

103^D CONGRESS
2^D SESSION

H. R. 1015

AN ACT

To amend the Fair Credit Reporting Act to assure the completeness and accuracy of consumer information maintained by credit reporting agencies, to better inform consumers of their rights under the Act, and to improve enforcement, 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 **TITLE I—AMENDMENTS TO FAIR**
4 **CREDIT REPORTING ACT**

5 **SEC. 101. SHORT TITLE.**

6 This title may be cited as the “Consumer Reporting
7 Reform Act of 1994”.

1 **SEC. 102. DEFINITIONS.**

2 (a) ADVERSE ACTION.—Section 603 of the Fair
3 Credit Reporting Act (15 U.S.C. 1681a) is amended by
4 adding at the end the following new subsection:

5 “(k) The term ‘adverse action’—

6 “(1) has the meaning given to such term in sec-
7 tion 701(d)(6) of the Equal Credit Opportunity Act;
8 and

9 “(2) includes—

10 “(A) any denial of, increase in any charge
11 for, or reduction in the amount of, insurance
12 for personal, family, or household purposes
13 made in connection with the underwriting of in-
14 surance;

15 “(B) any denial of employment or any
16 other decision for employment purposes which
17 adversely affects any current or prospective em-
18 ployee; and

19 “(C) any action taken or determination
20 made—

21 “(i) in connection with an application
22 which was made by, or a transaction which
23 was initiated by, any consumer; and

24 “(ii) which is adverse to the interest
25 of the consumer.”.

1 (b) FIRM OFFER OF CREDIT.—Section 603 of the
2 Fair Credit Reporting Act (15 U.S.C. 1681a) is further
3 amended by adding after subsection (k) (as added by sub-
4 section (a) of this section) the following:

5 “(l) The term ‘firm offer of credit’—

6 “(1) means any offer of credit to a consumer
7 that, except as provided in paragraph (2), will be
8 honored if the consumer is determined, based on in-
9 formation in a consumer report on the consumer, to
10 meet the specific criteria used to select the consumer
11 for the offer; and

12 “(2) includes an offer of credit described in
13 paragraph (1) for which extension of credit may be
14 conditioned solely on any combination of the follow-
15 ing:

16 “(A) The consumer being determined,
17 based on information in the consumer’s applica-
18 tion for the credit, to meet specific criteria
19 bearing on creditworthiness that are estab-
20 lished—

21 “(i) before selection of the consumer
22 for the offer; and

23 “(ii) for the purpose of determining
24 whether to extend credit pursuant to the
25 offer.

1 “(B) Verification—

2 “(i) that the consumer continues to
3 meet the specific criteria used to select the
4 consumer for the offer, by using informa-
5 tion in a consumer report on the consumer,
6 information in the consumer’s application
7 for the credit, or other information bearing
8 on the creditworthiness of the consumer; or

9 “(ii) of the information in the con-
10 sumer’s application for the credit, to deter-
11 mine that the consumer meets the specific
12 criteria bearing on creditworthiness.

13 “(C) The consumer furnishing any collat-
14 eral that is a requirement for the extension of
15 the credit that was—

16 “(i) established before selection of the
17 consumer for the offer of credit; and

18 “(ii) described to the consumer in the
19 offer of credit.”.

20 (c) CREDIT TRANSACTION WHICH IS NOT INITIATED
21 BY THE CONSUMER.—Section 603 of the Fair Credit Re-
22 porting Act (15 U.S.C. 1681a) is further amended by add-
23 ing after subsection (l) (as added by subsection (b) of this
24 section) the following:

1 “(m) The term ‘credit transaction which is not initi-
2 ated by the consumer’ does not include the use of a
3 consumer report by a person with which the consumer has
4 an account, for purposes of—

5 “(1) reviewing the account; or

6 “(2) collecting the account.”.

7 (d) STATE.—Section 603 of the Fair Credit Report-
8 ing Act (15 U.S.C. 1681a) is further amended by adding
9 after subsection (m) (as added by subsection (c) of this
10 section) the following:

11 “(n) The term ‘State’ means any State, the Common-
12 wealth of Puerto Rico, the District of Columbia, and any
13 territory or possession of the United States.”.

14 (e) EXCLUSIONS FROM DEFINITION OF CONSUMER
15 REPORT.—Section 603(d) of the Fair Credit Reporting
16 Act (15 U.S.C. 1681a(d)) is amended in the second sen-
17 tence in clause (A)—

18 (1) by inserting “(i)” after “(A)”;

19 (2) by inserting before the semicolon at the end
20 the following: “, (ii) any communication of that in-
21 formation among persons related by common owner-
22 ship or affiliated by corporate control, or (iii) any
23 communication of information from a credit applica-
24 tion by a consumer among persons related by com-
25 mon ownership or affiliated by corporate control if

1 it is clearly and conspicuously disclosed (I) with the
2 application that the information may be commu-
3 nicated among such persons and the consumer con-
4 sents, or (II) with respect to existing customers, at
5 any time prior to the time that the information is
6 initially communicated, that such information may
7 be communicated among such persons and the
8 consumer is given the opportunity, prior to the time
9 that the information is initially communicated, to di-
10 rect in writing that such information not be commu-
11 nicated among such persons”;

12 (3) in clause (B) by striking “or” after the
13 semicolon at the end;

14 (4) in clause (C) by striking the period and in-
15 sserting a semicolon; and

16 (5) by adding at the end the following: “or (D)
17 any communication of information about a consumer
18 between persons who are affiliated by common own-
19 ership or common corporate control and in connec-
20 tion with a credit transaction which is not initiated
21 by the consumer, if either of those persons has com-
22 plied with section 615(d)(4)(B) with respect to a
23 consumer report from which the information is
24 taken and the consumer has consented to use of the
25 report for the transaction, or with respect to existing

1 customers, the consumer has not directed in writing
2 that the report may not be used for the transaction,
3 in accordance with section 615(d)(4)(C).”.

4 (f) EXCLUSION OF CERTAIN COMMUNICATIONS BY
5 EMPLOYMENT AGENCIES FROM DEFINITION OF
6 CONSUMER REPORT.—Section 603 of the Fair Credit Re-
7 porting Act (15 U.S.C. 1681(a)) is further amended—

8 (1) in subsection (d), as amended by subsection
9 (e) of this section, by adding at the end the follow-
10 ing: “The term also does not include a communica-
11 tion described in subsection (o).”; and

12 (2) by adding at the end the following:

13 “(o) COMMUNICATIONS BY EMPLOYMENT AGENCIES
14 EXCLUDED FROM DEFINITION OF CONSUMER REPORT.—
15 A communication is described in this subsection if it is
16 a communication—

17 “(1) that, but for the 3rd sentence of sub-
18 section (d), would be an investigative consumer re-
19 port;

20 “(2) that is made to a prospective employer for
21 the purpose of—

22 “(A) procuring an employee for the em-
23 ployer, or

24 “(B) procuring an opportunity for a natu-
25 ral person to work for the employer;

1 “(3) that is made by a person that regularly
2 performs such procurement;

3 “(4) that is not used by any person for any
4 purpose other than a purpose described in para-
5 graph (2) (A) or (B);

6 “(5) with respect to which—

7 “(A) the consumer who is the subject of
8 the communication—

9 “(i) consents orally or in writing to
10 the nature and scope of the communica-
11 tion, before the collection of any informa-
12 tion for the purpose of making the commu-
13 nication;

14 “(ii) consents orally or in writing to
15 the making of the communication to a pro-
16 spective employer, before the making of the
17 communication; and

18 “(iii) in the case of consent under
19 clause (i) or (ii) given orally, is provided
20 written confirmation of that consent by the
21 person making the communication, within
22 3 business days after the receipt of the
23 consent by that person;

24 “(B) the person that makes the commu-
25 nication does not, for the purpose of making

1 the communication, make any inquiry that if
2 made by a prospective employer of the
3 consumer who is the subject of the communica-
4 tion would violate any applicable Federal or
5 State equal employment opportunity law or reg-
6 ulation; and

7 “(C) the person that makes the commu-
8 nication—

9 “(i) discloses in writing to the
10 consumer who is the subject of the commu-
11 nication, within 5 business days after re-
12 ceiving any request from the consumer for
13 such disclosure, the nature and substance
14 of all information in the consumer’s file at
15 the time of the request, except that the
16 sources of information that is acquired
17 solely for use in making the communica-
18 tion and actually used for no other purpose
19 need not be disclosed other than under ap-
20 propriate discovery procedures in the court
21 in which an action is brought; and

22 “(ii) notifies the consumer that is the
23 subject of the communication, in writing,
24 of the consumer’s right to request the in-
25 formation described in clause (i).”.

1 (g) CLERICAL AMENDMENT.—Section 603(d) of the
2 Fair Credit Reporting Act (15 U.S.C. 1681a(d)) is
3 amended in the first sentence—

4 (1) by inserting “(1)” after “in whole or in part
5 for”; and

6 (2) by striking “(1)” before “credit or insur-
7 ance”.

8 **SEC. 103. FURNISHING CONSUMER REPORTS; USE FOR EM-**
9 **PLOYMENT PURPOSES.**

10 (a) FURNISHING CONSUMER REPORTS FOR BUSI-
11 NESS TRANSACTIONS.—Section 604 of the Fair Credit Re-
12 porting Act (15 U.S.C. 1681b) is amended—

13 (1) by inserting “(a) IN GENERAL.—” before
14 “A consumer reporting agency”; and

15 (2) in subsection (a)(3) (as designated by para-
16 graph (1) of this subsection) by amending subpara-
17 graph (E) to read as follows:

18 “(E) otherwise has a legitimate business need
19 for the information in connection with a business
20 transaction that is initiated by the consumer.”.

21 (b) FURNISHING AND USING CONSUMER REPORTS
22 FOR EMPLOYMENT PURPOSES.—Section 604 of the Fair
23 Credit Reporting Act (15 U.S.C. 1681b) is further amend-
24 ed by adding at the end the following new subsection:

1 “(b) CONDITIONS FOR FURNISHING AND USING
2 CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.—

3 “(1) CERTIFICATION FROM USER.—A consumer
4 reporting agency may furnish a consumer report for
5 employment purposes only if—

6 “(A) the person who obtains such report
7 from the agency certifies to the agency that—

8 “(i) the person has complied with
9 paragraph (2) with respect to the
10 consumer report, and the person will com-
11 ply with paragraph (3) with respect to the
12 consumer report if paragraph (3) becomes
13 applicable; and

14 “(ii) information from the consumer
15 report will not be used in violation of any
16 applicable Federal or State equal employ-
17 ment opportunity law or regulation; and

18 “(B) the consumer reporting agency pro-
19 vides with the report a summary of the consum-
20 er’s rights under this title, as prescribed by the
21 Federal Trade Commission under section
22 609(c)(3).

23 “(2) DISCLOSURE TO CONSUMER.—A person
24 may not procure a consumer report, or cause a

1 consumer report to be procured, for employment
2 purposes with respect to any consumer unless—

3 “(A) a clear and conspicuous disclosure
4 has been made in writing to the consumer at
5 any time before the report is procured or
6 caused to be procured, in a document that con-
7 sists solely of the disclosure, that a consumer
8 report may be obtained for employment pur-
9 poses; and

10 “(B) the consumer has authorized in writ-
11 ing the procurement of the report by that per-
12 son.

13 “(3) CONDITIONS ON USE FOR ADVERSE AC-
14 TIONS.—In using a consumer report for employment
15 purposes, before taking any adverse action based in
16 whole or in part on the report a person shall provide
17 to the consumer to whom the report relates—

18 “(A) a copy of the report;

19 “(B) a description in writing of the con-
20 sumer’s rights under this title, as prescribed by
21 the Federal Trade Commission under section
22 609(c)(3); and

23 “(C) a reasonable period (not required to
24 exceed 5 business days following receipt of the
25 report by the consumer) to respond to any in-

1 formation in the report that is disputed by the
2 consumer, and notice in writing of the oppor-
3 tunity for the consumer to respond in that pe-
4 riod.

5 “(4) LIMITATION ON PURPOSES.—Subject to
6 paragraph (1), a consumer reporting agency may
7 furnish a consumer report, and a person may use a
8 consumer report, for employment purposes only
9 under the following circumstances:

10 “(A) The employment requires or is ex-
11 pected to require a security clearance issued by
12 an agency of the United States as a condition
13 for employment.

14 “(B) The employment requires or is ex-
15 pected to require an employee to be covered by
16 a fidelity bond.

17 “(C) The employment requires or is ex-
18 pected to require an employee, on a regular
19 basis and as part of the normal duties of em-
20 ployment—

21 “(i) to handle or otherwise have ac-
22 cess to substantial amounts of cash or
23 other things of value of the employer: or

1 “(ii) to engage in any conduct or ac-
2 tivity with respect to which the employee
3 has a fiduciary duty.”.

4 **SEC. 104. AMENDMENTS RELATING TO USE OF CONSUMER**
5 **REPORTS FOR PRESCREENING; PROHIBITION**
6 **ON UNAUTHORIZED OR UNCERTIFIED USE OF**
7 **INFORMATION.**

8 (a) IN GENERAL.—Section 604 of the Fair Credit
9 Reporting Act (15 U.S.C. 1681b), as amended by section
10 103, is further amended—

11 (1) in subsection (a) by striking “A consumer
12 reporting agency” and inserting “Subject to sub-
13 section (c), any consumer reporting agency”; and

14 (2) by adding after subsection (b) (as added by
15 section 103(b)) the following new subsections:

16 “(c) FURNISHING REPORTS IN CONNECTION WITH
17 CREDIT TRANSACTIONS NOT INITIATED BY THE
18 CONSUMER.—

19 “(1) IN GENERAL.—A consumer reporting
20 agency may furnish a consumer report relating to
21 any consumer pursuant to subsection (a)(3)(A) in
22 connection with any credit transaction which is not
23 initiated by the consumer only if—

24 “(A) the consumer authorizes the agency
25 to provide such report to such person; or

1 “(B)(i) the transaction consists of a firm
2 offer of credit;

3 “(ii) the consumer reporting agency has
4 complied with subsection (d); and

5 “(iii) the consumer has not elected in ac-
6 cordance with subsection (d)(1) to have the con-
7 sumer’s name and address excluded from lists
8 of names provided by the agency pursuant to
9 this paragraph.

10 “(2) LIMITS ON INFORMATION RECEIVED
11 UNDER PARAGRAPH (1)(B).—A person may receive
12 pursuant to paragraph (1)(B) only—

13 “(A) the name and address of a consumer;

14 “(B) an identifier that is not unique to the
15 consumer and is used by the person solely for
16 the purpose of verifying the identity of the
17 consumer; and

18 “(C) information pertaining to a consumer
19 that is not identified or identifiable with the
20 consumer.

21 “(3) INFORMATION REGARDING INQUIRIES.—
22 Except as provided in section 609(a)(5), a consumer
23 reporting agency shall not furnish to any person a
24 record of inquiries in connection with credit trans-
25 actions which are not initiated by a consumer.

1 “(d) ELECTION OF CONSUMER TO BE EXCLUDED
2 FROM LISTS.—

3 “(1) IN GENERAL.—A consumer may elect to
4 have his or her name and address excluded from any
5 list provided by a consumer reporting agency in con-
6 nection with a credit transaction which is not initi-
7 ated by the consumer, by—

8 “(A) notifying the agency, through the no-
9 tification system maintained by the agency
10 under paragraph (3), that the consumer does
11 not consent to any use of consumer reports re-
12 lating to the consumer in connection with any
13 credit transaction which is not initiated by the
14 consumer; and

15 “(B) returning to the agency a signed
16 written notice of the election, if provided by the
17 agency in accordance with paragraph (2).

18 “(2) PROVISION OF WRITTEN NOTICE TO
19 CONSUMER.—A consumer reporting agency shall
20 provide to a consumer a written notice for purposes
21 of paragraph (1)(B), by not later than 5 business
22 days after being notified of the election of the
23 consumer in accordance with paragraph (1)(A).

24 “(3) NOTIFICATION SYSTEM.—Each consumer
25 reporting agency which furnishes a consumer report

1 in connection with any credit transaction which is
2 not initiated by a consumer, shall—

3 “(A) establish and maintain a notification
4 system, including a toll-free telephone number,
5 which permits any consumer whose consumer
6 report is maintained by the agency to notify the
7 agency, with appropriate identification, of the
8 consumer’s election to have the consumer’s
9 name and address excluded from any list of
10 names and addresses provided by the agency for
11 such a transaction; and

12 “(B) publish by not later than 12 months
13 after the date of the enactment of the
14 Consumer Reporting Reform Act of 1994, and
15 at least annually thereafter, in a publication of
16 general circulation in the area served by the
17 agency—

18 “(i) a notification that information in
19 consumer files maintained by the agency
20 may be used in connection with such trans-
21 actions; and

22 “(ii) the address and toll-free tele-
23 phone number for consumers to use to no-
24 tify the agency of the consumer’s election
25 under subparagraph (A).

1 Establishment and maintenance of a notification
2 system (including a toll-free telephone number) and
3 publication by a consumer reporting agency on its
4 own behalf and on behalf of any of its affiliates in
5 accordance with this paragraph is deemed to be
6 compliance with this paragraph by each of those af-
7 filiates.

8 “(4) AGENCIES WHICH OPERATE NATION-
9 WIDE.—Each consumer reporting agency which com-
10 piles and maintains files on consumers on a nation-
11 wide basis shall establish and maintain a notification
12 system for purposes of paragraph (3) jointly with
13 other such consumer reporting agencies.

14 “(5) EFFECTIVENESS OF ELECTION.—An elec-
15 tion of a consumer under paragraph (1)—

16 “(A) shall be effective with respect to a
17 consumer reporting agency beginning on the
18 later of—

19 “(i) the date on which the consumer
20 notifies the agency in accordance with
21 paragraph (1)(A); or

22 “(ii) the date on which the consumer
23 returns to the agency a signed written
24 notification of the election in accordance

1 with paragraph (1)(B), if provided by the
2 agency;

3 “(B) shall not be effective after the date
4 on which the consumer notifies the agency
5 (through the system established by the agency
6 under paragraph (3)) that the election is no
7 longer effective; and

8 “(C) shall be effective with respect to each
9 affiliate of the agency.”.

10 (b) FURNISHING CONSUMER REPORTS FOR CERTAIN
11 DIRECT MARKETING TRANSACTIONS PROHIBITED.—Sec-
12 tion 604 of the Fair Credit Reporting Act (15 U.S.C.
13 1681b) is further amended by adding after subsection (d)
14 (as added by subsection (a) of this section) the following
15 new subsection:

16 “(e) FURNISHING CONSUMER REPORTS FOR CER-
17 TAIN DIRECT MARKETING TRANSACTIONS PROHIB-
18 ITED.—Except as provided in subsection (a)(2) and sub-
19 section (c), a consumer reporting agency may not furnish
20 a consumer report for use for a direct marketing trans-
21 action which is not initiated by the consumer to whom the
22 report relates.”.

23 (c) USE OF INFORMATION OBTAINED FROM RE-
24 PORTS.—Section 604 of the Fair Credit Reporting Act (15
25 U.S.C. 1681b) is further amended by adding after sub-

1 section (e) (as added by subsection (b) of this section) the
2 following new subsection:

3 “(f) CERTAIN USE OR OBTAINING OF INFORMATION
4 PROHIBITED.—A person shall not use or obtain informa-
5 tion from a consumer report for any purpose unless—

6 “(1) it is obtained for a purpose for which the
7 consumer report is authorized to be furnished under
8 subsection (a); and

9 “(2) the purpose is certified in accordance with
10 section 607 by a prospective user of the report.”.

11 (d) FIRST NOTIFICATIONS BY CONSUMERS.—A
12 consumer may notify a consumer reporting agency
13 through a notification system established and maintained
14 by the agency under section 604(d) of the Fair Credit Re-
15 porting Act, as amended by subsection (a), on or after
16 the date which is 455 days after the date of the enactment
17 of this Act.

18 **SEC. 105. CONSUMER CONSENT REQUIRED TO FURNISH**
19 **CONSUMER REPORT CONTAINING MEDICAL**
20 **INFORMATION.**

21 Section 604 of the Fair Credit Reporting Act (15
22 U.S.C. 1681b), as amended by sections 103 and 104, is
23 further amended by adding at the end the following:

24 “(g) FURNISHING REPORTS CONTAINING MEDICAL
25 INFORMATION.—A consumer reporting agency shall not

1 furnish for employment purposes, or in connection with
2 a credit transaction, a consumer report which contains
3 medical information about a consumer, unless the
4 consumer consents to the furnishing of the report.”.

5 **SEC. 106. AMENDMENTS RELATING TO OBSOLETE INFOR-**
6 **MATION AND INFORMATION CONTAINED IN**
7 **CONSUMER REPORTS.**

8 (a) REPEAL LARGE-DOLLAR EXCEPTIONS.—Section
9 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c)
10 is amended—

11 (1) in subsection (a) by striking “(a) Except as
12 authorized under subsection (b), no” and inserting
13 “(a) INFORMATION EXCLUDED FROM CONSUMER
14 REPORTS.—No”; and

15 (2) by striking subsection (b).

16 (b) CLARIFICATION OF REPORTING PERIOD.—Sec-
17 tion 605 of the Fair Credit Reporting Act (15 U.S.C.
18 1681c), as amended by subsection (a), is further amended
19 by adding at the end the following new subsection:

20 “(b) RUNNING OF REPORTING PERIOD.—(1) The 7-
21 year period referred to in paragraphs (4) and (6) of sub-
22 section (a) shall begin, with respect to any delinquent ac-
23 count which is placed for collection (internally or by refer-
24 ral to a 3d party, whichever is earlier), charged to profit
25 and loss, or subjected to any similar action, upon the expi-

1 ration of the 180-day period beginning on the date of the
2 commencement of the delinquency which immediately pre-
3 ceded the collection activity, charge to profit and loss, or
4 similar action.

5 “(2) Paragraph (1) applies only to items of informa-
6 tion added to a consumer report on or after the date that
7 is 455 days after the date of the enactment of the
8 Consumer Reporting Reform Act of 1994.”.

9 (c) ADDITIONAL INFORMATION ON BANKRUPTCY
10 FILINGS REQUIRED.—Section 605 of the Fair Credit Re-
11 porting Act (15 U.S.C. 1681c) is further amended by add-
12 ing after subsection (b) (as added by subsection (b) of this
13 section) the following new subsection:

14 “(c) INFORMATION REQUIRED TO BE DISCLOSED.—
15 Any consumer reporting agency which furnishes a
16 consumer report which contains information regarding
17 any case involving the consumer which arises under title
18 11, United States Code, shall include in the report an
19 identification of the chapter of such title 11 under which
20 such case arises if provided by the source of the informa-
21 tion. If any case arising or filed under title 11, United
22 States Code, is withdrawn by the consumer prior to a final
23 judgment, the consumer reporting agency shall include in
24 the report that such case or filing was withdrawn upon
25 receipt of documentation certifying such withdrawal.”.

1 (d) INDICATION OF CLOSURE OF ACCOUNT; INDICA-
2 TION OF DISPUTE BY CONSUMER.—Section 605 of the
3 Fair Credit Reporting Act (15 U.S.C. 1681c) is further
4 amended by adding after subsection (c) (as added by sub-
5 section (c) of this section) the following new subsections:

6 “(d) INDICATION OF CLOSURE OF ACCOUNT BY
7 CONSUMER.—If a consumer reporting agency is notified
8 pursuant to section 623(a)(4) that a credit account of a
9 consumer was voluntarily closed by the consumer, the
10 agency shall indicate that fact in any consumer report that
11 includes information related to the account.

12 “(e) INDICATION OF DISPUTE BY CONSUMER.—If a
13 consumer reporting agency is notified pursuant to section
14 623(a)(3) that information regarding a consumer that was
15 furnished to the agency is disputed by the consumer, the
16 agency shall indicate that fact in each consumer report
17 that includes the disputed information.”.

18 (e) PROHIBITION ON MAINTAINING OR FURNISHING
19 CERTAIN ACCOUNT INFORMATION.—

20 (1) IN GENERAL.—Section 605 of the Fair
21 Credit Reporting Act (15 U.S.C. 1681c) is further
22 amended by adding at the end the following new
23 subsection:

24 “(f) CERTAIN ACCOUNT INFORMATION.—

1 “(1) EXCLUSION FROM CONSUMER REPORT.—A
2 consumer reporting agency shall not maintain in the
3 file of a consumer, or furnish a consumer report on
4 a consumer which contains, any information regard-
5 ing a failure of the consumer to make any payment
6 on an account of the consumer that became due in
7 a period during which the consumer was receiving
8 assistance pursuant to a declaration of an emer-
9 gency by the President under The Robert T. Staf-
10 ford Disaster Relief and Emergency Assistance Act,
11 or unemployment compensation under the laws of
12 any State (or but for the exhaustion of benefits
13 would be entitled to receive such compensation), if—

14 “(A) the consumer requests in writing that
15 the consumer reporting agency exclude the in-
16 formation from either the file or such reports;

17 “(B) the consumer provides to the agency
18 appropriate documentation which demonstrates
19 that the consumer was receiving such assistance
20 or was receiving (or would so be entitled to re-
21 ceive) such compensation during that period;
22 and

23 “(C) the account is maintained in a cur-
24 rent status during the 1-year period ending on
25 the date of the submittal of the request.

1 “(2) APPROPRIATE DOCUMENTATION.—The
2 Federal Trade Commission shall prescribe what con-
3 stitutes appropriate documentation for purposes of
4 paragraph (1).”.

5 (g) CLERICAL AMENDMENTS.—

6 (1) The heading for section 605 of the Fair
7 Credit Reporting Act (15 U.S.C. 1681c) is amended
8 by striking “**Obsolete information**” and insert-
9 ing “**Requirements relating to information**
10 **contained in consumer reports**”.

11 (2) The table of sections at the beginning of the
12 Fair Credit Reporting Act (15 U.S.C. 1681a et seq.)
13 is amended by striking the item relating to section
14 605 and inserting the following:

“605. Requirements relating to information contained in consumer reports.”.

15 **SEC. 107. AMENDMENTS RELATING TO COMPLIANCE PRO-**
16 **CEDURES.**

17 (a) DISCLOSURE OF CONSUMER REPORTS BY
18 USERS.—Section 607 of the Fair Credit Reporting Act
19 (15 U.S.C. 1681e) is amended by adding at the end the
20 following new subsection:

21 “(c) DISCLOSURE OF CONSUMER REPORTS BY
22 USERS ALLOWED.—A consumer reporting agency may not
23 prohibit a user of a consumer report furnished by the
24 agency on a consumer from disclosing the contents of the
25 report to the consumer, if adverse action against the

1 consumer has been taken, or is contemplated, by the user
2 based in whole or in part on the report.”.

3 (b) NOTICE TO USERS AND PROVIDERS OF INFORMA-
4 TION TO ENSURE COMPLIANCE.—Section 607 of the Fair
5 Credit Reporting Act (15 U.S.C. 1681e) is further amend-
6 ed by adding after subsection (c) (as added by subsection
7 (a) of this section) the following new subsection:

8 “(d) NOTICE TO USERS AND FURNISHERS OF INFOR-
9 MATION.—

10 “(1) NOTICE REQUIREMENT.—A consumer re-
11 porting agency shall provide to any person—

12 “(A) who regularly and in the ordinary
13 course of business furnishes information to the
14 agency with respect to any consumer; or

15 “(B) to whom a consumer report is pro-
16 vided by the agency;

17 a notice of such person’s responsibilities under this
18 title.

19 “(2) CONTENT OF NOTICE.—The Federal
20 Trade Commission shall prescribe the content of no-
21 tices under paragraph (1).”.

22 (c) RECORD OF IDENTITY OF USERS AND PURPOSES
23 CERTIFIED BY USERS OF REPORTS.—Section 607 of the
24 Fair Credit Reporting Act (15 U.S.C. 1681e) is further

1 amended by adding after subsection (d) (as added by sub-
2 section (b) of this section) the following new subsection:

3 “(e) PROCUREMENT OF CONSUMER REPORT FOR RE-
4 SALE.—

5 “(1) DISCLOSURE.—A person may not procure
6 a consumer report for purposes of reselling the re-
7 port (or any information in the report) unless the
8 person discloses to the consumer reporting agency
9 which originally furnishes the report—

10 “(A) the identity of the ultimate end-user
11 of the report (or information), and

12 “(B) each permissible purpose under sec-
13 tion 604 for which the report is furnished to
14 the ultimate end-user of the report (or informa-
15 tion).

16 “(2) RESPONSIBILITIES OF PROCURERS FOR
17 RESALE.—A person which procures a consumer re-
18 port for purposes of reselling the report (or any in-
19 formation in the report) shall—

20 “(A) establish and comply with reasonable
21 procedures designed to ensure that the report
22 (or information) is resold by the person only for
23 a purpose for which the report may be fur-
24 nished under section 604, including by requir-

1 ing that each person to which the report (or
2 information) is resold—

3 “(i) identifies each prospective user of
4 the resold report (or information);

5 “(ii) certifies each purpose for which
6 the report (or information) will be used;
7 and

8 “(iii) certifies that the report (or in-
9 formation) will be used for no other pur-
10 pose; and

11 “(B) before reselling the report, make
12 reasonable efforts to verify the identifications
13 and certifications made under subparagraph
14 (A).”.

15 **SEC. 108. AMENDMENTS RELATING TO CONSUMER DISCLO-**
16 **SURES.**

17 (a) ALL INFORMATION IN CONSUMER’S FILE RE-
18 QUIRED TO BE DISCLOSED.—Section 609(a)(1) of the
19 Fair Credit Reporting Act (15 U.S.C. 1681g(a)(1)) is
20 amended to read as follows:

21 “(1) All information in the consumer’s file at
22 the time of the request.”.

23 (b) MORE INFORMATION CONCERNING RECIPIENTS
24 OF REPORTS REQUIRED.—Section 609(a)(3) of the Fair

1 Credit Reporting Act (15 U.S.C. 1681g(a)) is amended
2 to read as follows:

3 “(3)(A) Identification of each person (including
4 each ultimate end-user identified under section
5 607(e)(1)) who procured a consumer report—

6 “(i) for employment purposes within the 2-
7 year period preceding the request; or

8 “(ii) for any other purpose within the 1-
9 year period preceding the request.

10 “(B) An identification of a person under sub-
11 paragraph (A) shall include—

12 “(i) the name of the person or, if applica-
13 ble, the trade name (written in full) under
14 which such person conducts business; and

15 “(ii) upon request of the consumer, the ad-
16 dress and telephone number of the person.”.

17 (c) DISCLOSURE OF PERMISSIBLE PURPOSES.—Sec-
18 tion 609(a) of the Fair Credit Reporting Act (15 U.S.C.
19 1681g(a)) is further amended by adding at the end the
20 following:

21 “(4) The permissible purpose for which each
22 person identified under paragraph (3) procured a
23 consumer report.”.

24 (d) INFORMATION REGARDING INQUIRIES.—Section
25 609(a) of the Fair Credit Reporting Act (15 U.S.C.

1 1681g(a)) is amended by adding after paragraph (4) (as
2 added by subsection (c) of this section) the following:

3 “(5) A record of all inquiries received by the
4 agency in the 1-year period preceding the request
5 that identified the consumer in connection with a
6 credit transaction which was not initiated by the
7 consumer.”.

8 (e) DISCLOSING THE FACTS REGARDING CHECKS
9 UPON WHICH ADVERSE CHARACTERIZATION IS BASED.—
10 Section 609(a) of the Fair Credit Reporting Act (15
11 U.S.C. 1681g(a)) is amended by adding after paragraph
12 (5) (as added by subsection (d) of this section) the follow-
13 ing:

14 “(6) The dates, original payees, and amounts of
15 any checks upon which is based any adverse charac-
16 terization of the consumer included in the file at the
17 time of the disclosure.”.

18 (f) SUMMARY OF RIGHTS REQUIRED TO BE IN-
19 CLUDED WITH DISCLOSURE.—

20 (1) IN GENERAL.—Section 609 of the Fair
21 Credit Reporting Act (15 U.S.C. 1681g) is amended
22 by adding at the end the following new subsection:

23 “(c) SUMMARY OF RIGHTS REQUIRED TO BE IN-
24 CLUDED WITH DISCLOSURE.—

1 “(1) SUMMARY OF RIGHTS.—A consumer re-
2 porting agency shall provide to a consumer, with
3 each written disclosure by the agency to the
4 consumer under this section—

5 “(A) a written summary of all rights the
6 consumer has under this title; and

7 “(B) in the case of a consumer reporting
8 agency that compiles and maintains files on
9 consumers on a nationwide basis, the toll-free
10 telephone number established by the agency
11 pursuant to section 607(f).

12 “(2) SPECIFIC ITEMS REQUIRED TO BE IN-
13 CLUDED.—The summary of rights required under
14 paragraph (1) shall include—

15 “(A) a brief description of this title and all
16 rights of consumers under this title;

17 “(B) an explanation of how the consumer
18 may exercise the rights of the consumer under
19 this title;

20 “(C) a list of all Federal agencies respon-
21 sible for enforcing any provision of this title
22 and the address and any appropriate phone
23 number of each such agency, in a form that will
24 assist the consumer in selecting the appropriate
25 agency; and

1 “(D) a statement that a consumer report-
2 ing agency is not required to remove accurate
3 derogatory information from a consumer’s file,
4 unless the information is outdated under sec-
5 tion 605 or cannot be verified.

6 “(3) FORM OF SUMMARY OF RIGHTS.—For pur-
7 poses of this subsection and any disclosure by a
8 consumer reporting agency required under this title
9 with respect to consumers’ rights, the Federal Trade
10 Commission (after consultation with each Federal
11 agency referred to in section 621(b)) shall prescribe
12 the form and content of any disclosure of the rights
13 of consumers required under this title.”.

14 (2) TECHNICAL AMENDMENT.—Section
15 606(a)(1)(B) of the Fair Credit Reporting Act (15
16 U.S.C. 1681d(a)(1)(B)) is amended by inserting
17 “and the written summary of the rights of the
18 consumer prepared pursuant to section 609(c)” be-
19 fore the semicolon.

20 (g) FORM OF DISCLOSURES.—

21 (1) IN GENERAL.—Subsections (a) and (b) of
22 section 610 of the Fair Credit Reporting Act (15
23 U.S.C. 1681h) are amended to read as follows:

24 “(a) IN GENERAL.—

1 “(1) PROPER IDENTIFICATION.—A consumer
2 reporting agency shall require, as a condition of
3 making the disclosures required under section 609,
4 that the consumer furnish proper identification.

5 “(2) DISCLOSURE IN WRITING.—Except as pro-
6 vided in subsection (b), the disclosures required to
7 be made under section 609 shall be provided under
8 that section in writing.

9 “(b) OTHER FORMS OF DISCLOSURE.—

10 “(1) IN GENERAL.—If authorized by a
11 consumer, a consumer reporting agency may make
12 the disclosures required under 609—

13 “(A) other than in writing; and

14 “(B) in such form as may be—

15 “(i) specified by the consumer in ac-
16 cordance with paragraph (2); and

17 “(ii) available from the agency.

18 “(2) FORM.—A consumer may specify pursuant
19 to paragraph (1) that disclosures under section 609
20 shall be made—

21 “(A) in person, upon the appearance of the
22 consumer at the place of business of the
23 consumer reporting agency where disclosures
24 are regularly provided, during normal business
25 hours, and on reasonable notice;

1 “(B) by telephone, if the consumer has
2 made a written request for disclosure by tele-
3 phone;

4 “(C) by electronic means, if available from
5 the agency; or

6 “(D) by any other reasonable means that
7 is available from the agency.”.

8 (2) SIMPLIFIED DISCLOSURE.—Section 610 of
9 the Fair Credit Reporting Act (15 U.S.C. 1681h) is
10 amended by adding at the end the following:

11 “(f) SIMPLIFIED DISCLOSURE.—The Federal Trade
12 Commission shall prescribe the form in which a consumer
13 reporting agency shall make the disclosures required
14 under section 609(a), for the purpose of maximizing the
15 comprehensibility and standardization of such disclo-
16 sures.”.

17 (3) CONFORMING AMENDMENTS.—

18 (A) Section 609(a) of the Fair Credit Re-
19 porting Act (15 U.S.C. 1681h(a)) is amended
20 in the matter preceding paragraph (1) by strik-
21 ing “and proper identification of any consumer”
22 and inserting “and subject to section
23 610(a)(1)”.

24 (B) Section 610 of the Fair Credit Report-
25 ing Act (15 U.S.C. 1681h) is amended in the

1 heading for the section by inserting “**and**
2 **form**” after “**Conditions**”.

3 (C) The table of sections at the beginning
4 of the Fair Credit Reporting Act (15 U.S.C.
5 1681a et seq.) is amended in the item relating
6 to section 610 by inserting “and form” after
7 “Conditions”.

8 **SEC. 109. AMENDMENTS RELATING TO PROCEDURES IN**
9 **CASE OF THE DISPUTED ACCURACY OF ANY**
10 **INFORMATION IN A CONSUMER’S FILE.**

11 (a) IN GENERAL.—Section 611(a) of the Fair Credit
12 Reporting Act (15 U.S.C. 1681i(a)) is amended to read
13 as follows:

14 “(a) REINVESTIGATIONS OF DISPUTED INFORMA-
15 TION.—

16 “(1) REINVESTIGATION REQUIRED.—

17 “(A) IN GENERAL.—If the completeness or
18 accuracy of any item of information contained
19 in any consumer’s file at any consumer report-
20 ing agency is disputed by the consumer and the
21 consumer notifies the agency directly of such
22 dispute, the agency shall reinvestigate free of
23 charge and record the current status of the dis-
24 puted information, or delete the item from the
25 file in accordance with paragraph (5), before

1 the end of the 30-day period beginning on the
2 date the agency receives the notice of the dis-
3 pute from the consumer.

4 “(B) EXTENSION OF PERIOD TO
5 REINVESTIGATE.—Except as provided in sub-
6 paragraph (C), the 30-day period described in
7 subparagraph (A) may be extended if—

8 “(i) the consumer reporting agency
9 receives information from the consumer
10 within that 30-day period that is relevant
11 to the reinvestigation; and

12 “(ii) the consumer reporting agency
13 has provided clear and conspicuous notice
14 to the consumer, in a disclosure under sec-
15 tion 609(c), of the circumstances that may
16 cause such an extension.

17 The period, as extended, shall end not later
18 than 15 days after the last date the agency re-
19 ceives such information.

20 “(C) LIMITATIONS ON EXTENSION OF PE-
21 RIOD TO REINVESTIGATE.—Subparagraph (B)
22 shall not apply to any reinvestigation in which,
23 in the 30-day period described in subparagraph
24 (A), the information that is the subject of the

1 reinvestigation is found to be inaccurate or in-
2 complete or cannot be verified.

3 “(2) PROMPT NOTICE OF DISPUTE TO FUR-
4 NISHER OF INFORMATION.—

5 “(A) IN GENERAL.—Before the end of the
6 5-day period beginning on the date a consumer
7 reporting agency receives notice of a dispute
8 from any consumer in accordance with para-
9 graph (1), the agency shall provide notification
10 of the dispute to any person that provided any
11 item of information in dispute, at the address
12 and in the manner established with the person.
13 The notice shall include disclosure of the date
14 on which the consumer reporting agency re-
15 ceived notice of the dispute from the consumer
16 and all relevant information regarding the dis-
17 pute that the agency has received from the
18 consumer.

19 “(B) PROVISION OF OTHER INFORMATION
20 FROM CONSUMER.—The consumer reporting
21 agency shall promptly provide to the person
22 that provided the information in dispute all rel-
23 evant information regarding the dispute that is
24 received by the agency from the consumer after
25 the period referred to in subparagraph (A) and

1 before the end of the period referred to in para-
2 graph (1)(A).

3 “(3) DETERMINATION THAT DISPUTE IS FRIVO-
4 LOUS OR IRRELEVANT.—

5 “(A) IN GENERAL.—Notwithstanding para-
6 graph (1), a consumer reporting agency may
7 terminate a reinvestigation of information dis-
8 puted by a consumer under that paragraph if
9 the agency reasonably determines that the dis-
10 pute by the consumer is frivolous or irrelevant,
11 including by reason of a failure by a consumer
12 to provide sufficient information to investigate
13 the disputed information.

14 “(B) NOTICE OF DETERMINATION.—Upon
15 making any determination in accordance with
16 subparagraph (A) that a dispute is frivolous or
17 irrelevant, a consumer reporting agency shall
18 notify the consumer within 5 days of such de-
19 termination, by mail or, if authorized by the
20 consumer for that purpose, by any other means
21 available to the agency.

22 “(C) CONTENTS OF NOTICE.—A notice
23 under subparagraph (B) shall include—

24 “(i) the reasons for the determination
25 under subparagraph (A); and

1 “(ii) identification of any information
2 required to investigate the disputed infor-
3 mation.

4 “(4) CONSIDERATION OF CONSUMER INFORMA-
5 TION.—In conducting any reinvestigation under
6 paragraph (1) with respect to disputed information
7 in the file of any consumer, the consumer reporting
8 agency shall review and consider all relevant infor-
9 mation submitted by the consumer in the period de-
10 scribed in paragraph (1)(A) with respect to such dis-
11 puted information.

12 “(5) TREATMENT OF INACCURATE OR UNVERI-
13 FIABLE INFORMATION.—

14 “(A) IN GENERAL.—If, after any
15 reinvestigation under paragraph (1) of any in-
16 formation disputed by a consumer, an item of
17 the information is found to be inaccurate or in-
18 complete or cannot be verified, the consumer re-
19 porting agency shall promptly delete that item
20 of information from the consumer’s file. The in-
21 formation deleted shall consist solely of the in-
22 formation that was disputed by the consumer
23 and shall not include any portion of the same
24 item that was not disputed.

1 “(B) REQUIREMENTS RELATING TO
2 REINSERTION OF PREVIOUSLY DELETED MATE-
3 RIAL.—

4 “(i) CERTIFICATION OF ACCURACY OF
5 INFORMATION.—If any information is de-
6 leted from a consumer’s file pursuant to
7 subparagraph (A), the information may
8 not be reinserted in the file by the
9 consumer reporting agency unless the per-
10 son who furnishes the information certifies
11 that the information is complete and accu-
12 rate.

13 “(ii) NOTICE TO CONSUMER.—If any
14 information which has been deleted from a
15 consumer’s file pursuant to subparagraph
16 (A) is reinserted in the file, the consumer
17 reporting agency shall promptly notify the
18 consumer of the reinsertion in writing or,
19 if authorized by the consumer for that pur-
20 pose, by any other means available to the
21 agency.

22 “(iii) ADDITIONAL INFORMATION.—As
23 part of or in addition to the notice under
24 clause (ii), a consumer reporting agency
25 shall provide to a consumer in writing

1 within the 5-day period beginning on the
2 date of the reinsertion—

3 “(I) a statement that the dis-
4 puted information has been
5 reinserted;

6 “(II) a notice to the consumer
7 that if requested by the consumer the
8 agency shall provide to the consumer,
9 within 15 days after the date of the
10 request, the name, business address,
11 and telephone number of any fur-
12 nisher of information contacted, or of
13 any furnisher of information which
14 contacted the consumer reporting
15 agency, in connection with the
16 reinsertion of such information;

17 “(III) the toll-free telephone
18 number of the consumer reporting
19 agency if the agency is required to
20 maintain such a number under section
21 607(f), or a telephone number that
22 the consumer can use to contact the
23 agency with respect to obtaining the
24 information described in subclause
25 (II); and

1 “(IV) a notice that the consumer
2 has the right to add a statement to
3 the consumer’s file disputing the accu-
4 racy or completeness of the disputed
5 information.

6 “(C) PROCEDURES TO PREVENT RE-
7 APPEARANCE.—A consumer reporting agency
8 shall maintain reasonable procedures designed
9 to prevent the reappearance in a consumer’s
10 file, and in consumer reports on the consumer,
11 of information that is deleted pursuant to this
12 paragraph (other than information that is
13 reinserted in accordance with subparagraph
14 (B)(i)).

15 “(D) FREE CONSUMER REPORT DURING
16 12-MONTH PERIOD AFTER DELETION OF INFOR-
17 MATION.—Upon the request of a consumer, a
18 consumer reporting agency shall make all dis-
19 closures pursuant to section 609 without charge
20 to that consumer at least once during the 12-
21 month period after the consumer receives a no-
22 tification under paragraph (6) or paragraph (8)
23 of the deletion of information that is found to
24 be inaccurate or cannot be verified.

1 “(E) Any nationwide consumer reporting
2 agency that maintains files on a consumer on a
3 nationwide basis that is subject to this section,
4 shall report the results of a reinvestigation that
5 finds incomplete or inaccurate information in a
6 consumer’s file to all other such agencies.

7 “(6) NOTICE OF RESULTS OF
8 REINVESTIGATION.—

9 “(A) IN GENERAL.—A consumer reporting
10 agency shall provide written notice to a
11 consumer of the results of a reinvestigation
12 under this subsection within 5 days after the
13 completion of the reinvestigation, by mail or, if
14 authorized by the consumer for that purpose,
15 by other means available to the agency.

16 “(B) CONTENTS.—As part of or in addi-
17 tion to the notice under subparagraph (A), a
18 consumer reporting agency shall provide to a
19 consumer in writing within the 5-day period
20 referred to in subparagraph (A)—

21 “(i) a statement that the reinves-
22 tigation is completed;

23 “(ii) a consumer report that is based
24 upon the consumer’s file as that file is re-
25 vised as a result of the reinvestigation;

1 “(iii) a description or indication of
2 any changes made in the consumer report
3 as a result of those revisions to the con-
4 sumer’s file;

5 “(iv) a notice that, if requested by the
6 consumer, a description of the procedure
7 used to determine the accuracy and com-
8 pleteness of the information shall be pro-
9 vided to the consumer by the agency, in-
10 cluding the name, business address, and
11 telephone number of any furnisher of in-
12 formation contacted in connection with
13 such information;

14 “(v) a notice that the consumer has
15 the right to add a statement to the con-
16 sumer’s file disputing the accuracy or com-
17 pleteness of the information; and

18 “(vi) a notice that the consumer has
19 the right to request under subsection (d)
20 that the consumer reporting agency fur-
21 nish notifications under that subsection.

22 “(7) DESCRIPTION OF REINVESTIGATION PRO-
23 CEDURE.—A consumer reporting agency shall pro-
24 vide to a consumer a description referred to in para-
25 graph (6)(B)(iv) by not later than 15 days after re-

1 ceiving a request from the consumer for that de-
2 scription.

3 “(8) EXPEDITED DISPUTE RESOLUTION.—If a
4 dispute regarding an item of information in a con-
5 sumer’s file at a consumer reporting agency is re-
6 solved in accordance with paragraph (5)(A) by the
7 deletion of the disputed information by not later
8 than 3 business days after the date on which the
9 agency receives notice of the dispute from the
10 consumer in accordance with paragraph (1)(A), then
11 the agency shall not be required to comply with
12 paragraphs (2), (6), and (7) with respect to that dis-
13 pute if the agency—

14 “(A) provides prompt notice of the deletion
15 to the consumer by telephone;

16 “(B) includes in that notice, or in a writ-
17 ten notice that accompanies a confirmation and
18 consumer report provided in accordance with
19 subparagraph (C), a statement of the consum-
20 er’s right to request under subsection (d) that
21 the agency furnish notifications under that sub-
22 section; and

23 “(C) provides written confirmation of the
24 deletion and a copy of a consumer report on the
25 consumer which is based on the consumer’s file

1 after the deletion, within 5 days after making
2 the deletion.”.

3 (b) CONFORMING AMENDMENT.—Subsection (d) of
4 section 611 of the Fair Credit Reporting Act (15 U.S.C.
5 1681i(d)) is amended by striking “The consumer report-
6 ing agency shall clearly” and all that follows through the
7 end of the subsection.

8 **SEC. 110. AMENDMENT RELATING TO CHARGES FOR DIS-**
9 **CLOSURE.**

10 Section 612 of the Fair Credit Reporting Act (15
11 U.S.C. 1681j) is amended to read as follows:

12 **“§ 612. Charges for certain disclosures**

13 “(a) REASONABLE CHARGES ALLOWED FOR CER-
14 TAIN DISCLOSURES.—Except as provided in subsections
15 (b), (c), (d), and (f), a consumer reporting agency may
16 impose a reasonable charge on a consumer—

17 “(1) for making a disclosure to the consumer
18 pursuant to section 609, which—

19 “(A) shall not exceed \$8; and

20 “(B) shall be indicated to the consumer
21 prior to making disclosure; and

22 “(2) for furnishing a notification, statement,
23 summary, or codification to any person designated
24 by the consumer pursuant to section 611(d),
25 which—

1 “(A) shall not exceed the charge that the
2 agency would impose on each designated recipi-
3 ent for a consumer report; and

4 “(B) shall be indicated to the consumer
5 prior to furnishing such information.

6 “(b) FREE CONSUMER REPORT AFTER ADVERSE
7 NOTICE TO CONSUMER.—Each consumer reporting agen-
8 cy that maintains a file on a consumer shall make all dis-
9 closures pursuant to section 609 without charge to the
10 consumer if, within 60 days after receipt by such
11 consumer of a notification pursuant to section 615 or of
12 a notification from a debt collection agency affiliated with
13 that consumer reporting agency stating that the consum-
14 er’s credit rating may be or has been adversely affected,
15 the consumer makes a request under section 609.

16 “(c) FREE CONSUMER REPORT UNDER CERTAIN
17 OTHER CIRCUMSTANCES.—Upon the request of the
18 consumer, a consumer reporting agency shall make all dis-
19 closures pursuant to section 609 without charge to that
20 consumer if the consumer certifies in writing that the
21 consumer—

22 “(1) is unemployed and intends to apply for
23 employment in the 60-day period beginning on the
24 date the certification is made;

1 “(2) is a recipient of public welfare assistance;
2 or

3 “(3) has reason to believe that the file on the
4 consumer at the agency contains inaccurate informa-
5 tion due to fraud.

6 “(d) CHARGE FOR CERTAIN NOTICES PROHIB-
7 ITED.—A consumer reporting agency shall not impose any
8 charge for—

9 “(1) providing any notice to a consumer re-
10 quired under section 611; or

11 “(2) notifying a person pursuant to section
12 611(d) of the deletion of information which is found
13 to be inaccurate or which can no longer be verified,
14 if the consumer designates that person to the agency
15 before the end of the 30-day period beginning on the
16 date of the notification of the consumer under sec-
17 tion 611(a)(6) or 611(a)(8).

18 “(e) REFUND OF CHARGE IN CASE OF DISPUTE.—
19 A consumer reporting agency shall refund to a consumer
20 any charge assessed to the consumer for providing a
21 consumer report in the 60-day period ending on the date
22 on which the consumer notifies the agency in accordance
23 with section 611(a)(1), if after a reinvestigation under
24 that section any information in the file of the consumer
25 is found to be incomplete or inaccurate.

1 “(f) ANNUAL CONSUMER REPORT UPON REQUEST
2 AT SPECIFIED CHARGE.—

3 “(1) IN GENERAL.—Upon the written request
4 of a consumer, a consumer reporting agency that
5 maintains a file on the consumer shall make all dis-
6 closures pursuant to section 609 once in any 12-
7 month period, at the charge specified in paragraph
8 (2).

9 “(2) CHARGE SPECIFIED.—The charge for dis-
10 closures under paragraph (1) shall be an amount
11 that does not exceed the lesser of—

12 “(A) the total cost incurred by the
13 consumer reporting agency in making the dis-
14 closures; or

15 “(B) \$3.”.

16 **SEC. 111. AMENDMENTS RELATING TO DUTIES OF USERS**
17 **OF CONSUMER REPORTS AND DUTIES OF AF-**
18 **FILIATES SHARING CERTAIN INFORMATION.**

19 (a) DUTIES OF USERS TAKING ADVERSE ACTIONS.—
20 Section 615(a) of the Fair Credit Reporting Act (15
21 U.S.C. 1681m(a)) is amended to read as follows:

22 “(a) DUTIES OF USERS TAKING ADVERSE ACTIONS
23 ON THE BASIS OF INFORMATION CONTAINED IN
24 CONSUMER REPORTS.—If any person takes any adverse
25 action with respect to any consumer in connection with

1 any transaction initiated by the consumer or any employ-
2 ment determination, which is based in whole or in part
3 on any information contained in a consumer report, the
4 person shall—

5 “(1) provide written notice of the adverse action
6 to the consumer;

7 “(2) provide to the consumer in writing, the
8 name, address, and telephone number of the
9 consumer reporting agency (including any toll-free
10 telephone number established by the agency pursu-
11 ant to section 607(f)) which furnished the report to
12 the person; and

13 “(3) provide to the consumer a written notice of
14 the consumer’s right—

15 “(A) to obtain, under section 612, a free
16 copy of a consumer report on the consumer,
17 from the consumer reporting agency referred to
18 in paragraph (2) and from any other consumer
19 reporting agency that maintains a file on the
20 consumer and maintains files on consumers on
21 a nationwide basis, which notice shall include
22 an indication of the 60-day period under that
23 section for obtaining such a copy; and

24 “(B) to dispute, under section 611, with a
25 consumer reporting agency the accuracy or

1 completeness of any information in a consumer
2 report furnished by the agency.”.

3 (b) DUTIES OF USERS WHO MAKE CERTAIN CREDIT
4 SOLICITATIONS.—Section 615 of the Fair Credit Report-
5 ing Act (15 U.S.C. 1681m) is amended by adding at the
6 end the following new subsection:

7 “(d) DUTIES OF USERS WHO MAKE WRITTEN CRED-
8 IT SOLICITATIONS ON THE BASIS OF INFORMATION CON-
9 TAINED IN CONSUMER FILES.—

10 “(1) IN GENERAL.—Any person who uses a
11 consumer report on any consumer in connection with
12 any credit transaction which is not initiated by the
13 consumer and which consists of a firm offer of credit
14 shall provide with any written solicitation made to
15 the consumer regarding the transaction a clear and
16 conspicuous statement that—

17 “(A) information contained in the consum-
18 er’s consumer report was used in connection
19 with the transaction;

20 “(B) the consumer received the offer of
21 credit because the consumer satisfied the cri-
22 teria for creditworthiness under which the
23 consumer was selected for the offer;

24 “(C) if applicable, the credit may not be
25 extended if, after the consumer responds to the

1 offer, the consumer does not meet the criteria
2 used to select the consumer for the offer or any
3 applicable criteria bearing on creditworthiness
4 or does not furnish any required collateral;

5 “(D) the consumer has a right to prohibit
6 information contained in the consumer’s file
7 with any consumer reporting agency from being
8 used in connection with any credit transaction
9 which is not initiated by the consumer; and

10 “(E) the consumer may exercise the right
11 referred to in subparagraph (D) by notifying a
12 notification system established under section
13 604(d).

14 “(2) DISCLOSURE OF ADDRESS AND TELE-
15 PHONE NUMBER.—A statement under paragraph (1)
16 shall include the address and toll-free telephone
17 number of the appropriate notification system estab-
18 lished under section 604(d).

19 “(3) MAINTAINING CRITERIA ON FILE.—A per-
20 son who makes an offer of credit to a consumer
21 under a credit transaction described in paragraph
22 (1) shall maintain on file the criteria used to select
23 the consumer to receive the offer, all criteria bearing
24 on creditworthiness that are the basis for determin-
25 ing whether or not to extend credit pursuant to the

1 offer, and any requirement for the furnishing of col-
2 lateral as a condition of the extension of credit, until
3 the end of the 3-year period beginning on the date
4 on which the offer is made to the consumer.

5 “(4) LIMITATION ON APPLICATION.—Paragraph
6 (1) does not apply to the use of a consumer report
7 by a person if—

8 “(A) the person is affiliated by common
9 ownership or by common corporate control with
10 the person who procured the report;

11 “(B) the person who procured the report
12 clearly and conspicuously disclosed to the
13 consumer to whom the report relates, before the
14 report is provided to the person using the re-
15 port, that the report might be provided to and
16 used by other persons who are affiliated in the
17 manner described in subparagraph (A) to the
18 person who procured the report; and

19 “(C) the provision and use of the report
20 is—

21 “(i) consented to by the consumer in
22 writing, or

23 “(ii) with respect to existing cus-
24 tomers, the consumer has been afforded
25 the opportunity to direct in writing that

1 the report may not be provided to or used
2 by persons who are affiliated in the man-
3 ner described in subparagraph (A) and has
4 not done so.”.

5 (c) ADVERSE ACTIONS BY AFFILIATES BASED ON
6 CERTAIN INFORMATION.—Section 615 of the Fair Credit
7 Reporting Act (15 U.S.C. 1681m) is further amended by
8 adding after subsection (d), as added by subsection (b)
9 of this section, the following new subsection:

10 “(e) DUTIES OF AFFILIATES TAKING ADVERSE AC-
11 TIONS BASED ON CERTAIN INFORMATION.—Whenever an
12 adverse action is taken in connection with any transaction
13 initiated by a consumer or any employment determination,
14 which is based in whole or in part on information that
15 was furnished to the user of the information, other than
16 in a consumer report, by a person related by common own-
17 ership or affiliated by common corporate control to the
18 user and that bears upon the consumer’s credit worthi-
19 ness, credit standing, credit capacity, character, general
20 reputation, personal characteristics, or mode of living, the
21 user of the information shall—

22 “(1) notify the consumer in writing of the ac-
23 tion, including a statement that the consumer may
24 obtain the information in accordance with paragraph

1 (2) and may contact the toll-free telephone number
2 required by paragraph (3);

3 “(2) upon a written request from the consumer
4 received within 60 days after transmittal of the no-
5 tice required by paragraph (1), disclose to the
6 consumer in writing the nature of the information
7 on which the adverse action was based by not later
8 than 30 days after receipt of the request; and

9 “(3) make available a toll-free number at which
10 personnel are available to communicate with the
11 consumer regarding the action during normal busi-
12 ness hours.”.

13 (d) CONFORMING AMENDMENT.—Section 615(c) of
14 the Fair Credit Reporting Act (15 U.S.C. 1681m(c)) is
15 amended by striking “subsections (a) and (b)” and insert-
16 ing “this section”.

17 **SEC. 112. AMENDMENTS RELATING TO CIVIL LIABILITY.**

18 (a) CIVIL LIABILITY FOR WILLFUL NONCOMPLI-
19 ANCE, GENERALLY.—Section 616 of the Fair Credit Re-
20 porting Act (15 U.S.C. 1681n) is amended by striking
21 “Any consumer reporting agency or user of information
22 which” and inserting “(a) IN GENERAL.—Any person
23 who”.

24 (b) MINIMUM CIVIL LIABILITY FOR WILLFUL NON-
25 COMPLIANCE.—Section 616(1) of the Fair Credit Report-

1 ing Act (15 U.S.C. 1681n(1)) is amended to read as fol-
2 lows:

3 “(1)(A) any actual damages sustained by the
4 consumer as a result of the failure; or

5 “(B) in the case of liability of a natural person
6 for obtaining a consumer report under false pre-
7 tenses or knowingly without a permissible purpose,
8 such damages or \$1,000, whichever is greater;”.

9 (c) CIVIL LIABILITY FOR NEGLIGENT NONCOMPLI-
10 ANCE.—Section 617 of the Fair Credit Reporting Act (15
11 U.S.C. 1681o) is amended by striking “Any consumer re-
12 porting agency or user of information which” and insert-
13 ing “(a) IN GENERAL.—Any person who”.

14 (d) ATTORNEY’S FEES.—

15 (1) WILLFUL NONCOMPLIANCE.—Section 616
16 of the Fair Credit Reporting Act (15 U.S.C. 1681n)
17 is amended by adding at the end the following:

18 “(b) ATTORNEY’S FEES.—On a finding by the court
19 that an unsuccessful pleading, motion, or other paper filed
20 in connection with an action under this section was filed
21 in bad faith or for purposes of harassment, the court shall
22 award to the prevailing party attorney’s fees reasonable
23 in relation to the work expended in responding to the
24 pleading, motion, or other paper.”.

1 (2) NEGLIGENT NONCOMPLIANCE.—Section
2 617 of the Fair Credit Reporting Act (15 U.S.C.
3 1681o) is amended by adding at the end the follow-
4 ing:

5 “(b) ATTORNEY’S FEES.—On a finding by the court
6 that an unsuccessful pleading, motion, or other paper filed
7 in connection with an action under this section was filed
8 in bad faith or for purposes of harassment, the court shall
9 award to the prevailing party attorney’s fees reasonable
10 in relation to the work expended in responding to the
11 pleading, motion, or other paper.”.

12 **SEC. 113. AMENDMENTS RELATING TO RESPONSIBILITIES**
13 **OF PERSONS WHO FURNISH INFORMATION**
14 **TO CONSUMER REPORTING AGENCIES.**

15 (a) IN GENERAL.—The Fair Credit Reporting Act
16 (15 U.S.C. 1681 et seq.) is amended by redesignating sec-
17 tion 623 as section 624 and inserting after section 622
18 the following new section:

19 **“§623. Responsibilities of furnishers of information**
20 **to consumer reporting agencies**

21 “(a) DUTY OF FURNISHERS OF INFORMATION TO
22 PROVIDE COMPLETE AND ACCURATE INFORMATION.—

23 “(1) PROHIBITIONS.—A person shall not fur-
24 nish any information to any consumer reporting

1 agency if the person knows or should have known
2 the information is incomplete or inaccurate.

3 “(2) DUTY TO CORRECT AND UPDATE INFOR-
4 MATION.—A person who—

5 “(A) regularly and in the ordinary course
6 of business furnishes information to one or
7 more consumer reporting agencies about the
8 person’s transactions or experiences with any
9 consumer; and

10 “(B) has furnished to a consumer report-
11 ing agency information that the person deter-
12 mines is not complete or accurate;

13 shall promptly notify the consumer reporting agency
14 of that determination and provide to the agency any
15 corrections to that information, or any additional in-
16 formation, that is necessary to make the information
17 provided by the person to the agency complete and
18 accurate, and shall not thereafter furnish to the
19 agency any of the information that remains not com-
20 plete or accurate.

21 “(3) DUTY TO PROVIDE NOTICE OF DISPUTE.—

22 If the completeness or accuracy of any information
23 furnished by any person to any consumer reporting
24 agency is disputed to such person by a consumer,
25 the person may not furnish the information to any

1 consumer reporting agency without notice that such
2 information is disputed by the consumer.

3 “(4) DUTY TO PROVIDE NOTICE OF CLOSED AC-
4 COUNTS.—A person who regularly and in the ordi-
5 nary course of business furnishes information to a
6 consumer reporting agency regarding a consumer
7 who has a credit account with that person shall no-
8 tify the agency of the voluntary closure of the ac-
9 count by the consumer, in information regularly fur-
10 nished for the period in which the account is closed.

11 “(5) DUTY TO PROVIDE NOTICE OF DELIN-
12 QUENCY OF ACCOUNTS.—A person who furnishes in-
13 formation to a consumer reporting agency regarding
14 a delinquent account being placed for collection,
15 charged to profit or loss, or subjected to any similar
16 action shall, by not later than 90 days after furnish-
17 ing the information, notify the agency of the month
18 and year of the commencement of the delinquency
19 which immediately preceded the action.

20 “(b) DUTIES OF FURNISHERS OF INFORMATION
21 UPON NOTICE OF DISPUTE.—

22 “(1) IN GENERAL.—After receiving notice pur-
23 suant to section 611(a)(2) of a dispute with regard
24 to the completeness or accuracy of any information

1 provided by a person to a consumer reporting agen-
2 cy, the person shall—

3 “(A) complete an investigation with respect
4 to the disputed information;

5 “(B) review all relevant information pro-
6 vided by the consumer reporting agency pursu-
7 ant to section 611(a)(2);

8 “(C) report the results of the investigation
9 to the consumer reporting agency; and

10 “(D) if the investigation finds that the in-
11 formation is incomplete or inaccurate, report
12 those results to all other consumer reporting
13 agencies to which the person furnished the in-
14 formation.

15 “(2) DEADLINE.—A person shall complete all
16 investigations, reviews, and reports required under
17 paragraph (1) regarding information provided by the
18 person to a consumer reporting agency, before the
19 end of the period under section 611(a)(1) within
20 which the consumer reporting agency is required to
21 complete actions required by that section regarding
22 that information.

23 “(c) LIMITATION ON LIABILITY.—Sections 616 and
24 617 do not apply to any failure to comply with subsection
25 (a), except as provided in section 621(c)(1)(B).”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of the Fair Credit Reporting Act (15
3 U.S.C. 1681a et seq.) is amended by striking the item re-
4 lating to section 623 and inserting the following:

“623. Responsibilities of furnishers of information to consumer reporting agen-
cies.

“624. Relation to State laws.”.

5 **SEC. 114. INVESTIGATIVE CONSUMER REPORTS.**

6 Section 606 of the Fair Credit Reporting Act (15
7 U.S.C. 1681d) is amended—

8 (1) in subsection (a)(1) by striking “or” after
9 the semicolon at the end and inserting “and”;

10 (2) by striking subsection (a)(2) and inserting
11 the following:

12 “(2) the person certifies to the consumer re-
13 porting agency that—

14 “(A) the person has made the disclosures
15 to the consumer required by paragraph (1); and

16 “(B) the person will comply with sub-
17 section (b).”;

18 (3) in subsection (b) by striking “shall” the sec-
19 ond place it appears; and

20 (4) by adding at the end the following:

21 “(d) PROHIBITIONS.—

22 “(1) CERTIFICATION.—A consumer reporting
23 agency shall not prepare or furnish an investigative
24 consumer report unless the agency has received a

1 certification under subsection (a)(2) from the person
2 who requested the report.

3 “(2) INQUIRIES.—A consumer reporting agency
4 shall not make an inquiry for the purpose of prepar-
5 ing a consumer report on a consumer if the making
6 of the inquiry by an employer or prospective em-
7 ployer of the consumer would violate any applicable
8 Federal or State equal employment opportunity law
9 or regulation.

10 “(3) PUBLIC RECORD INFORMATION.—A
11 consumer reporting agency shall not furnish an in-
12 vestigative consumer report which includes informa-
13 tion which is a matter of public record unless the
14 agency has verified the accuracy of the information
15 within the 30-day period ending on the date the re-
16 port is furnished.

17 “(4) CERTAIN ADVERSE INFORMATION.—A
18 consumer reporting agency shall not prepare or fur-
19 nish an investigative consumer report on a consumer
20 that contains information that is adverse to the in-
21 terest of the consumer and that is obtained through
22 a personal interview with a neighbor, friend, or asso-
23 ciate of the consumer or with another person with
24 whom the consumer is acquainted or who has knowl-
25 edge of such item of information, unless—

1 **SEC. 116. ADMINISTRATIVE ENFORCEMENT.**

2 (a) AVAILABLE ENFORCEMENT POWERS.—The 2d
3 sentence of section 621(a) of the Fair Credit Reporting
4 Act (15 U.S.C. 1681s(a)) is amended—

5 (1) by striking “Act and shall be subject to en-
6 forcement by the Federal Trade Commission under
7 section 5(b) thereof with respect to any consumer re-
8 porting agency or person subject to enforcement by
9 the Federal Trade Commission pursuant to this sub-
10 section, irrespective” and inserting “Act. All func-
11 tions and powers of the Federal Trade Commission
12 under the Federal Trade Commission Act shall be
13 available to the Commission to enforce compliance
14 with this title by any person subject to enforcement
15 by the Federal Trade Commission pursuant to this
16 subsection and not subject to enforcement pursuant
17 to section 8 of the Federal Deposit Insurance Act,
18 irrespective”; and

19 (2) by inserting “, including the power to en-
20 force the provisions of this title in the same manner
21 as if the violation had been a violation of any Fed-
22 eral Trade Commission trade regulation rule” before
23 the period.

24 (b) AGENCIES RESPONSIBLE FOR ENFORCEMENT.—
25 Section 621 of the Fair Credit Reporting Act (15 U.S.C.
26 1681s) is amended—

1 (1) in subsection (a), by inserting “ENFORCE-
2 MENT BY FEDERAL TRADE COMMISSION.—” before
3 “Compliance with the requirements”; and

4 (2) in subsection (b), by striking the matter
5 preceding paragraph (1) and inserting the following:

6 “(b) ENFORCEMENT BY OTHER AGENCIES.—Compli-
7 ance with the requirements imposed under this title with
8 respect to consumer reporting agencies, persons who use
9 consumer reports from such agencies, persons who furnish
10 information to such agencies, and users of information
11 who are subject to section 615(e) shall be enforced
12 under—”.

13 **SEC. 117. STATE ENFORCEMENT OF FAIR CREDIT REPORT-**
14 **ING ACT.**

15 Section 621 of the Fair Credit Reporting Act (15
16 U.S.C. 1681s) is amended by redesignating subsection (c)
17 as subsection (d) and inserting after subsection (b) the
18 following new subsection:

19 “(c) STATE ACTION FOR VIOLATIONS.—

20 “(1) AUTHORITY OF STATES.—In addition to
21 such other remedies as are provided under State
22 law, whenever the chief law enforcement officer of a
23 State, or an official or agency designated by a State,
24 has reason to believe that any person has violated or
25 is violating this title, the State—

1 “(A) may bring an action to enjoin such
2 violation in any appropriate United States dis-
3 trict court or in any other court of competent
4 jurisdiction;

5 “(B) may bring an action on behalf of its
6 residents to recover—

7 “(i) damages for which the person is
8 liable to such residents under sections 616
9 and 617 as a result of the violation;

10 “(ii) in the case of a violation of sec-
11 tion 623(a), damages for which the person
12 would, but for section 623(c), be liable to
13 such residents as a result of the violation;
14 or

15 “(iii) damages of not more than
16 \$1,000 for each willful or negligent viola-
17 tion; and

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

22 “(2) RIGHTS OF COMMISSION.—The State shall
23 serve prior written notice of any such action upon
24 the Federal Trade Commission or the appropriate
25 Federal regulator determined under subsection (b)

1 and provide the Commission or appropriate Federal
2 regulator with a copy of its complaint, except in any
3 case where such prior notice is not feasible, in which
4 case the State shall serve such notice immediately
5 upon instituting such action. The Commission or ap-
6 propriate Federal regulator shall have the right (A)
7 to intervene in the action, (B) upon so intervening,
8 to be heard on all matters arising therein, and (C)
9 to file petitions for appeal.

10 “(3) INVESTIGATORY POWERS.—For purposes
11 of bringing any action under this subsection, nothing
12 in this subsection shall prevent the chief law enforce-
13 ment officer, or an official or agency designated by
14 a State, from exercising the powers conferred on the
15 chief law enforcement officer or such official by the
16 laws of such State to conduct investigations or to
17 administer oaths or affirmations or to compel the at-
18 tendance of witnesses or the production of documen-
19 tary and other evidence.

20 “(4) LIMITATION.—Whenever the Federal
21 Trade Commission or the appropriate Federal regu-
22 lator has instituted a civil action for violation of this
23 title, no State may, during the pendency of such ac-
24 tion, bring an action under this section against any
25 defendant named in the complaint of the Commis-

1 sion or the appropriate Federal regulator for any
2 violation of this title that is alleged in that com-
3 plaint.”.

4 **SEC. 118. FEDERAL RESERVE BOARD AUTHORITY.**

5 Section 621 of the Fair Credit Reporting Act (15
6 U.S.C. 1681s), is further amended by adding after sub-
7 section (d) (as redesignated by section 117) the following
8 new subsection:

9 “(e) INTERPRETIVE AUTHORITY.—The Federal Re-
10 serve Board may issue interpretations of any provision of
11 this title as it may apply to any persons identified under
12 subsection (b) (1), (2), and (3), or to the holding compa-
13 nies and affiliates of such persons, in consultation with
14 Federal agencies identified in subsection (b) (1), (2), and
15 (3).”.

16 **SEC. 119. ESTABLISHMENT OF TOLL-FREE TELEPHONE**
17 **NUMBER.**

18 Section 607 of the Fair Credit Reporting Act (15
19 U.S.C. 1681e) is amended by adding after subsection (e)
20 (as added by section 107(c) of this Act) the following new
21 subsection:

22 “(f) ESTABLISHMENT OF TOLL-FREE TELEPHONE
23 NUMBER.—Each consumer reporting agency that com-
24 piles and maintains files on consumers on a nationwide
25 basis shall establish (and thereafter maintain) a toll-free

1 telephone number for the purpose of making agency per-
2 sonnel accessible to consumers for communicating with the
3 agency during normal business hours.”.

4 **SEC. 120. PREEMPTION OF STATE LAW.**

5 Section 624 of the Fair Credit Reporting Act, as re-
6 designated by section 113(a) of this Act, is further amend-
7 ed—

8 (1) by striking “This title” and inserting “(a)
9 IN GENERAL.—Except as provided in subsections
10 (b) and (c), this title”; and

11 (2) by adding at the end the following:

12 “(b) GENERAL EXCEPTIONS.—No requirement or
13 prohibition may be imposed under the laws of any State—

14 “(1) with respect to any subject matter regu-
15 lated under—

16 “(A) subsection (c) or (d) of section 604,
17 relating to the prescreening of consumer re-
18 ports;

19 “(B) section 611, relating to the time by
20 which a consumer reporting agency must take
21 any action, including the provision of notifica-
22 tion to a consumer or other person, in any pro-
23 cedure related to the disputed accuracy of infor-
24 mation in a consumer’s file, except that this
25 subparagraph does not apply to any State law

1 in effect on the date of the enactment of the
2 Consumer Reporting Reform Act of 1994;

3 “(C) section 615(a), relating to the duties
4 of a person who takes any adverse action with
5 respect to a consumer on the basis of informa-
6 tion contained in a consumer report;

7 “(D) section 615(d), relating to the duties
8 of persons who use a consumer report of a
9 consumer in connection with any credit trans-
10 action which is not initiated by the consumer
11 and which consists of a firm offer of credit;

12 “(E) section 605, relating to obsolete in-
13 formation, except that this subparagraph does
14 not apply to any State law in effect on the date
15 of the enactment of the Consumer Reporting
16 Reform Act of 1994; or

17 “(F) section 623(b)(2), relating to the
18 time by which a person must take any action
19 required under section 623(b)(1) with respect
20 to an investigation of information furnished by
21 the person to a consumer reporting agency, ex-
22 cept that this subparagraph does not apply to
23 any State law in effect on the date of the enact-
24 ment of the Consumer Reporting Reform Act of
25 1994;

1 “(2) with respect to the exchange of informa-
2 tion among persons affiliated by common ownership
3 or common corporate control; or

4 “(3) with respect to the form and content of
5 any disclosure required to be made under section
6 609(c).

7 “(c) DEFINITION OF FIRM OFFER OF CREDIT.—Not-
8 withstanding any definition of the term ‘firm offer of cred-
9 it’ (or any equivalent term) under the laws of any State,
10 the definition of that term contained in section 603(l) shall
11 be construed to apply in the enforcement and interpreta-
12 tion of the laws of any State governing consumer reports.

13 “(d) LIMITATIONS.—Subsections (b) and (c)—

14 “(1) do not affect any settlement, agreement, or
15 consent judgment between any State Attorney Gen-
16 eral and any consumer reporting agency in effect on
17 the date of the enactment of the Consumer Report-
18 ing Reform Act of 1994; and

19 “(2) do not apply to any provision of State law
20 (including any provision of a State constitution)
21 that—

22 “(A) is enacted after January 1, 2003;

23 “(B) states explicitly that the provision is
24 intended to supplement this Act; and

1 “(C) gives greater protection to consumers
2 than is provided under this Act.”.

3 **SEC. 121. ACTION BY FTC.**

4 (a) MODIFICATION OF REQUIREMENTS BY FTC AU-
5 THORIZED.—

6 (1) IN GENERAL.—Section 621 of the Fair
7 Credit Reporting Act (15 U.S.C. 1681s), is further
8 amended by adding after subsection (e) (as added by
9 section 118 of this Act) the following:

10 “(f) MODIFICATION OF REQUIREMENTS BY FTC AU-
11 THORIZED.—If it considers such action necessary for the
12 protection of consumers, the Federal Trade Commission
13 may, after consultation with each Federal agency referred
14 to in section 621(b) and with appropriate State regulatory
15 and law enforcement agencies, promulgate regulations in
16 accordance with section 553 of title 5, United States Code,
17 to impose requirements—

18 “(1) that are more stringent than those im-
19 posed under—

20 “(A) section 611, relating to the time by
21 which a consumer reporting agency must take
22 any action, including the provision of notifica-
23 tion to a consumer or other person, in any pro-
24 cedure related to the disputed accuracy of infor-
25 mation in a consumer’s file;

1 “(B) section 615(a), relating to the duties
2 of a person who takes any adverse action with
3 respect to a consumer on the basis of informa-
4 tion contained in a consumer report;

5 “(C) section 615(d), relating to the duties
6 of persons who use a consumer report on a
7 consumer in connection with any credit trans-
8 action which is not initiated by the consumer
9 and that consists of a firm offer of credit; or

10 “(D) section 623(b)(2), relating to the
11 time by which a person must take any action
12 required under section 623(b)(1) with respect
13 to an investigation of information furnished by
14 the person to a consumer reporting agency; and

15 “(2) with respect to the form and content of
16 any disclosure required to be made under section
17 609(c).”.

18 (2) CLERICAL AMENDMENTS.—

19 (A) The heading for section 621 of the
20 Fair Credit Reporting Act (15 U.S.C. 1681s) is
21 amended to read as follows:

22 **“§621. Administrative enforcement and authorities;**
23 **State actions”.**

24 (B) The table of contents at the beginning
25 of the Fair Credit Reporting Act is amended by

1 striking the item relating to section 621 and in-
2 serting the following:

“621. Administrative enforcement and authorities; State actions.”.

3 (b) DEADLINE TO PRESCRIBE MATTERS.—The Fed-
4 eral Trade Commission shall prescribe all matters required
5 by this title (including the amendments made by this title)
6 to be prescribed by that Commission, before the end of
7 the 300-day period beginning on the date of the enactment
8 of this Act.

9 **SEC. 122. EFFECTIVE DATES OF AMENDMENTS.**

10 (a) IN GENERAL.—Except as provided in subsection
11 (b), the amendments made by this title shall be effective
12 after the 455-day period beginning on the date of the en-
13 actment of this Act.

14 (b) EXCEPTIONS.—

15 (1) NOTIFICATION SYSTEM.—Section 604(d)(3)
16 of the Fair Credit Reporting Act, as amended by
17 section 104(a), shall be effective after the 365-day
18 period beginning on the date of the enactment of
19 this Act.

20 (2) FTC AUTHORITY.—Subsection (a) shall not
21 affect the authority of the Federal Trade Commis-
22 sion to prescribe matters under the amendments
23 made by this title.

1 **SEC. 123. FURNISHING CONSUMER REPORTS TO FEDERAL**
2 **BUREAU OF INVESTIGATION FOR COUNTER-**
3 **INTELLIGENCE PURPOSES.**

4 (a) PERMISSIBLE PURPOSE.—Section 604 of the
5 Fair Credit Reporting Act (15 U.S.C. 1681b) is amended
6 in subsection (a) (as designated by section 103(a)(1) of
7 this Act) by adding at the end the following:

8 “(4) To the Federal Bureau of Investigation in re-
9 sponse to a court order issued under section 625.”.

10 (b) REQUIREMENTS FOR FEDERAL BUREAU OF IN-
11 VESTIGATION TO OBTAIN AND USE CONSUMER RE-
12 PORTS.—

13 (1) IN GENERAL.—The Fair Credit Reporting
14 Act (15 U.S.C. 1601 et seq.) is amended by adding
15 at the end the following new section:

16 **“§625. Requirements for Federal Bureau of Inves-**
17 **tigation to obtain and use consumer re-**
18 **ports**

19 “(a) COURT ORDER.—If requested in writing by the
20 Director of the Federal Bureau of Investigation or a des-
21 ignee of the Director, a court may issue an order ex parte
22 directing a consumer reporting agency to furnish a
23 consumer report to the Federal Bureau of Investigation,
24 upon a showing in camera that—

1 “(1) the consumer report is necessary for the
2 conduct of an authorized foreign counterintelligence
3 investigation; and

4 “(2) there are specific and articulable facts giving
5 reason to believe that the consumer whose
6 consumer report is sought—

7 “(A) is an agent of a foreign power; and

8 “(B) is engaging or has engaged in inter-
9 national terrorism (as that term is defined in
10 section 101(c) of the Foreign Intelligence Sur-
11 veillance Act of 1978 (50 U.S.C. 1801(c))) or
12 clandestine intelligence activities that involve or
13 may involve a violation of criminal statutes of
14 the United States.

15 “(b) USE OF CONSUMER REPORTS PROCURED BY
16 FEDERAL BUREAU OF INVESTIGATION.—

17 “(1) LIMITATION ON USE AND FURNISHING OF
18 CONSUMER REPORTS BY FBI.—The Federal Bureau
19 of Investigation—

20 “(A) shall not use a consumer report pro-
21 cured under section 604(a)(4) for any purpose
22 other than the investigation for which the
23 consumer report was procured; and

24 “(B) shall not furnish the consumer report
25 or any information obtained from the consumer

1 report to any other person, except to an officer
2 or employee of the Department of Justice as
3 necessary for approval or conduct of the inves-
4 tigation.

5 “(2) LIMITATION ON FURTHER DISSEMINATION
6 BY DEPARTMENT OF JUSTICE.—An officer or em-
7 ployee of the Department of Justice shall not pro-
8 vide a consumer report or information obtained from
9 a consumer report to any person except for purposes
10 of the investigation for which the consumer report
11 was procured under section 604(a)(4).

12 “(3) NOTIFICATION REGARDING COMPLETION
13 OF INVESTIGATION.—The Federal Bureau of Inves-
14 tigation, within 6 months after the completion of an
15 investigation for which a consumer report is pro-
16 cured under section 604(a)(4), shall notify the
17 consumer reporting agency that furnished the report
18 that the investigation is completed.

19 “(4) FURNISHING INFORMATION PURSUANT TO
20 SUBPOENA, COURT ORDER, OR ENFORCEMENT PRO-
21 CEEDING NOT PROHIBITED.—Nothing in paragraph
22 (1) or (2) shall be construed to prohibit the furnish-
23 ing of information pursuant to a subpoena or court
24 order, or in connection with a court proceeding to
25 enforce this title.

1 “(c) PROHIBITIONS ON DISCLOSURE.—

2 “(1) COURT OFFICER OR EMPLOYEE.—An offi-
3 cer or employee of a court shall not disclose to any
4 person that the Federal Bureau of Investigation has
5 sought or obtained a consumer report under section
6 604(a)(4), except to the court or another officer or
7 employee of the court in connection with the issu-
8 ance of an order under subsection (a) with respect
9 to the report.

10 “(2) CONSUMER REPORTING AGENCY OFFICER
11 OR EMPLOYEE.—An officer or employee of a
12 consumer reporting agency shall not disclose to any
13 person that the Federal Bureau of Investigation has
14 sought or obtained a consumer report under section
15 604(a)(4), except—

16 “(A) for the purpose of furnishing the re-
17 port to the Federal Bureau of Investigation; or

18 “(B) to the court or an officer or employee
19 of the court in connection with the issuance of
20 an order under subsection (a) with respect to
21 the report.

22 “(3) PENALTY.—A person that knowingly and
23 willfully violates paragraph (1) or (2) shall be fined
24 under title 18, United States Code, or imprisoned
25 not more than 2 years, or both.

1 “(d) DISCLOSURE TO CONSUMER.—

2 “(1) NOTICE OF COMPLETION OF INVESTIGA-
3 TION REQUIRED.—Notwithstanding section
4 609(a)(3) and subject to paragraph (2), a consumer
5 reporting agency shall not disclose under that sec-
6 tion the identity of the Federal Bureau of Investiga-
7 tion or that the agency has furnished a consumer re-
8 port to the Federal Bureau of Investigation, unless
9 the consumer reporting agency has received from the
10 Federal Bureau of Investigation a notice under sub-
11 section (b)(3) of the completion of the investigation
12 with respect to which the report was furnished.

13 “(2) DISCLOSURES REQUIRED.—A consumer
14 reporting agency shall include with a disclosure to a
15 consumer under section 609(a) information in its
16 files on the consumer regarding the furnishing of a
17 consumer report to, or the making of any inquiry by,
18 the Federal Bureau of Investigation with respect to
19 an investigation for which the consumer reporting
20 agency received from the Federal Bureau of Inves-
21 tigation a notice of completion of the investigation in
22 the year preceding the request from the consumer
23 for the disclosure.

24 “(e) CIVIL LIABILITY FOR VIOLATIONS.—For each
25 violation of subsection (b) (1) or (2) with respect to a

1 consumer report on a consumer, the Federal Bureau of
2 Investigation or the Department of Justice, respectively,
3 is liable to the consumer for an amount equal to the sum
4 of—

5 “(1) the greater of—

6 “(A) actual damages sustained by the
7 consumer as a result of the violation and such
8 amount of punitive damages as the court may
9 allow; or

10 “(B) \$500; plus

11 “(2) in a successful action to enforce any liabil-
12 ity under this section, the costs of the action and
13 reasonable attorneys’ fees as determined by the
14 court.

15 “(f) INJUNCTIVE RELIEF.—Any person may bring an
16 action to enjoin a violation of this section.

17 “(g) EXCLUSIVE REMEDIES.—No action for relief for
18 a violation of subsection (b) (1) or (2) may be brought
19 except under subsection (e) or (f).

20 “(h) SEMIANNUAL REPORTS.—The Attorney General
21 shall, on a semiannual basis, fully inform the Permanent
22 Select Committee on Intelligence and the Committee on
23 Banking, Finance and Urban Affairs of the House of Rep-
24 resentatives and the Select Committee on Intelligence and
25 the Committee on Banking, Housing, and Urban Affairs

1 of the Senate concerning all requests made by the Director
2 of the Federal Bureau of Investigation or a designee of
3 the Director for a court to issue an order under this sec-
4 tion directing a consumer reporting agency to furnish a
5 consumer report to the Federal Bureau of Investigation.”.

6 (2) CLERICAL AMENDMENT.—The table of sec-
7 tions at the beginning of the Fair Credit Reporting
8 Act (15 U.S.C. 1681a et seq.), as amended by sec-
9 tion 113(b) of this Act, is further amended by add-
10 ing at the end the following:

“625. Requirements for Federal Bureau of Investigation to obtain and use
consumer reports.”.

11 (c) REPEAL OF PROVISIONS.—

12 (1) REPEAL.—The following provisions of the
13 Fair Credit Reporting Act, as amended by this sec-
14 tion, are repealed:

15 (A) Section 604(a)(4).

16 (B) Section 625.

17 (C) In the table of contents at the begin-
18 ning of the Fair Credit Reporting Act, the item
19 relating to section 625.

20 (2) EFFECTIVE DATE.—Paragraph (1) shall
21 take effect on the date that is 5 years after the date
22 of the enactment of this Act.

1 **TITLE II—CREDIT REPAIR**
 2 **ORGANIZATIONS**

3 **SEC. 201. REGULATION OF CREDIT REPAIR ORGANIZA-**
 4 **TIONS.**

5 Title IV of the Consumer Credit Protection Act is
 6 amended to read as follows:

7 **“TITLE IV—CREDIT REPAIR**
 8 **ORGANIZATIONS**

“Sec.

“401. Short title.

“402. Findings and purposes.

“403. Definitions.

“404. Prohibited practices.

“405. Disclosures.

“406. Credit repair organizations contracts.

“407. Right to cancel contract.

“408. Noncompliance with this title.

“409. Civil liability.

“410. Administrative enforcement.

“411. Statute of limitations.

“412. Relation to State law.

“413. Effective date.

9 **“SEC. 401. SHORT TITLE.**

10 “‘This title may be cited as the ‘Credit Repair Organi-
 11 zations Act’.

12 **“SEC. 402. FINDINGS AND PURPOSES.**

13 “(a) FINDINGS.—The Congress makes the following
 14 findings:

15 “(1) Consumers have a vital interest in estab-
 16 lishing and maintaining their creditworthiness and
 17 credit standing in order to obtain and use credit. As
 18 a result, consumers who have experienced credit

1 problems may seek assistance from credit repair or-
2 ganizations which offer to improve the credit stand-
3 ing of such consumers.

4 “(2) Certain advertising and business practices
5 of some companies engaged in the business of credit
6 repair services have worked a financial hardship
7 upon consumers, particularly those of limited eco-
8 nomic means and who are inexperienced in credit
9 matters.

10 “(b) PURPOSES.—The purposes of this title are as
11 follows:

12 “(1) To ensure that prospective buyers of the
13 services of credit repair organizations are provided
14 with the information necessary to make an informed
15 decision regarding the purchase of such services.

16 “(2) To protect the public from unfair or decep-
17 tive advertising and business practices by credit re-
18 pair organizations.

19 **“SEC. 403. DEFINITIONS.**

20 “For purposes of this title—

21 “(1) CONSUMER.—The term ‘consumer’ means
22 an individual.

23 “(2) CONSUMER CREDIT TRANSACTION.—The
24 term ‘consumer credit transaction’ means any trans-
25 action in which credit is offered or extended to an

1 individual for personal, family, or household pur-
2 poses.

3 “(3) CREDIT REPAIR ORGANIZATION.—The
4 term ‘credit repair organization’—

5 “(A) means any person who uses any in-
6 strumentality of interstate commerce or the
7 mails to sell, provide, or perform (or represent
8 that such person can or will sell, provide, or
9 perform) any service, in return for the payment
10 of money or other valuable consideration, for
11 the express or implied purpose of—

12 “(i) improving any consumer’s credit
13 record, credit history, or credit rating; or

14 “(ii) providing advice or assistance to
15 any consumer with regard to any activity
16 or service described in clause (i); and

17 “(B) does not include—

18 “(i) any nonprofit organization which
19 is exempt from taxation under section
20 501(c)(3) of the Internal Revenue Code of
21 1986; or

22 “(ii) any attorney-at-law who is a
23 member of the bar of the highest court of
24 any State or otherwise licensed under the
25 laws of any State, with respect to services

1 rendered which are within the scope of reg-
2 ulations applicable to members of such bar
3 or such licensees.

4 “(4) CREDIT.—The term ‘credit’ has the mean-
5 ing given to such term in section 103(e) of this Act.

6 **“SEC. 404. PROHIBITED PRACTICES.**

7 “(a) IN GENERAL.—No person may—

8 “(1) make any statement, or counsel or advise
9 any consumer to make any statement, which is un-
10 true or misleading (or which, upon the exercise of
11 reasonable care, should be known by the credit re-
12 pair organization, officer, employee, agent, or other
13 person to be untrue or misleading) with respect to
14 any consumer’s creditworthiness, credit standing, or
15 credit capacity to—

16 “(A) any consumer reporting agency (as
17 defined in section 603(f) of this Act); or

18 “(B) any person—

19 “(i) who has extended credit to the
20 consumer; or

21 “(ii) to whom the consumer has ap-
22 plied or is applying for an extension of
23 credit;

24 “(2) make any statement, or counsel or advise
25 any consumer to make any statement, the intended

1 effect of which is to alter the consumer's identifica-
2 tion to prevent the display of the consumer's credit
3 record, history, or rating for the purpose of conceal-
4 ing adverse information that is accurate and not ob-
5 solete to—

6 “(A) any consumer reporting agency;

7 “(B) any person—

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

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

13 “(3) make or use any untrue or misleading rep-
14 resentation of the services of the credit repair orga-
15 nization; or

16 “(4) engage, directly or indirectly, in any act,
17 practice, or course of business that constitutes or re-
18 sults in the commission of, or an attempt to commit,
19 a fraud or deception on any person in connection
20 with the offer or sale of the services of the credit re-
21 pair organization.

22 “(b) PAYMENT IN ADVANCE.—No credit repair orga-
23 nization may charge or receive any money or other valu-
24 able consideration for the performance of any service

1 which the credit repair organization has agreed to perform
2 for any consumer before such service is fully performed.

3 **“SEC. 405. DISCLOSURES.**

4 “(a) DISCLOSURE REQUIRED.—Any credit repair or-
5 ganization shall provide any consumer with the following
6 written statement before any contract or agreement be-
7 tween the consumer and the credit repair organization is
8 executed:

9 **““Consumer Credit File Rights**
10 **Under State and Federal Law**

11 “‘You have a right to dispute inaccurate information
12 in your credit report by contacting the credit bureau di-
13 rectly. However, neither you nor any “credit repair” com-
14 pany or credit repair organization has the right to have
15 accurate, current, and verifiable information removed
16 from your credit report. The credit bureau must remove
17 accurate, negative information from your report only if it
18 is over 7 years old. Bankruptcy information can be re-
19 ported for 10 years.

20 “‘You have a right to obtain a copy of your credit
21 report from a credit bureau. You may be charged a rea-
22 sonable fee. There is no fee, however, if you have been
23 turned down for credit, employment, insurance, or a rental
24 dwelling because of information in your credit report with-
25 in the preceding 60 days. The credit bureau must provide

1 someone to help you interpret the information in your
2 credit file. You are entitled to receive a free copy of your
3 credit report if you are unemployed and intend to apply
4 for employment in the next 60 days, if you are a recipient
5 of public welfare assistance, or if you have reason to be-
6 lieve that there is inaccurate information in your credit
7 report due to fraud.

8 “‘You have a right to sue a credit repair organization
9 that violates the Credit Repair Organization Act. This law
10 prohibits deceptive practices by credit repair organiza-
11 tions.

12 “‘You have the right to cancel your contract with any
13 credit repair organization for any reason within 3 business
14 days from the date you signed it.

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 that you dispute the accuracy of information in
20 your credit file. The credit bureau must then reinvestigate
21 and modify or remove inaccurate or incomplete informa-
22 tion. The credit bureau may not charge any fee for this
23 service. Any pertinent information and copies of all docu-
24 ments you have concerning an error should be given to
25 the credit bureau.

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

8 “‘The Federal Trade Commission regulates credit
9 bureaus and credit repair organizations. For more infor-
10 mation contact:

11 The Public Reference Branch
12 Federal Trade Commission
13 Washington, D.C. 20580’.

14 “(b) SEPARATE STATEMENT REQUIREMENT.—The
15 written statement required under this section shall be pro-
16 vided as a document which is separate from any written
17 contract or other agreement between the credit repair or-
18 ganization and the consumer or any other written material
19 provided to the consumer.

20 “(c) RETENTION OF COMPLIANCE RECORDS.—

21 “(1) IN GENERAL.—The credit repair organiza-
22 tion shall maintain a copy of the statement signed
23 by the consumer acknowledging receipt of the state-
24 ment.

1 “(2) MAINTENANCE FOR 2 YEARS.—The copy
2 of any consumer’s statement shall be maintained in
3 the organization’s files for 2 years after the date on
4 which the statement is signed by the consumer.

5 **“SEC. 406. CREDIT REPAIR ORGANIZATIONS CONTRACTS.**

6 “(a) WRITTEN CONTRACTS REQUIRED.—No services
7 may be provided by any credit repair organization for any
8 consumer—

9 “(1) unless a written and dated contract (for
10 the purchase of such services) which meets the re-
11 quirements of subsection (b) has been signed by the
12 consumer; or

13 “(2) before the end of the 3-business-day period
14 beginning on the date the contract is signed.

15 “(b) TERMS AND CONDITIONS OF CONTRACT.—No
16 contract referred to in subsection (a) meets the require-
17 ments of this subsection unless such contract includes the
18 following information (in writing):

19 “(1) The terms and conditions of payment, in-
20 cluding the total amount of all payments to be made
21 by the consumer to the credit repair organization or
22 to any other person.

23 “(2) A full and detailed description of the serv-
24 ices to be performed by the credit repair organiza-
25 tion for the consumer, including—

1 “(A) all guarantees of performance; and

2 “(B) an estimate of—

3 “(i) the date by which the perform-
4 ance of the services (to be performed by
5 the credit repair organization or any other
6 person) will be complete; or

7 “(ii) the length of the period nec-
8 essary to perform such services.

9 “(3) The credit repair organization’s name and
10 principal business address.

11 “(4) A conspicuous statement in bold face type,
12 in immediate proximity to the space reserved for the
13 consumer’s signature on the contract, which reads as
14 follows: ‘You may cancel this contract without pen-
15 alty or obligation at any time before midnight of the
16 3rd business day after the date on which you signed
17 the contract. See the attached notice of cancellation
18 form for an explanation of this right.’.

19 **“SEC. 407. RIGHT TO CANCEL CONTRACT.**

20 “(a) IN GENERAL.—Any consumer may cancel any
21 contract with any credit repair organization without pen-
22 alty or obligation by notifying the credit repair organiza-
23 tion of the consumer’s intention to do so at any time be-
24 fore midnight of the 3rd business day which begins after
25 the date on which the contract or agreement between the

1 consumer and the credit repair organization is executed
2 or would, but for this subsection, become enforceable
3 against the parties.

4 “(b) CANCELLATION FORM AND OTHER INFORMA-
5 TION.—Each contract shall be accompanied by a form, in
6 duplicate, which has the heading ‘Notice of Cancellation’
7 and contains in bold face type the following statement:

8 “‘You may cancel this contract, without any
9 penalty or obligation, at any time before midnight of
10 the 3rd day which begins after the date the contract
11 is signed by you.

12 “‘To cancel this contract, mail or deliver a
13 signed, dated copy of this cancellation notice, or any
14 other written notice to [name of credit repair
15 organization] at [address of credit repair
16 organization] before midnight on [date]

17 “‘I hereby cancel this transaction,
18 [date]
19 [purchaser’s signature].’.

20 “(c) CONSUMER COPY OF CONTRACT REQUIRED.—
21 Any consumer who enters into any contract with any cred-
22 it repair organization shall be given, by the organization—

23 “(1) a copy of the completed contract and the
24 disclosure statement required under section 405; and

1 “(2) a copy of any other document the credit
2 repair organization requires the consumer to sign,
3 at the time the contract or the other document is signed.

4 **“SEC. 408. NONCOMPLIANCE WITH THIS TITLE.**

5 “(a) CONSUMER WAIVERS INVALID.—Any waiver by
6 any consumer of any protection provided by or any right
7 of the consumer under this title—

8 “(1) shall be treated as void; and

9 “(2) may not be enforced by any Federal or
10 State court or any other person.

11 “(b) ATTEMPT TO OBTAIN WAIVER.—Any attempt
12 by any person to obtain a waiver from any consumer of
13 any protection provided by or any right of the consumer
14 under this title shall be treated as a violation of this title.

15 “(c) CONTRACTS NOT IN COMPLIANCE.—Any con-
16 tract for services which does not comply with the applica-
17 ble provisions of this title—

18 “(1) shall be treated as void; and

19 “(2) may not be enforced by any Federal or
20 State court or any other person.

21 **“SEC. 409. CIVIL LIABILITY.**

22 “(a) LIABILITY ESTABLISHED.—Any person who
23 fails to comply with any provision of this title with respect
24 to any other person shall be liable to such person in an

1 amount equal to the sum of the amounts determined
2 under each of the following paragraphs:

3 “(1) ACTUAL DAMAGES.—The greater of—

4 “(A) the amount of any actual damage
5 sustained by such person as a result of such
6 failure; or

7 “(B) any amount paid by the person to the
8 credit repair organization.

9 “(2) PUNITIVE DAMAGES.—

10 “(A) INDIVIDUAL ACTIONS.—In the case of
11 any action by an individual, such additional
12 amount as the court may allow.

13 “(B) CLASS ACTIONS.—In the case of a
14 class action, the sum of—

15 “(i) the aggregate of the amount
16 which the court may allow for each named
17 plaintiff; and

18 “(ii) the aggregate of the amount
19 which the court may allow for each other
20 class member, without regard to any mini-
21 mum individual recovery.

22 “(3) ATTORNEYS’ FEES.—In the case of any
23 successful action to enforce any liability under para-
24 graph (1) or (2), the costs of the action, together
25 with reasonable attorneys’ fees.

1 “(b) FACTORS TO BE CONSIDERED IN AWARDING
2 PUNITIVE DAMAGES.—In determining the amount of any
3 liability of any credit repair organization under subsection
4 (a)(2), the court shall consider, among other relevant fac-
5 tors—

6 “(1) the frequency and persistence of non-
7 compliance by the credit repair organization;

8 “(2) the nature of the noncompliance;

9 “(3) the extent to which such noncompliance
10 was intentional; and

11 “(4) in the case of any class action, the number
12 of consumers adversely affected.

13 **“SEC. 410. ADMINISTRATIVE ENFORCEMENT.**

14 “(a) IN GENERAL.—Compliance with the require-
15 ments imposed under this title with respect to credit repair
16 organizations shall be enforced under the Federal Trade
17 Commission Act by the Federal Trade Commission.

18 “(b) VIOLATIONS OF THIS TITLE TREATED AS VIO-
19 LATIONS OF FEDERAL TRADE COMMISSION ACT.—

20 “(1) IN GENERAL.—For the purpose of the ex-
21 ercise by the Federal Trade Commission of the Com-
22 mission’s functions and powers under the Federal
23 Trade Commission Act, any violation of any require-
24 ment or prohibition imposed under this title with re-
25 spect to credit repair organizations shall constitute

1 an unfair or deceptive act or practice in commerce
2 in violation of section 5(a) of the Federal Trade
3 Commission Act.

4 “(2) ENFORCEMENT AUTHORITY UNDER OTHER
5 LAW.—All functions and powers of the Federal
6 Trade Commission under the Federal Trade Com-
7 mission Act shall be available to the Commission to
8 enforce compliance with this title by any person sub-
9 ject to enforcement by the Federal Trade Commis-
10 sion pursuant to this subsection, including the power
11 to enforce the provisions of this title in the same
12 manner as if the violation had been a violation of
13 any Federal Trade Commission trade regulation
14 rule, without regard to whether the credit repair or-
15 ganization—

16 “(A) is engaged in commerce; or

17 “(B) meets any other jurisdictional tests in
18 the Federal Trade Commission Act.

19 “(c) STATE ACTION FOR VIOLATIONS.—

20 “(1) AUTHORITY OF STATES.—In addition to
21 such other remedies as are provided under State
22 law, whenever the chief law enforcement officer of a
23 State, or an official or agency designated by a State,
24 has reason to believe that any person has violated or
25 is violating this title, the State—

1 “(A) may bring an action to enjoin such
2 violation;

3 “(B) may bring an action on behalf of its
4 residents to recover damages for which the per-
5 son is liable to such residents under section 409
6 as a result of the violation; and

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

11 “(2) RIGHTS OF COMMISSION.—

12 “(A) NOTICE TO COMMISSION.—The State
13 shall serve prior written notice of any civil ac-
14 tion under paragraph (1) upon the Federal
15 Trade Commission and provide the Commission
16 with a copy of its complaint, except in any case
17 where such prior notice is not feasible, in which
18 case the State shall serve such notice imme-
19 diately upon instituting such action.

20 “(B) INTERVENTION.—The Commission
21 shall have the right—

22 “(i) to intervene in any action re-
23 ferred to in subparagraph (A);

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

1 “(iii) to file petitions for appeal.

2 “(3) INVESTIGATORY POWERS.—For purposes
3 of bringing any action under this subsection, nothing
4 in this subsection shall prevent the chief law enforce-
5 ment officer, or an official or agency designated by
6 a State, from exercising the powers conferred on the
7 chief law enforcement officer or such official by the
8 laws of such State to conduct investigations or to
9 administer oaths or affirmations or to compel the at-
10 tendance of witnesses or the production of documen-
11 tary and other evidence.

12 “(4) LIMITATION.—Whenever the Federal
13 Trade Commission has instituted a civil action for
14 violation of this title, no State may, during the pend-
15 ency of such action, bring an action under this sec-
16 tion against any defendant named in the complaint
17 of the Commission for any violation of this title that
18 is alleged in that complaint.

19 **“SEC. 411. STATUTE OF LIMITATIONS.**

20 “Any action to enforce any liability under this title
21 may be brought before the later of—

22 “(1) the end of the 2-year period beginning on
23 the date of the occurrence of the violation involved;
24 or

1 “(2) in any case in which any credit repair or-
2 ganization has materially and willfully misrepre-
3 sented any information which—

4 “(A) the credit repair organization is re-
5 quired, by any provision of this title, to disclose
6 to any consumer; and

7 “(B) is material to the establishment of
8 the credit repair organization’s liability to the
9 consumer under this title,
10 the end of the 2-year period beginning on the date
11 of the discovery by the consumer of the misrepresen-
12 tation.

13 **“SEC. 412. RELATION TO STATE LAW.**

14 “‘This title shall not annul, alter, affect, or exempt
15 any person subject to the provisions of this title from com-
16 plying with any law of any State except to the extent that
17 such law is inconsistent with any provision of this title,
18 and then only to the extent of the inconsistency.

19 **“SEC. 413. EFFECTIVE DATE.**

20 “‘This title shall apply after the end of the 6-month
21 period beginning on the date of the enactment of the Cred-
22 it Repair Organizations Act, except with respect to con-

- 1 tracts entered into by a credit repair organization before
- 2 the end of such period.”.

Passed the House of Representatives June 13, 1994.

Attest:

Clerk.

103^D CONGRESS
2^D SESSION

H. R. 1015

AN ACT

To amend the Fair Credit Reporting Act to assure the completeness and accuracy of consumer information maintained by credit reporting agencies, to better inform consumers of their rights under the Act, and to improve enforcement, and for other purposes.