFORCEMENT BY FEDERAL TRADE COMMIS-
13 SION.—A violation of this section shall be treated as a vio-
14 lation of a rule issued under section 18(a)(1)(B) of the
15 Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B))
16 regarding unfair or deceptive acts or practices. The Fed-
17 eral Trade Commission shall enforce this section in the
18 same manner, by the same means, and with the same ju-
19 risdiction, powers, and duties as though all applicable
20 terms and provisions of the Federal Trade Commission
21 Act (15 U.S.C. 41 et seq.) were incorporated into and
22 made a part of this section.

1 **“SEC. 425. APPLICABILITY OF CREDIT REPAIR ORGANIZA-**
2 **TIONS ACT TO ACTIVITIES OF AUTHORIZED**
3 **CREDIT SERVICES PROVIDERS OTHER THAN**
4 **CREDIT AND IDENTITY PROTECTION SERV-**
5 **ICES OR CREDIT EDUCATION SERVICES.**

6 “(a) ENFORCEMENT BY FEDERAL TRADE COMMIS-
7 SION.—The Credit Repair Organizations Act (15 U.S.C.
8 1679 et seq.) shall be enforced solely by the Federal Trade
9 Commission in accordance with subsections (a) and (b) of
10 section 410 of that Act with respect to any authorized
11 credit services provider.

12 “(b) CIVIL LIABILITY AND ADMINISTRATIVE EN-
13 FORCEMENT.—Sections 409 and 410(c) of the Credit Re-
14 pair Organizations Act (15 U.S.C. 1679 et seq.) shall not
15 apply to any authorized credit services provider.

16 **“SEC. 426. RELATION TO STATE LAW.**

17 “(a) EXEMPTION FOR AUTHORIZED CREDIT SERV-
18 ICES PROVIDERS.—The provisions of this chapter super-
19 sede any law or regulation of any State with respect to
20 the subject matter of this chapter or the Credit Repair
21 Organizations Act (15 U.S.C. 1679 et seq.) to the extent
22 that the State law would apply to any authorized credit
23 services provider.

24 “(b) STATE LAWS REGARDING UNFAIR OR DECEP-
25 TIVE ACTS OR PRACTICES NOT AFFECTED.—Except for
26 any provision contained in any State law superseded under

1 subsection (a), this section is not intended to preempt any
2 law of any State that prohibits unfair or deceptive acts
3 or practices, including the making of false or misleading
4 statements in the marketing of products or services.

5 **“SEC. 427. PROCESS FOR REGISTERING AS AUTHORIZED**
6 **CREDIT SERVICES PROVIDER.**

7 “(a) APPLICATION FOR REGISTRATION.—A person
8 that seeks to be registered as an authorized credit services
9 provider under the provisions of this chapter shall submit
10 to the Federal Trade Commission an application for reg-
11 istration that contains the information described in sub-
12 section (b).

13 “(b) REQUIRED INFORMATION.—An application for
14 registration under this section shall contain the following:

15 “(1) A statement setting forth the person’s full
16 corporate organization, all affiliates of the person,
17 and all officers, directors, and any other individuals
18 with substantial management oversight over the per-
19 son.

20 “(2) A statement that the person has elected to
21 adhere to, and duly represents and warrants annu-
22 ally and publicly, the following standards:

23 “(A) The person, or any of its affiliates,
24 does not advise or assist consumers in modi-
25 fying or removing, or attempting to modify or

1 remove, adverse information that is accurate
2 and not obsolete from a consumer's consumer
3 report.

4 “(B) The person, or any of its affiliates,
5 does not assist consumers in altering a con-
6 sumer's existing credit record, credit history, or
7 credit score by concealing or distorting, or at-
8 tempting to conceal or distort, adverse informa-
9 tion that is accurate and not obsolete.

10 “(C) The person, or any of its affiliates,
11 does not assist consumers in interacting with
12 consumer reporting agencies described in sec-
13 tion 603(f) of the Fair Credit Reporting Act in
14 any manner which interferes with the lawful op-
15 eration of such consumer reporting agencies.

16 “(D) The person, or any of its affiliates,
17 does not use the term ‘credit repair’ in its mar-
18 keting of credit and identity protection services
19 and credit education services.

20 “(E) The person provides consumers with
21 the mandatory disclosure described in section
22 424(c) prior to entering into a contract or
23 agreement for services, and a right to cancella-
24 tion, in accordance with the provisions of this
25 chapter.

1 “(3) A copy of the policies and procedures
2 adopted and implemented by the person to ensure
3 and document compliance with the provisions of this
4 Act, including, policies and procedures for—

5 “(A) executing a contract with the con-
6 sumer to commence the authorized services;

7 “(B) providing the mandatory disclosure
8 set forth in subsection 424(c);

9 “(C) providing consumers with the right to
10 terminate a contract for services in accordance
11 with subsection 424(d); and

12 “(D) upon termination, determining the
13 reasonable value of services actually rendered,
14 in accordance with the provisions of 424(d)(2).

15 “(4) A general description of the credit and
16 identity protection services and credit education
17 services that the person plans to offer, sell, provide,
18 or perform to or for consumers under the provisions
19 of this Act.

20 “(5) A statement that the person will—

21 “(A) on a biennial basis, provide to the
22 Federal Trade Commission an update, if need-
23 ed, to the person’s corporate organization, poli-
24 cies and procedures, and general description of
25 services provided pursuant to this subsection;

1 “(B) on a biennial basis, obtain an assess-
2 ment from a qualified, objective, independent,
3 third-party professional of the person’s actual
4 compliance record with the representations and
5 warranties in paragraph (2); and

6 “(C) retain such assessment and provide it
7 to the Federal Trade Commission as soon as
8 reasonably practicable, but in no event more
9 than 30 business days, after the Federal Trade
10 Commission requests the assessment.

11 “(c) CONSIDERATION OF APPLICATIONS AND EXPE-
12 DITED RESPONSE.—

13 “(1) TIMING.—The Federal Trade Commission
14 shall act by approving or denying applications sub-
15 mitted pursuant to this section within 60 days of the
16 submission, and shall set forth in writing its conclu-
17 sions with regard to such requests.

18 “(2) ADDITIONAL INFORMATION.—The Federal
19 Trade Commission may request that an applicant
20 provide additional information that is reasonably re-
21 lated to one or more of the application elements enu-
22 merated in subsection (b), including by requesting
23 that the applicant submit supplemental materials,
24 answer questions in writing, or appear in person be-
25 fore the Commissioners or their designee.

1 “(3) DEEMED REGISTRATION.—An application
2 that has not been acted upon by the Federal Trade
3 Commission within 60 days of submission shall be
4 deemed as approved and the person shall be reg-
5 istered as an authorized credit services provider.

6 “(4) EXTENSION OF TIME FOR ADDITIONAL IN-
7 FORMATION.—If the Federal Trade Commission re-
8 quests additional information pursuant to paragraph
9 (2), the applicant shall have up to 30 days to re-
10 spond in writing or appear before the Commission as
11 requested. The Commission shall then have an addi-
12 tional 30 days to act upon such response, and if not
13 acted upon within 30 days, the application shall be
14 deemed as approved and the person shall be reg-
15 istered as an authorized credit services provider. In
16 no event shall the status of an application remain
17 unresolved beyond 120 days from the date of its
18 original submission.

19 “(d) REVOCATION.—

20 “(1) IN GENERAL.—The Federal Trade Com-
21 mission shall have the authority to rescind a per-
22 son’s registration that was issued under this section
23 if the Commission determines that the person has
24 failed to comply with the obligations and standards
25 set forth in this Act.

1 “(2) OPPORTUNITY TO CURE DEFECTS.—The
2 Federal Trade Commission shall provide an author-
3 ized credit services provider a reasonable opportunity
4 to cure any defects before moving to revoke a per-
5 son’s registration as an authorized credit services
6 provider.

7 “(3) RETROACTIVE REVOCATION.—If the Fed-
8 eral Trade Commission determines that a person
9 who has registered as an authorized credit services
10 provider, or any of the person’s affiliates, has—

11 “(A) engaged in any activity described
12 under subparagraphs (A) through (C) of sub-
13 section (b)(2);

14 “(B) knowingly made false statements in
15 any written statement required under this chap-
16 ter; or

17 “(C) willfully or repeatedly violated, or
18 willfully or repeatedly failed to observe, any
19 provision of this Act,

20 the Federal Trade Commission shall have the au-
21 thority to deem a revocation effective at the time im-
22 mediately prior to when the activity occurred.

23 “(e) JUDICIAL REVIEW OF REVOCATION.—

24 “(1) IN GENERAL.—Any person for whom a
25 registration under this section has been revoked may

1 obtain review of such revocation in a court of ap-
2 peals of the United States in accordance with the
3 procedures set forth in section 5(c) of the Federal
4 Trade Commission Act, except that—

5 “(A) the court of appeals shall hold unlaw-
6 ful and set aside a revocation if the court finds
7 that the Federal Trade Commission’s action is
8 not supported by substantial evidence in the ad-
9 judicatory record; and

10 “(B) the filing of a petition for review shall
11 operate as a stay of the revocation until the
12 date on which the determination of the court is
13 final (including any appeal of the determina-
14 tion), but in the event the court’s final deter-
15 mination upholds revocation, the effective date
16 of the revocation shall be the date as deter-
17 mined by the Federal Trade Commission.

18 “(2) ADJUDICATORY RECORD DEFINED.—For
19 purposes of this subsection, the term ‘adjudicatory
20 record’ means the Federal Trade Commission’s
21 statement of basis and purpose for revocation, the
22 person’s registration application materials, any writ-
23 ten submissions by the person or transcripts of oral
24 testimony, and any other evidence that the Commis-
25 sion considers relevant to the revocation.

1 “(3) ADDITIONAL SUBMISSIONS AND PRESEN-
2 TATIONS.—If the person or the Federal Trade Com-
3 mission applies to the court for leave to make addi-
4 tional oral submissions or written presentations and
5 shows to the satisfaction of the court that such sub-
6 missions and presentations would be material and
7 that there were reasonable grounds for the submis-
8 sions and failure to make such submissions and
9 presentations in the proceeding before the Commis-
10 sion, the court may order the Commission to provide
11 additional opportunity to make such submissions
12 and presentations.”.

13 (b) EFFECTIVE DATE.—The amendments made by
14 this section shall take effect after the 60-day period begin-
15 ning on the date of the enactment of this Act.

○