

# SEC. 213. REQUIREMENTS RELATING TO LATE PAYMENT DEADLINES AND PENALTIES.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637), as amended by this Act, is amended by adding at the end the following:

“(1) REQUIREMENTS RELATING TO LATE PAYMENT DEADLINES AND PENALTIES.—

“(1) LATE PAYMENT DEADLINE AND POSTMARK DATE REQUIRED TO BE DISCLOSED.—In the case of a credit card account under an open end consumer credit plan under which a late fee or charge may be imposed due to the failure of the obligor to make payment on or before the due date for such payment, the periodic statement required under subsection (b) with respect to the account shall include, in a conspicuous location on the billing statement—

“(A) the date on which the payment is due or, if different, the date on which a late payment fee will be charged, together with the amount of the fee or charge to be imposed if payment is made after that date;

“(B) the date by which the payment must be postmarked, if paid by mail, in order to avoid the imposition of a late payment fee with respect to the payment; and

“(C) a statement that no late fee may be imposed in connection with a payment made by mail which was postmarked on or before the postmark date.

“(2) DISCLOSURE OF INCREASE IN INTEREST RATES FOR LATE PAYMENTS.—If 1 or more late payments under an open end consumer credit plan may result in an increase in the annual percentage rate the account, the statement required under subsection (b) with respect to the account shall include conspicuous notice of such fact, together with the applicable penalty annual percentage rate, in close proximity to the disclosure required in paragraph (1) of the date on which payment is due under the terms of the account.

“(3) REQUIREMENTS RELATING TO POSTMARK DATE.—

“(A) IN GENERAL.—The date included in a periodic statement pursuant to paragraph (1)(B) with regard to the postmark on a payment shall allow, in accordance with regulations prescribed by the Board under subparagraph (B), a reasonable time for the consumer to make the payment and a reasonable time for the delivery of the payment by the due date.

“(B) BOARD REGULATIONS.—The Board shall prescribe guidelines for determining a reasonable period of time for making a payment and delivery of a payment for purposes of subparagraph (A), after consultation with the Postmaster General and representatives of consumer and trade organizations.

“(4) PAYMENT AT LOCAL BRANCHES.—If the creditor, in the case of a credit card account referred to in paragraph (1), is a financial institution which maintains branches or offices at which payments on any such account are accepted from the obligor in person, the date on which the obligor makes a payment on the account at such branch or office shall be considered as the date on which the payment is made for purposes of determining whether a late fee or charge may be imposed due to the failure of the obligor to make payment on or before the due date for such payment, to the extent that such payment is made before the close of business of the branch or office on the business day immediately preceding the due date for such payment.”.

## TITLE III—RESPONSIBILITIES IN BANKRUPTCY

### SEC. 311. AMENDMENTS TO THE BANKRUPTCY CODE.

Section 523(a)(2)(C) of title 11, United States Code, is amended by adding at the end the following: “However, this subparagraph

shall not apply for any portion of debt incurred under an open end credit plan, as defined in section 103 of the Truth in Lending Act, if the annual rate of interest charged with respect to the account was more than 20 percentage points above the Federal prime lending rate on the last day of month during which the interest was charged.”.

## TITLE IV—PROTECTION OF YOUNG CONSUMERS

### SEC. 411. EXTENSIONS OF CREDIT TO UNDERAGE CONSUMERS.

Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by inserting after paragraph (5), as added by this Act, the following:

“(6) APPLICATIONS FROM UNDERAGE CONSUMERS.—

“(A) PROHIBITION ON ISSUANCE.—No credit card may be issued to, or open end credit plan established on behalf of, a consumer who has not attained the age of 21, unless the consumer has submitted a written application to the card issuer that meets the requirements of subparagraph (B).

“(B) APPLICATION REQUIREMENTS.—An application to open a credit card account by an individual who has not attained the age of 21 as of the date of submission of the application shall require—

“(i) the signature of the parent, legal guardian, or spouse of the consumer, or any other individual having a means to repay debts incurred by the consumer in connection with the account, indicating joint liability for debts incurred by the consumer in connection with the account before the consumer has attained the age of 21;

“(ii) submission by the consumer of financial information indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account; or

“(iii) proof by the consumer that the consumer has completed a credit counseling course of instruction by a nonprofit budget and credit counseling agency approved by the Board for such purpose.

“(C) MINIMUM REQUIREMENTS FOR COUNSELING AGENCIES.—To be approved by the Board under subparagraph (B)(iii), a credit counseling agency shall, at a minimum—

“(i) be a nonprofit budget and credit counseling agency, the majority of the board of directors of which—

“(I) is not employed by the agency; and

“(II) will not directly or indirectly benefit financially from the outcome of a credit counseling session;

“(ii) if a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee; and

“(iii) provide trained counselors who receive no commissions or bonuses based on referrals, and demonstrate adequate experience and background in providing credit counseling.”.

### SEC. 412. ENHANCED PENALTIES.

Section 130(a)(2)(A) of the Truth in Lending Act (15 U.S.C. 1640 (a)(2)(A)(iii)) is amended by striking “or (iii) in the” and inserting the following:

“(iii) in the case of an individual action relating to an open end credit plan that is not secured by real property or a dwelling, twice the amount of any finance charge in connection with the transaction, with a minimum of \$500 and a maximum of \$5,000 or such higher amount as may be appropriate in the case of an established pattern or practice of such failures; or

“(iv) in the”.

### SEC. 413. RESTRICTIONS ON CERTAIN AFFINITY CARDS.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637), as amended by this Act, is amended by adding at the end the following:

“(m) RESTRICTIONS ON ISSUANCE OF AFFINITY CARDS TO STUDENTS.—No credit card account under an open end credit plan may be established by an individual who has not attained the age of 21 as of the date of submission of the application pursuant to any agreement relating to affinity cards, as defined by the Board, between the creditor and an institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), unless the requirements of section 127(c)(6) are met with respect to the obligor.”.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 28. Mr. KENNEDY proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes.

SA 29. Mr. KENNEDY proposed an amendment to the bill S. 256, *supra*.

SA 30. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 256, *supra*; which was ordered to lie on the table.

SA 31. Mr. DAYTON proposed an amendment to the bill S. 256, *supra*.

SA 32. Mr. CORZINE (for himself, Ms. MIKULSKI, and Mr. LAUTENBERG) proposed an amendment to the bill S. 256, *supra*.

SA 33. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 256, *supra*; which was ordered to lie on the table.

SA 34. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 256, *supra*; which was ordered to lie on the table.

SA 35. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed by him to the bill S. 256, *supra*; which was ordered to lie on the table.

SA 36. Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 256, *supra*; which was ordered to lie on the table.

SA 37. Mr. NELSON, of Florida (for himself, Mr. DURBIN, Mr. SCHUMER, and Mrs. CLINTON) proposed an amendment to the bill S. 256, *supra*.

SA 38. Mr. DURBIN proposed an amendment to the bill S. 256, *supra*.

SA 39. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 256, *supra*; which was ordered to lie on the table.

SA 40. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 256, *supra*; which was ordered to lie on the table.

SA 41. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 256, *supra*; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

SA 28. Mr. KENNEDY proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 19, between lines 13 and 14, insert the following:

“(8)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the debtor is a medically distressed debtor.

“(B) In this paragraph, the term ‘medically distressed debtor’ means a debtor who, in any consecutive 12-month period during the 3 years before the date of the filing of the petition—

“(i) had medical expenses for the debtor, a dependent of the debtor, or a member of the

debtor's household that were not paid by any third party payor and were in excess of 25 percent of the debtor's household income for such 12-month period;

"(ii) was a member of a household in which 1 or more members (including the debtor) lost all or substantially all of the member's employment or business income for 4 or more weeks during such 12-month period due to a medical problem of a member of the household or a dependent of the debtor; or

"(iii) was a member of a household in which 1 or more members (including the debtor) lost all or substantially all of the member's alimony or support income for 4 or more weeks during such 12-month period due to a medical problem of a person obligated to pay alimony or support."

**SA 29.** Mr. KENNEDY proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 191, between lines 11 and 12, insert the following:

**SEC. 322A. EXEMPTION FOR MEDICALLY DISTRESSED DEBTORS.**

Section 522 of title 11, United States Code, as amended by sections 224, 308, and 322, is amended by adding at the end the following:

"(r)(1) For a debtor who is a medically distressed debtor, if the debtor elects to exempt property—

"(A) under subsection (b)(2), then in lieu of the exemption provided under subsection (d)(1), the debtor may elect to exempt the debtor's aggregate interest, not to exceed \$150,000 in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor; or

"(B) under subsection (b)(3), then if the exemption provided under applicable law specifically for such property is for less than \$150,000 in value, the debtor may elect in lieu of such exemption to exempt the debtor's aggregate interest, not to exceed \$150,000 in value, in any such real or personal property, cooperative, or burial plot.

"(2) In this subsection, the term 'medically distressed debtor' means a debtor who, in any consecutive 12-month period during the 3 years before the date of the filing of the petition—

"(A) had medical expenses for the debtor, a dependent of the debtor, or a member of the debtor's household that were not paid by any third party payor and were in excess of 25 percent of the debtor's household income for such 12-month period;

"(B) was a member of a household in which 1 or more members (including the debtor) lost all or substantially all of the member's employment or business income for 4 or more weeks during such 12-month period due to a medical problem of a member of the household or a dependent of the debtor; or

"(C) was a member of a household in which 1 or more members (including the debtor) lost all or substantially all of the member's alimony or support income for 4 or more weeks during such 12-month period due to a medical problem of a person obligated to pay alimony or support."

**SA 30.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, strike lines 1 through 7, and insert the following:

**SEC. 410. VENUE OF CERTAIN PROCEEDINGS.**

(a) CURE OR WAIVER OF DEFECTS.—Section 1406(c) of title 28, United States Code, is amended to read as follows:

"(c) As used in this section—

"(1) the term 'district court'—

"(A) includes the District Court of Guam, the District Court of the Northern Mariana Islands, and the District Court of the Virgin Islands; and

"(B) with regard to cases pending before a bankruptcy court, includes a bankruptcy court; and

"(2) the term 'district' includes the territorial jurisdiction of each district court."

(b) VENUE IN BANKRUPTCY CASES.—Section 1408 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "Except";

(2) in paragraph (1), by striking "or" at the end; and

(3) by striking paragraph (2) and inserting the following:

"(2) in which a case under title 11 concerning the controlling corporation is pending, if—

"(A) the debtor is controlled by another corporation;

"(B) within the 730 days before the date of the debtor's filing under title 11, the financial statements of the debtor have been consolidated with those of the controlling corporation in 1 or more reports filed under section 13 or 15(d) of the Securities Exchange Act of 1934; and

"(C) the controlling corporation is a debtor in a proceeding under title 11; or

"(3) in which a case under title 11 concerning the controlling corporation is pending, if—

"(A) the debtor is a corporation other than a corporation described in paragraph (2);

"(B) the debtor has been controlled by another corporation for not less than 365 days before the date of the filing of the debtor's petition under title 11; and

"(C) the controlling corporation is a debtor in a proceeding under title 11.

"(b) For purposes of subsection (a)—

"(1) if the debtor is a corporation, the domicile and residence of the debtor are located where the debtor's principal place of business is located; and

"(2) the term 'control' has the meaning given that term in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841)."

(c) VENUE IN BANKRUPTCY RELATED CASES.—Section 1409(b) of title 28, United States Code, is amended by striking "or a consumer debtor of less than \$5,000" and inserting ", a consumer debt of less than \$15,000, or a debt (excluding a consumer debt) against a noninsider of less than \$10,000,".

**SA 31.** Mr. DAYTON proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . TERMS OF CONSUMER CREDIT.**

(a) CAP ON INTEREST CHARGEABLE.—A creditor who extends credit to any consumer shall not impose a rate of interest in excess of an annual rate of 30 percent with respect to the credit extended.

(b) PREEMPTION OF STATE LAW.—The provisions governing rates of interest under subsection (a) shall preempt all State usury laws.

(c) EXEMPTION TO PREEMPTION.—If a State imposes a limit on the rate of interest chargeable to an extension of credit that is less than the limit imposed under subsection (a), that State law shall not be preempted and shall remain in full force and effect in that State.

**SA 32.** Mr. CORZINE (for himself, Ms. MIKULSKI, and Mr. LAUTENBERG) proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 19, strike line 13, and insert the following:

monthly income.

"(8) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the debtor is an economically distressed caregiver."

On page 113, between lines 19 and 20, insert the following:

(4) by inserting after paragraph (14A), as added by this Act, the following:

"(14B) 'economically distressed caregiver' means a caregiver who, in any consecutive 12-month period during the 3 years before the date of the filing of the petition—

"(A) experienced a reduction in employment for not less than 1 month to care for a family member, including a spouse, child, sibling, parent, grandparent, aunt, or uncle; or

"(B) who has incurred medical expenses on behalf of a family member, including a spouse, child, sibling, parent, grandparent, aunt, or uncle, that were not paid by any third party payer and were in excess of the lesser of—

"(i) 25 percent of the debtor's household income for such 12-month period; or

"(ii) \$10,000;" and

(5) by inserting after paragraph (44), the following:

"(44A) 'reduction in employment' means a downgrade in employment status that correlates to a reduction in wages, work hours, or results in unemployment."

**SA 33.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 505, after line 13, add the following:

**TITLE XVI—PERSONAL DATA OFFSHORING PROTECTION**

**SEC. 1601. SHORT TITLE.**

This title may be cited as the "Personal Data Offshoring Protection Act of 2005".

**SEC. 1602. DEFINITIONS.**

As used in this title, the following definitions apply:

(1) BUSINESS ENTERPRISE.—The term "business enterprise" means any organization, association, or venture established to make a profit, or any private, nonprofit organization that collects or retains personally identifiable information.

(2) COUNTRY WITH ADEQUATE PRIVACY PROTECTION.—The term "country with adequate privacy protection" means a country that has been certified by the Federal Trade Commission as having a legal system that provides adequate privacy protection for personally identifiable information.

(3) PERSONALLY IDENTIFIABLE INFORMATION.—The term "personally identifiable information" includes information such as—

- (A) name;
- (B) postal address;
- (C) financial information;
- (D) medical records;
- (E) date of birth;
- (F) phone number;
- (G) e-mail address;
- (H) social security number;
- (I) mother's maiden name;
- (J) password;

(K) state identification information;  
 (L) driver's license number;  
 (M) personal tax information; and  
 (N) any consumer transactional or experiential information relating to the person.

(4) **TRANSMIT.**—The term “transmit” or “transmission” means the use of any instrumentality of interstate commerce, including the mails or any electronic means, to transfer information or to provide access to such information via the Internet or any comparable telecommunications system.

**SEC. 1603. PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION FROM UNAUTHORIZED TRANSMISSION.**

(a) **IN GENERAL.**—A business enterprise may transmit personally identifiable information regarding a citizen of the United States to any foreign affiliate or subcontractor located in a country that is a country with adequate privacy protection, provided that the citizen has been provided prior notice that such information may be transmitted to such a foreign affiliate or subcontractor and has not objected to such transmission.

(b) **“OPT-IN” CONSENT REQUIRED FOR COUNTRIES WITHOUT ADEQUATE PRIVACY PROTECTION.**—A business enterprise may not transmit personally identifiable information regarding a citizen of the United States to any foreign affiliate or subcontractor located in a country that is a country without adequate privacy protection unless—

(1) the business enterprise discloses to the citizen that the country to which the information will be transmitted does not have adequate privacy protection and specifies in the disclosure the country to which the information will be transmitted;

(2) the business enterprise obtains consent from the citizen, before a consumer relationship is established or before the effective date of this title, to transmit such information to such foreign affiliate or subcontractor and such consent contains a list that indicates each country to which the information will be sent; and

(3) the consent referred to in paragraph (2) is renewed by the citizen within 1 year before such information is transmitted.

(c) **PROHIBITION ON REFUSAL TO PROVIDE SERVICES.**—A business enterprise shall not deny the provision of any good or service to, nor change the terms of or refuse to enter into a business relationship with any person based upon that person's exercise of the consent rights provided for in this title or in any other applicable law.

**SEC. 1604. ENFORCEMENT BY THE FEDERAL TRADE COMMISSION.**

(a) **UNFAIR AND DECEPTIVE ACT OR PRACTICE.**—A violation of this title shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) **ENFORCEMENT AUTHORITY.**—The Federal Trade Commission shall enforce this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title.

**SEC. 1605. CIVIL REMEDIES.**

(a) **PRIVATE RIGHT OF ACTION.**—A person or entity may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

(1) an action based on a violation of this title or the regulations prescribed pursuant to this title to enjoin such violation;

(2) an action to recover for actual monetary loss from such a violation, or to receive \$10,000 in damages for each such violation, whichever is greater, or

(3) both such actions.

If the court finds that the defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under paragraph (2).

(b) **ACTIONS BY STATES.**—

(1) **AUTHORITY OF STATES.**—Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that any person has engaged or is engaging in a violation of this title or the regulations prescribed pursuant to this title, the State may bring a civil action on behalf of its residents to enjoin such violation, an action to recover for actual monetary loss or receive \$10,000 in damages for each violation, or both such actions. If the court finds the defendant willfully or knowingly violated this title or regulations prescribed pursuant to this title, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

(2) **EXCLUSIVE JURISDICTION OF FEDERAL COURTS.**—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this subsection. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this title or regulations prescribed pursuant to this title, including the requirement that the defendant take such action as is necessary to remove the danger of such violation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(3) **NOTICE TO AN INTERVENTION OF FEDERAL TRADE COMMISSION.**—The State bringing a civil action under this section shall serve prior written notice of any such civil action upon the Federal Trade Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right—

(A) to intervene in the action;

(B) upon so intervening, to be heard on all matters arising therein; and

(C) to file petitions for appeal.

(4) **VENUE; SERVICE OF PROCESS.**—Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

(5) **INVESTIGATORY POWERS.**—For purposes of bringing any civil action under this subsection, nothing in this title shall prevent the attorney general of a State, or an official or agency designated by a State, from exercising the powers conferred on the attorney general or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(6) **EFFECT ON STATE COURT PROCEEDINGS.**—Nothing contained in this section shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(7) **LIMITATION.**—Whenever the Federal Trade Commission has instituted a civil action for violation of this title or the regulations prescribed pursuant to this title, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for any violation as alleged in the Commission's complaint.

**SEC. 1606. CERTIFICATION OF COUNTRIES WITH ADEQUATE PRIVACY PROTECTION.**

(a) **IN GENERAL.**—Not later than 6 months after the date of enactment of this title, the Federal Trade Commission, after providing notice and opportunity for public comment, shall—

(1) certify those countries that have legal systems that provide adequate privacy protection for personally identifiable information; and

(2) make the list of countries certified under paragraph (1) available to the general public.

(b) **CERTIFICATION CRITERIA.**—

(1) **IN GENERAL.**—In determining whether a country should be certified under this section, the Federal Trade Commission shall consider the adequacy of the country's infrastructure for detecting, evaluating, and responding to privacy violations.

(2) **PRESUMPTION.**—The Commission shall presume that a country's privacy protections are inadequate if they are any less protective of personally identifiable information than those afforded under Federal law or under the laws of any State, or if the Commission determines that such country's laws are not adequately enforced.

(c) **EUROPEAN UNION DATA PROTECTION DIRECTIVE.**—A country that has comprehensive privacy laws that meet the requirements of the European Union Data Protection Directive shall be certified under this section unless the Federal Trade Commission determines that such laws are not commonly enforced within such country.

**SEC. 1607. EFFECTIVE DATE.**

Section 1606 of this title shall take effect on the date of enactment of this title. Sections 1602 through 1605 of this title shall take effect 60 days after the completion of the certification required by section 1606.

**SA 34.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 132, between lines 5 and 6, insert the following:

**SEC. 234. PROHIBITION OF UNNECESSARY SOLICITATION OF SOCIAL SECURITY NUMBERS.**

(a) **IN GENERAL.**—No person may solicit any social security number unless—

(1) such number is necessary in the normal course of business; and

(2) there is a specific use of the social security number for which no other identifying number can be used.

(b) **VIOLATION.**—

(1) **IN GENERAL.**—The Federal Trade Commission may bring a civil action based on a violation of this section.

(2) **PENALTY.**—A civil penalty of not more than \$10,000 may be imposed for each violation of this section.

(c) **ENFORCEABLE.**—The Federal Trade Commission shall enforce the provisions of this section.

**SA 35.** Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 256, to

amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 244, after line 22, add the following:

**SEC. 448. COMPENSATION OF BANKRUPTCY TRUSTEES.**

(a) IN GENERAL.—Section 330(b)(2) of title 11, United States Code, is amended—

(1) by striking “\$15” the first place it appears and inserting “\$55”; and

(2) by striking “rendered.” and all that follows through “\$15” and inserting “rendered, which”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a)—

(1) shall take effect 90 days after the date of enactment of this Act; and

(2) shall only apply to cases commenced under title 11, United States Code, after such effective date.

**SA 36.** Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 188, strike line 14 and all that follows through page 191, line 11, and insert the following:

**SEC. 322. LIMITATIONS ON HOMESTEAD EXEMPTION.**

(a) EXEMPTION.—Section 522 of title 11, United States Code, as amended by sections 224 and 308, is further amended by adding at the end the following:

“(p) As a result of electing under subsection (b)(3)(A) to exempt property, other than the principal residence of a family farmer, under State or local law, a debtor may not exempt any amount of interest that exceeds, in the aggregate, \$125,000 in value in—

“(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

“(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

“(3) a burial plot for the debtor or a dependent of the debtor.”.

(b) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, as amended by section 224, are further amended by inserting “522(p),” after “522(n)”.

**SA 37.** Mr. NELSON of Florida (for himself, Mr. DURBIN, Mr. SCHUMER, and Mrs. CLINTON) proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

At the appropriate place, insert the following:

**SEC. . IDENTITY THEFT.**

(a) DEFINITION.—Section 101 of title 11, United States Code, as amended by this Act, is further amended—

(1) by redesignating paragraph (27B) as paragraph (27D); and

(2) by inserting after paragraph (27A) the following:

“(27B) ‘identity theft’ means a fraud committed or attempted using the personally identifiable information of another person;

“(27C) ‘identity theft victim’ means a debtor who, as a result of an identity theft in any consecutive 12-month period during the 3-year period before the date on which a petition is filed under this title, had claims asserted against such debtor in excess of the least of—

“(A) \$20,000;

“(B) 50 percent of all claims asserted against such debtor; or

“(C) 25 percent of the debtor’s gross income for such 12-month period.”.

(b) PROHIBITION.—Section 707(b) of title 11, United States Code, as amended by section 102(a) of this Act, is further amended by adding at the end the following:

“(8)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the debtor is an identity theft victim.”.

**SA 38.** Mr. DURBIN proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 67, between lines 18 and 19, insert the following:

**SEC. 206. DISCOURAGING PREDATORY LENDING PRACTICES.**

Section 502(b) of title 11, United States Code, is amended—

(1) in paragraph (8), by striking “or” at the end;

(2) in paragraph (9), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(10) if the creditor has materially failed to comply with any applicable requirement under section 129(a) of the Truth in Lending Act (15 U.S.C. 1639(a)) or section 226.32 or 226.34 of Regulation Z (12 C.F.R. 226.32, 226.34), such claim is based on a secured debt.”.

**SA 39.** Mr. KERRY submitted an amendment intended to be proposed by him to bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

Add at the end the following:

**TITLE XVI—BENEFITS FOR MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES**

**SEC. 1601. EXTENSION OF PERIOD OF TEMPORARY CONTINUATION OF BASIC ALLOWANCE FOR HOUSING FOR DEPENDENTS OF MEMBERS OF THE ARMED FORCES WHO DIE ON ACTIVE DUTY.**

Section 403(l) of title 37, United States Code, is amended by striking “180 days” each place it appears and inserting “365 days”.

**SEC. 1602. GRANT ASSISTANCE FOR MILITARY RESERVISTS’ SMALL BUSINESSES.**

(a) AUTHORIZATION OF GRANTS.—Section 7(b)(3)(B) of the Small Business Act (15 U.S.C. 636(b)(3)(B)) is amended by inserting “or grants” after “or a deferred basis”.

(b) GRANT SPECIFICATIONS.—Section 7(b)(3) of the Small Business Act (15 U.S.C. 636(b)(3)) is amended by inserting after subparagraph (F) the following:

“(G) Grants made under subparagraph (B)—

“(i) may be awarded in addition to any loan made under subparagraph (B);

“(ii) shall not exceed \$25,000; and

“(iii) shall be made only to a small business concern—

“(I) that provides a business plan demonstrating viability for not less than 3 future years;

“(II) with 10 or fewer employees;

“(III) that has not received another grant under subparagraph (B) in the previous 2 years.”.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 20(e)(2) of the Small Business Act (15 U.S.C. 631 note) is amended by inserting after subparagraph (B) the following:

“(C) GRANT ASSISTANCE FOR MILITARY RESERVISTS’ SMALL BUSINESSES.—There are au-

thorized to be appropriated for grants under section 7(b)(3)(B)—

“(i) \$10,000,000 for the first fiscal year beginning after the date of enactment of this subparagraph; and

“(ii) \$10,000,000 for each of the 2 fiscal years following the fiscal year described in clause (i).”.

**SA 41.** Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . ENHANCED DISCLOSURES UNDER AN OPEN END CONSUMER CREDIT PLAN.**

(a) REPAYMENT TERMS.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

“(11)(A) Repayment information that would apply to any annual percentage rate applicable to the consumer’s account under the credit plan, including information regarding any change in any annual percentage rate charged to the consumer under the plan, appearing in conspicuous type on the front of the first page of the first billing statement prepared following the change, and accompanied by an appropriate explanation, containing—

“(i) the words ‘THERE HAS BEEN A CHANGE IN THE ANNUAL PERCENTAGE RATE FOR YOUR ACCOUNT.’;

“(ii) the words ‘THE PREVIOUS INTEREST RATE.’ followed by the previous annual percentage rate charged to the consumer under the plan; and

“(iii) the words ‘THE CURRENT INTEREST RATE.’ followed by the current annual percentage rate charged to the consumer under the plan.”.

(b) PUBLICATION OF MODEL FORMS.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish model disclosure forms in accordance with section 105 of the Truth in Lending Act for the purpose of compliance with section 127(b)(11) of the Truth in Lending Act, as added by this section.

**SA 40.** Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . LIMITATION ON USE OF CONSUMER REPORTS.**

(a) IN GENERAL.—Section 604(d) of the Fair Credit Reporting Act (15 U.S.C. 1681b(d)) is amended to read as follows:

“(d) LIMITATION ON USE OF CONSUMER REPORT.—

“(1) IN GENERAL.—A credit card issuer may not use any negative information contained in a consumer report to increase any annual percentage rate applicable to a credit card account, or to remove or increase any introductory annual percentage rate of interest applicable to such account, for any reason other than an action or omission of the card holder that is directly related to such account.

“(2) NOTICE TO CONSUMER.—The limitation under paragraph (1) on the use by a credit card issuer of information in a consumer report shall be clearly and conspicuously described to the consumer by the credit card

issuer in any disclosure or statement required to be made to the consumer under this title.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 604(a)(3)(F)(ii) of the Fair Credit Reporting Act (15 U.S.C. 1681b(a)(3)(F)(ii)) is amended by inserting “subject to subsection (d),” before “to review”.

## NOTICES OF HEARINGS/MEETINGS

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, March 9 at 10 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to consider the nomination of Patricia Lynn Scarlett to be Deputy Secretary of Interior and Jeffrey Clay Sell to be Deputy Secretary of Energy.

For further information, please contact Judy Pensabene of the Committee staff at (202) 224-1327.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON ARMED SERVICES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 2, 2005, at 4:30 p.m., in closed session to receive a classified briefing regarding Department of Defense human intelligence activities.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, March 2, 2005, at 10 a.m., to receive testimony on the President's proposed budget for fiscal year 2006 for the Forest Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 2, 2005, at 9 a.m., to hold a hearing on foreign assistance.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SELECT COMMITTEE ON INTELLIGENCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 2, 2005, at 2:30 p.m., to hold a closed briefing.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR

Mr. CORZINE. Mr. President, I ask unanimous consent that Ann-Catherine Blank, a State Department fellow who has been working with my office, be granted the privilege of the floor during consideration of the bill which I am about to introduce.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECOGNIZING CONTRIBUTIONS OF LATE ZHAO ZIYANG TO PEOPLE OF CHINA

Mr. DEMINT. I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration and the Senate now proceed to S. Res. 55.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 55) recognizing the contributions of the late Zhao Ziyang to the people of China.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DEMINT. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 55) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

### S. RES. 55

Whereas leading reformist and former Chinese Communist Party Secretary General, Zhao Ziyang, died under house arrest in China on January 17, 2005, at the age of 85;

Whereas Zhao implemented important agricultural, industrial, and economic reforms in China and rose to the prominent positions of premier and Secretary General within the Communist Party despite criticisms of his capitalist ideals;

Whereas, in the early summer of 1989, students gathered in Tiananmen Square to voice their support for democracy and to protest the Communist government that continues to deny them that democracy;

Whereas Secretary General Zhao advised against the use of military force to end the pro-democracy protests in Tiananmen Square;

Whereas, on May 19, 1989, in Tiananmen Square, Zhao warned the tens of thousands of students clamoring for democracy that the authorities were approaching and urged them to return to their homes; an action that illustrated his sympathy for their cause;

Whereas Zhao was consequently relieved of all leadership responsibilities following his actions in Tiananmen Square that summer and was placed under house arrest for the remaining years of his life;

Whereas the Government of China remained indecisive regarding a ceremony for Zhao for several days before allowing a relatively modest ceremony at the Babaoshan Revolutionary Cemetery in Beijing, where Zhao was cremated on January 29, 2005;

Whereas the Government of China's fear of civil unrest resulted in the prohibition of po-

litical dissidents and others from the funeral, and the thousands who were in attendance were surrounded in an intimidating environment without adequate time to mourn and grieve;

Whereas news of Zhao's death was announced only in a brief notice by the Communist government and was forbidden to be covered by the radio or national television, while eulogies were erased by censors from memorial websites;

Whereas, upon the announcement of Zhao's death, Chinese news agencies were certain to reference the “serious mistake” committed by Zhao at what they refer to as a political incident in 1989;

Whereas mourning the death of Zhao in the Hong Kong Legislative Council was deemed unconstitutional and lawmakers in Hong Kong were refused the opportunity to observe a moment of silence in honor of his life;

Whereas the death of Zhao has renewed the desire of certain Chinese people for a reassessment of the crackdown in 1989 in order to acknowledge the merit of pro-democracy student demonstrations and complaints of government corruption; and

Whereas Zhao will continue to serve as a symbol of the dreams and purpose of the 1989 Tiananmen Square demonstration, which survived the Tiananmen massacre but which have still not been realized for the people of China: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes that Zhao Ziyang made an important contribution to the people of China by providing assistance to the students in Tiananmen Square in 1989, and that through this contribution and his decisions to actively seek reform, Zhao remains a symbol of hope for reform and human rights for the people of China;

(2) expresses sympathy for Zhao's family and to the people of China who were unable to appropriately mourn his death or to celebrate his life;

(3) calls on the Government of China—

(A) to release all prisoners of conscience, including those persons still in prison as a result of their participation in the peaceful pro-democracy protests in Tiananmen Square in 1989; and

(B) to allow those people exiled on account of their activities to return to live in freedom in China; and

(4) stands with the people of China as they strive to improve their way of life and create a government that is truly democratic and respectful of international norms in the area of human rights.

## DESIGNATING MONTH OF MARCH AS DEEP-VEIN THROMBOSIS AWARENESS MONTH

Mr. DEMINT. I ask unanimous consent that the Judiciary Committee be discharged from further consideration and the Senate now proceed to S. Res. 56.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 56) designating the month of March as Deep-Vein Thrombosis Awareness Month, in memory of journalist David Bloom.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DEMINT. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.