

115TH CONGRESS
2D SESSION

S. 2375

To amend the Fair Credit Reporting Act to allow consumers to prohibit certain consumer reporting agencies from releasing any information in the files of those consumers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 5, 2018

Mr. BROWN introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Fair Credit Reporting Act to allow consumers to prohibit certain consumer reporting agencies from releasing any information in the files of those consumers, 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 “Equifax Consumer
5 Protection and Data Empowerment Act of 2018”.

1 **SEC. 2. CREDIT LOCKS.**

2 (a) IN GENERAL.—The Fair Credit Reporting Act
3 (15 U.S.C. 1681 et seq.) is amended by inserting after
4 section 605B (15 U.S.C. 1681c–2) the following:

5 **“SEC. 605C. PROTECTION OF CREDIT INFORMATION OF**
6 **CONSUMERS.**

7 “(a) SECURE, CONVENIENT, ACCESSIBLE, AND
8 COST-FREE FILE LOCKS FOR CONSUMERS.—

9 “(1) IN GENERAL.—Subject to paragraph (2),
10 each consumer reporting agency described in section
11 603(p) shall provide to any consumer a secure, con-
12 venient, accessible, and cost-free method that, with
13 the express authorization of the consumer, allows
14 that consumer reporting agency to release, or pre-
15 vents that consumer reporting agency from releas-
16 ing, any information in the file of the consumer for
17 the purpose of—

18 “(A) the marketing or extension of credit
19 or insurance; or

20 “(B) opening any financial account.

21 “(2) PROHIBITIONS.—With respect to the
22 method described in paragraph (1)—

23 “(A) the method may not be used by the
24 consumer reporting agency that provides the
25 method, or by any other person, to collect any
26 information on a consumer that is not nec-

1 essary for the purposes of preventing the re-
2 lease of information described in that para-
3 graph;

4 “(B) no information collected under the
5 method may be used for any purpose other than
6 a purpose described in subparagraph (A);

7 “(C) in offering the method, a credit re-
8 porting agency described in section 603(p) may
9 not require a consumer to—

10 “(i) waive any rights of the consumer;

11 or

12 “(ii) indemnify the credit reporting
13 agency with respect to any liabilities that
14 arise from offering the method; and

15 “(D) the method may not be used by any
16 person to market or advertise any product or
17 service.

18 “(3) RELEASE OF INFORMATION.—Nothing in
19 this subsection shall affect the ability of a person
20 with whom a consumer has an account, contract, or
21 debtor-creditor relationship to obtain information re-
22 garding the consumer for the purposes of reviewing
23 the account or collecting on the account.

“605C. Protection of credit information of consumers.”.

10 (a) IN GENERAL.—The Fair Credit Reporting Act
11 (15 U.S.C. 1681 et seq.) is amended—

23 (I) by striking subparagraphs (A)
24 and (C);

1 (II) by redesignating subpara-
2 graph (B) as subparagraph (A);

3 (III) by redesignating subpara-
4 graphs (D) through (G) as subpara-
5 graphs (B) through (E), respectively;
6 and

7 (IV) in subparagraph (D), as so
8 redesignated, by striking “informa-
9 tion—” and all that follows through
10 the period at the end of clause (ii)
11 and inserting the following: “informa-
12 tion to review an account to determine
13 whether the consumer continues to
14 meet the terms of the account; or”;
15 and

16 (iii) by adding at the end the fol-
17 lowing:

18 “(7) Pursuant to the express authorization of a
19 consumer, subject to the method provided under sec-
20 tion 605C(a) in the case of a consumer reporting
21 agency described in section 603(p).”;

22 (B) by striking subsection (c); and

23 (C) by redesignating subsections (d)
24 through (g) as subsections (c) through (f), re-
25 spectively;

1 (2) in section 609(a)(1) (15 U.S.C.
 2 1681g(a)(1)), by striking “request, except that—”
 3 and all that follows through the period at the end
 4 of subparagraph (B) and inserting the following:
 5 “request, without regard to whether the information
 6 is held by a parent, subsidiary, or affiliate of the
 7 consumer reporting agency.”;

8 (3) in section 612(a)(1)(A) (15 U.S.C.
 9 1681j(a)(1)(A)), by striking “once during any 12-
 10 month period”; and

11 (4) in section 615 (15 U.S.C. 1681m)—

12 (A) by striking subsection (d); and

13 (B) by redesignating subsections (e)
 14 through (h) as subsections (d) through (g), re-
 15 spectively.

16 (b) REGULATIONS.—Not later than 18 months after
 17 the date of enactment of this Act, the Bureau of Consumer
 18 Financial Protection shall issue regulations carrying out
 19 section 609(a)(1) of the Fair Credit Reporting Act (15
 20 U.S.C. 1681g(a)(1)), as amended by subsection (a)(2).

21 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

22 (1) CONSUMER FINANCIAL PROTECTION ACT OF
 23 2010.—Section 1002(12)(F) of the Consumer Finan-
 24 cial Protection Act of 2010 (12 U.S.C. 5481(12)(F))
 25 is amended—

1 (A) by striking “615(e)” and inserting
 2 “615(d)”; and

3 (B) by striking “1681m(e)” and inserting
 4 “1681m(d)”.

5 (2) FAIR CREDIT REPORTING ACT.—The Fair
 6 Credit Reporting Act (15 U.S.C. 1681 et seq.) is
 7 amended—

8 (A) in section 603 (15 U.S.C. 1681a)—

9 (i) in subsection (d)(3), in the matter
 10 preceding subparagraph (A), by striking
 11 “section 604(g)(3)” and inserting “section
 12 604(f)(3)”; and

13 (ii) in subsection (k)(1)(B)—

14 (I) in clause (iii), by striking
 15 “section 604(a)(3)(D)” and inserting
 16 “section 604(a)(3)(B)”; and

17 (II) in clause (iv)(I), by striking
 18 “section 604(a)(3)(F)(ii)” and insert-
 19 ing “section 604(a)(3)(D)”;

20 (B) in section 621 (15 U.S.C. 1681s)—

21 (i) in subsection (b)(1), in the matter
 22 preceding subparagraph (A), by striking
 23 “persons who furnish information to such
 24 agencies, and users of information that are
 25 subject to section 615(d)” and inserting

1 “and persons who furnish information to
2 such agencies”; and

3 (ii) in subsection (e)(1), in the first
4 sentence, by striking “615(e)” and insert-
5 ing “615(d)”;

6 (C) in section 623(c)(3) (15 U.S.C. 1681s-
7 2(c)(3)), by striking “subsection (e)” and in-
8 serting “subsection (d)”;

9 (D) in section 625(b) (15 U.S.C.
10 1681t(b))—

11 (i) in paragraph (1)—

12 (I) in subparagraph (A), by strik-
13 ing “subsection (c) or (e) of section
14 604” and inserting “section 604(d)”;

15 (II) by striking subparagraph
16 (D);

17 (III) by redesignating subpara-
18 graphs (E) through (I) as subpara-
19 graphs (D) through (H), respectively;
20 and

21 (IV) in subparagraph (H), as so
22 redesignated, by striking “section
23 615(h)” and inserting “section
24 615(g)”;

1 (ii) in paragraph (5)(F), by striking
 2 “(e), (f), and (g)” and inserting “(d), (e),
 3 and (f)”.

4 **SEC. 4. ENHANCEMENT OF FRAUD ALERT PROTECTIONS.**

5 (a) IN GENERAL.—Section 605A of the Fair Credit
 6 Reporting Act (15 U.S.C. 1681c–1) is amended—

7 (1) by striking subsection (a);

8 (2) by redesignating subsections (b) through (h)
 9 as subsections (a) through (g), respectively;

10 (3) in subsection (a), as so redesignated—

11 (A) in the subsection heading, by striking
 12 “EXTENDED” and inserting “FRAUD”; and

13 (B) in paragraph (1)—

14 (i) in the matter preceding subpara-
 15 graph (A), by striking “submits an identity
 16 theft report” and inserting “asserts in
 17 good faith a suspicion that the consumer
 18 has been or is about to become a victim of
 19 fraud or related crime, including identity
 20 theft, or has been or will be harmed by the
 21 unauthorized disclosure of the financial or
 22 personally identifiable information of the
 23 consumer,”;

24 (ii) in subparagraph (A), by striking
 25 “7-year” and inserting “10-year”;

1 (iii) by striking subparagraph (B);

2 (iv) by redesignating subparagraph

3 (C) as subparagraph (B);

4 (v) in subparagraph (B), as so rededesignated—
5

6 (I) by striking “extended”; and

7 (II) by striking the period at the
8 end and inserting “; and”; and

9 (vi) by adding at the end the fol-
10 lowing:

11 “(C) upon the expiration of the period de-
12 scribed in subparagraph (A), or a subsequent
13 10-year period, and in response to a direct re-
14 quest by the consumer or such representative,
15 continue the fraud alert for an additional period
16 of 10 years if the consumer or such representa-
17 tive submits an identity theft report.”;

18 (4) in subsection (b), as so redesignated—

19 (A) by striking paragraph (2);

20 (B) by redesignating paragraphs (1) and
21 (3) as subparagraphs (A) and (B), respectively,
22 and adjusting the margins accordingly;

23 (C) in the matter preceding subparagraph
24 (A), as so redesignated, by striking “Upon the
25 direct request” and inserting the following:

1 “(1) IN GENERAL.—Upon the direct request”;

2 and

3 (D) by adding at the end the following:

4 “(2) ACCESS TO FREE REPORTS.—If a con-
5 sumer reporting agency includes an active duty alert
6 in the file of an active duty military consumer, the
7 consumer reporting agency shall—

8 “(A) disclose to the active duty military
9 consumer that the active duty military con-
10 sumer may request a free copy of the file of the
11 active duty military consumer under section
12 612(d) during each 1-year period beginning on
13 the date on which the activity duty military
14 alert is requested and ending on the date of the
15 last day that the active duty alert applies to the
16 file of the active duty military consumer; and

17 “(B) not later than 3 business days after
18 the date on which the active duty military con-
19 sumer makes a request described in subpara-
20 graph (A), provide to the active duty military
21 consumer all disclosures required to be made
22 under section 609, without charge to the active
23 duty military consumer.”;

24 (5) by amending subsection (c), as so redesign-
25 nated, to read as follows:

1 “(c) PROCEDURES.—Each consumer reporting agen-
 2 cy described in section 603(p) shall establish and make
 3 available to the public on the Internet website of the con-
 4 sumer reporting agency policies and procedures to comply
 5 with this section, including policies and procedures—

6 “(1) that inform consumers of the availability
 7 of fraud alerts, active duty alerts, or the method
 8 provided under section 605C(a), as applicable;

9 “(2) that allow consumers to request fraud
 10 alerts and active duty alerts in a simple and easy
 11 manner; and

12 “(3) for asserting in good faith a suspicion that
 13 the consumer has been or is about to become a vic-
 14 tim of fraud or related crime, including identity
 15 theft, or has been or will be harmed by the unau-
 16 thorized disclosure of the financial or personally
 17 identifiable information of the consumer, for a con-
 18 sumer requesting a fraud alert.”;

19 (6) in subsection (d), as so redesignated, by
 20 striking paragraphs (1), (2), and (3) and inserting
 21 the following:

22 “(1) paragraphs (1)(A), (1)(C), and (2) of sub-
 23 section (a), in the case of a referral under subsection
 24 (a)(1)(B); and

1 “(2) subsection (b)(1)(A), in the case of a refer-
 2 ral under subsection (b)(1)(B).”;

3 (7) in subsection (f), as so redesignated, by in-
 4 serting “or has been or will be harmed by the unau-
 5 thorized disclosure of the financial or personally
 6 identifiable information of the consumer,” after
 7 “identity theft,”; and

8 (8) in subsection (g), as so redesignated—

9 (A) in paragraph (1)—

10 (i) in the paragraph heading, by strik-
 11 ing “INITIAL” and inserting “FRAUD
 12 ALERTS”;

13 (ii) in subparagraph (A), by striking
 14 “initial”; and

15 (iii) in subparagraph (B)(i), by strik-
 16 ing “an initial” and inserting “a”; and

17 (B) in paragraph (2)—

18 (i) in the paragraph heading, by strik-
 19 ing “EXTENDED” and inserting “FRAUD”;

20 (ii) in subparagraph (A), in the mat-
 21 ter preceding clause (i), by striking “ex-
 22 tended” and inserting “fraud”; and

23 (iii) in subparagraph (B), by striking
 24 “an extended” and inserting “a”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—
2 Section 612(d) of the Fair Credit Reporting Act (15
3 U.S.C. 1681j(d)) is amended by striking “subsections
4 (a)(2) and (b)(2) of section 605A, as applicable” and in-
5 serting “section 605A(a)(2)”.

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