

103^D CONGRESS
1ST SESSION

H. R. 1015

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.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 18, 1993

Mr. TORRES (for himself and Mr. GONZALEZ, Mr. KENNEDY, Mr. SCHUMER, Mr. GUTIERREZ, Mr. RUSH, Ms. ROYBAL-ALLARD, Mr. BARRETT of Wisconsin, Ms. FURSE, Ms. VELÁZQUEZ, Mr. WYNN, Mr. WATT, Mr. HINCHEY, Mr. FLAKE, Ms. WATERS and Mrs. MALONEY) introduced the following bill; which was referred to the Committee on Banking, Finance and Urban Affairs

NOVEMBER 18, 1993

Additional sponsors: Mrs. JOHNSON of Connecticut, Mr. FIELDS of Louisiana, Mr. BILBRAY, Mr. MAZZOLI, Mr. BARLOW, Mr. SMITH of New Jersey, Mr. FRANK of Massachusetts, Mr. RICHARDSON, Mr. SHAYS, Ms. PELOSI, Mr. FILNER, Mr. KLECZKA, and Mr. ENGEL

A BILL

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,*

1 **TITLE I—AMENDMENTS TO FAIR**
2 **CREDIT REPORTING ACT**

3 **SEC. 101. SHORT TITLE.**

4 This title may be cited as the “Consumer Reporting
5 Reform Act of 1993”.

6 **SEC. 102. DEFINITIONS.**

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

10 “(j) The term ‘adverse action’—

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

14 “(2) includes—

15 “(A) any denial of, increase in any charge
16 for, or reduction in the amount of, insurance
17 for personal, family, or household purposes
18 made in connection with the underwriting of in-
19 surance;

20 “(B) any denial of employment or any
21 other decision for employment purposes which
22 adversely affects any current or prospective em-
23 ployee; and

24 “(C) any action taken or determination
25 made—

1 “(i) in connection with an application
2 which was made by, or a transaction which
3 was initiated by, any consumer; and

4 “(ii) which is adverse to the interest
5 of the consumer.”.

6 (b) FIRM OFFER OF CREDIT.—Section 603 of the
7 Fair Credit Reporting Act (15 U.S.C. 1681a) is further
8 amended by adding after subsection (j) (as added by sub-
9 section (a) of this section) the following:

10 “(k) The term ‘firm offer of credit’ means any offer
11 of credit to a consumer that will be honored if, based on
12 information in a consumer report on the consumer and
13 other information bearing on the creditworthiness of the
14 consumer obtained from the consumer’s application for
15 such credit, the consumer is determined to meet the spe-
16 cific criteria used to select the consumer for the offer.”.

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

22 “(l) The term ‘credit transaction which is not initi-
23 ated by the consumer’ does not include the use of a
24 consumer report by a person with which the consumer has
25 an account, for purposes of—

1 “(1) reviewing the account; or

2 “(2) collecting the account.”.

3 (d) STATE.—Section 603 of the Fair Credit Report-
4 ing Act (15 U.S.C. 1681a) is further amended by adding
5 after subsection (l) (as added by subsection (c) of this sec-
6 tion) the following:

7 “(m) The term ‘State’ means any State, the Com-
8 monwealth of Puerto Rico, the District of Columbia, and
9 any territory or possession of the United States.”.

10 (e) CLERICAL AMENDMENT.—Section 603(d) of the
11 Fair Credit Reporting Act (15 U.S.C. 1681a(d)) is
12 amended in the first sentence—

13 (1) by inserting “(1)” after “in whole or in part
14 for”; and

15 (2) by striking “(1)” before “credit or insur-
16 ance”.

17 **SEC. 103. FURNISHING CONSUMER REPORTS; USE FOR EM-**
18 **PLOYMENT PURPOSES.**

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

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

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

4 “(E) otherwise has a legitimate business
5 need for the information in connection with a
6 business transaction that is initiated by the
7 consumer.”.

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

12 “(b) CONDITIONS FOR FURNISHING AND USING
13 CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.—

14 “(1) CERTIFICATION FROM USER.—A consumer
15 reporting agency may furnish a consumer report for
16 employment purposes only if—

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

19 “(i) the disclosure required under
20 paragraph (2) or (3), as the case may be,
21 with respect to such consumer report has
22 been made; and

23 “(ii) information from the consumer
24 report will not be used in violation of any

1 applicable Federal or State equal employ-
2 ment opportunity law or regulation; and

3 “(B) the consumer reporting agency pro-
4 vides with the report a summary of the consum-
5 er’s rights under this title, as prescribed by the
6 Federal Trade Commission under section
7 609(c)(3).

8 “(2) DISCLOSURE TO CONSUMER.—A person
9 may not procure a consumer report, or cause a
10 consumer report to be procured, for employment
11 purposes with respect to any consumer unless—

12 “(A) a clear and conspicuous disclosure
13 has been made in writing to the consumer be-
14 fore the report is procured or caused to be pro-
15 cured, in a document that consists solely of the
16 disclosure, that a consumer report may be ob-
17 tained for employment purposes; and

18 “(B) the consumer authorizes in writing
19 the procurement of the report.

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

25 “(A) a copy of the report;

1 “(B) a description of the consumer’s rights
2 under this title, as prescribed by the Federal
3 Trade Commission under section 609(c)(3); and

4 “(C) a reasonable opportunity to respond
5 to any information in the report that is dis-
6 puted by the consumer.”.

7 **SEC. 104. AMENDMENTS RELATING TO PRESCREENING OF**
8 **CONSUMER REPORTS; PROHIBITION ON UN-**
9 **AUTHORIZED OR UNCERTIFIED USE OF IN-**
10 **FORMATION.**

11 (a) IN GENERAL.—Section 604 of the Fair Credit
12 Reporting Act (15 U.S.C. 1681b), as amended by section
13 103, is further amended—

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

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

19 “(c) FURNISHING REPORTS IN CONNECTION WITH
20 CREDIT TRANSACTIONS NOT INITIATED BY THE
21 CONSUMER.—

22 “(1) IN GENERAL.—A consumer reporting
23 agency may furnish a consumer report relating to
24 any consumer pursuant to subsection (a)(3)(A) in

1 connection with any credit transaction which is not
2 initiated by the consumer only if—

3 “(A) the consumer authorizes the agency
4 to provide such report to such person; or

5 “(B)(i) the transaction consists of a firm
6 offer of credit;

7 “(ii) the consumer reporting agency has
8 complied with subsection (d); and

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

14 “(2) LIMITS ON INFORMATION RECEIVED
15 UNDER PARAGRAPH (1)(B).—A person may receive
16 pursuant to paragraph (1)(B) only—

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

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

22 “(3) INFORMATION REGARDING INQUIRIES.—
23 Except as provided in section 609(a)(4), a consumer
24 reporting agency shall not furnish to any person a

1 record of inquiries in connection with credit trans-
2 actions which are not initiated by a consumer.

3 “(d) ELECTION OF CONSUMER TO BE EXCLUDED
4 FROM LISTS.—

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

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

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

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

1 “(3) NOTIFICATION SYSTEM.—Each consumer
2 reporting agency which furnishes a consumer report
3 in connection with any credit transaction which is
4 not initiated by a consumer, shall—

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

14 “(B) publish by not later than 12 months
15 after the date of the enactment of the
16 Consumer Reporting Reform Act of 1993, and
17 at least annually thereafter, in a publication of
18 general circulation in the area served by the
19 agency—

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

24 “(ii) the address and toll-free tele-
25 phone number for consumers to use to no-

1 tify the agency of the consumer’s election
2 under subparagraph (A).

3 Establishment and maintenance of a notification
4 system and publication by a consumer reporting
5 agency on its own behalf and on behalf of any of its
6 affiliates in accordance with this paragraph is
7 deemed to be in compliance with this paragraph by
8 each of those affiliates.

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

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

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

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

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

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

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.—A consumer reporting agency may not furnish a
19 consumer report for use for a direct marketing transaction
20 that is not initiated by the consumer to whom the report
21 relates.”.

22 (c) USE OF INFORMATION OBTAINED FROM RE-
23 PORTS.—Section 604 of the Fair Credit Reporting Act (15
24 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. AMENDMENTS RELATING TO OBSOLETE INFOR-**
19 **MATION AND INFORMATION CONTAINED IN**
20 **CONSUMER REPORTS.**

21 (a) REPEAL LARGE-DOLLAR EXCEPTIONS.—Section
22 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c)
23 is amended—

24 (1) in subsection (a) by striking “(a) Except as
25 authorized under subsection (b), no” and inserting

1 “(a) INFORMATION EXCLUDED FROM CONSUMER
2 REPORTS.—No”;

3 (2) by striking subsection (b).

4 (b) CLARIFICATION OF REPORTING PERIOD.—Sec-
5 tion 605 of the Fair Credit Reporting Act (15 U.S.C.
6 1681c), as amended by subsection (a), is further amended
7 by adding at the end the following new subsection:

8 “(b) RUNNING OF REPORTING PERIOD.—The 7-year
9 period referred to in paragraphs (4) and (6) of subsection
10 (a) shall begin, with respect to any delinquent account
11 which is placed for collection (internally or by referral to
12 a 3d party, whichever is earlier), charged to profit and
13 loss, or subjected to any similar action, upon the expira-
14 tion of the 180-day period beginning on the date of the
15 commencement of the delinquency which immediately pre-
16 ceded the collection activity, charge to profit and loss, or
17 similar action.”.

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

23 “(c) INFORMATION REQUIRED TO BE DISCLOSED.—
24 Any consumer reporting agency which furnishes a
25 consumer report which contains information regarding

1 any case involving the consumer which arises under title
2 11, United States Code, shall include in the report an
3 identification of the chapter of such title 11 under which
4 such case arises if provided by the source of the informa-
5 tion.”.

6 (d) INDICATION OF CLOSURE OF ACCOUNT.—Section
7 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c)
8 is further amended by adding after subsection (c) (as
9 added by subsection (c) of this section) the following new
10 subsection:

11 “(d) INDICATION OF CLOSURE OF ACCOUNT BY
12 CONSUMER.—If a consumer reporting agency is notified
13 pursuant to section 622(a)(4) that a credit account of a
14 consumer was closed by the consumer with no outstanding
15 balance, the agency shall indicate that the consumer closed
16 the account in good standing in any consumer report that
17 includes information related to the account.”.

18 (e) CLERICAL AMENDMENTS.—

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

24 (2) The table of sections at the beginning of the
25 Fair Credit Reporting Act (15 U.S.C. 1681a et seq.)

1 is amended by striking the item relating to section
2 605 and inserting the following:

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

3 **SEC. 106. AMENDMENTS RELATING TO COMPLIANCE PRO-**
4 **CEDURES.**

5 (a) DISCLOSURE OF CONSUMER REPORTS BY
6 USERS.—Section 607 of the Fair Credit Reporting Act
7 (15 U.S.C. 1681e) is amended by adding at the end the
8 following new subsection:

9 “(c) DISCLOSURE OF CONSUMER REPORTS BY
10 USERS ALLOWED.—A consumer reporting agency may not
11 prohibit a user of a consumer report furnished by the
12 agency on a consumer from disclosing the contents of the
13 report to the consumer, if adverse action against the
14 consumer has been taken, or is contemplated, by the user
15 based in whole or in part on the report.”.

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

21 “(d) NOTICE TO USERS AND FURNISHERS OF INFOR-
22 MATION.—

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

1 “(A) who regularly and in the ordinary
2 course of business furnishes information to the
3 agency with respect to any consumer; or

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

6 a notice of such person’s responsibilities under this
7 title.

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

11 (c) RECORD OF IDENTITY OF USERS AND PURPOSES
12 CERTIFIED BY USERS OF REPORTS.—Section 607 of the
13 Fair Credit Reporting Act (15 U.S.C. 1681e) is further
14 amended by adding after subsection (d) (as added by sub-
15 section (b) of this section) the following new subsection:

16 “(e) PROCUREMENT OF CONSUMER REPORT FOR RE-
17 SALE.—

18 “(1) DISCLOSURE.—A person may not procure
19 a consumer report for purposes of reselling the re-
20 port (or any information in the report) unless the
21 person discloses to the consumer reporting agency
22 which originally furnishes the report—

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

1 “(B) each permissible purpose under sec-
2 tion 604 for which the report is furnished to
3 the ultimate end-user of the report (or informa-
4 tion).

5 “(2) RESPONSIBILITIES OF PROCURERS FOR
6 RESALE.—A person which procures a consumer re-
7 port for purposes of reselling the report (or any in-
8 formation in the report) shall—

9 “(A) establish and comply with reasonable
10 procedures designed to ensure that the report
11 (or information) is resold by the person only for
12 a purpose for which the report may be fur-
13 nished under section 604, including by ensuring
14 that the person—

15 “(i) identifies each prospective user of
16 the resold report (or information);

17 “(ii) certifies each purpose for which
18 the report (or information) will be used;
19 and

20 “(iii) certifies that the report (or in-
21 formation) will be used for no other pur-
22 pose; and

23 “(B) before reselling the report, makes
24 reasonable efforts to verify the identifications

1 and certifications made under subparagraph
2 (A).”.

3 **SEC. 107. AMENDMENTS RELATING TO CONSUMER DISCLO-**
4 **SURES.**

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

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

11 (b) MORE INFORMATION CONCERNING RECIPIENTS
12 OF REPORTS REQUIRED.—Section 609(a)(3) of the Fair
13 Credit Reporting Act (15 U.S.C. 1681g(a)) is amended
14 to read as follows:

15 “(3)(A) Identification of each person (including
16 each ultimate end-user identified under section
17 607(e)(1)) who procured a consumer report—

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

20 “(ii) for any other purpose within the 6-
21 month period preceding the request.

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

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

4 “(ii) upon request of the consumer, the ad-
5 dress of the person.”.

6 (c) DISCLOSURE OF PERMISSIBLE PURPOSES.—Sec-
7 tion 609(a) of the Fair Credit Reporting Act (15 U.S.C.
8 1681g(a)) is further amended by adding at the end the
9 following:

10 “(4) The permissible purpose for which each
11 person identified under paragraph (3) procured a
12 consumer report.”.

13 (d) INFORMATION REGARDING INQUIRIES.—Section
14 609(a) of the Fair Credit Reporting Act (15 U.S.C.
15 1681g(a)) is amended by adding after paragraph (4) (as
16 added by subsection (d) of this section) the following:

17 “(5) A record of all inquiries received by the
18 agency in the 6-month period preceding the request
19 that identified the consumer in connection with a
20 credit transaction which was not initiated by the
21 consumer.”.

22 (e) SUMMARY OF RIGHTS REQUIRED TO BE IN-
23 CLUDED WITH DISCLOSURE.—

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

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

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

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

12 “(B) in the case of a consumer reporting
13 agency that compiles and maintains files on
14 consumers on a nationwide basis, a toll-free
15 telephone number which the consumer can use
16 to communicate with the agency.

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

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

22 “(B) an explanation of how the consumer
23 may exercise the rights of the consumer under
24 this title;

1 “(C) a list of all Federal agencies respon-
2 sible for enforcing any provision of this title
3 and the address and any appropriate phone
4 number of each such agency, in a form that will
5 assist the consumer in selecting the appropriate
6 agency; and

7 “(D) a statement that a consumer report-
8 ing agency is not required to remove accurate
9 derogatory information from a consumer’s file,
10 unless the information is outdated under sec-
11 tion 605 or cannot be verified.

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

20 (2) TECHNICAL AMENDMENT.—Section
21 606(a)(1)(B) of the Fair Credit Reporting Act (15
22 U.S.C. 1681d(a)(1)(B)) is amended by inserting
23 “and the written summary of the rights of the
24 consumer prepared pursuant to section 609(c)” be-
25 fore the semicolon.

1 (f) FORM OF DISCLOSURES.—

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

5 “(a) FORM OF DISCLOSURE, GENERALLY.—Except
6 as provided in subsection (b), the disclosures required to
7 be made under section 609 shall be provided to a
8 consumer in writing.

9 “(b) OTHER FORMS OF DISCLOSURE.—

10 “(1) IN GENERAL.—A consumer reporting
11 agency may make the disclosures required under sec-
12 tion 609 other than in writing if authorized by the
13 consumer, and in such form as may be specified by
14 the consumer and available from the agency.

15 “(2) FORM.—A consumer may specify pursuant
16 to paragraph (1) that disclosures under section 609
17 shall be made—

18 “(A) in person, upon—

19 “(i) the appearance of the consumer
20 at the place of business of the consumer
21 reporting agency where disclosures are reg-
22 ularly provided, during normal business
23 hours, and on reasonable notice; and

24 “(ii) the furnishing of proper identi-
25 fication by the consumer;

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

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

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

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

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

18 (3) CONFORMING AMENDMENTS.—

19 (A) Section 610 of the Fair Credit Report-
20 ing Act (15 U.S.C. 1681h) is amended in the
21 heading for the section by inserting “**and**
22 **form**” after “**Conditions**”.

23 (B) The table of sections at the beginning
24 of the Fair Credit Reporting Act (15 U.S.C.
25 1681a et seq.) is amended in the item relating

1 to section 610 by inserting “and form” after
2 “Conditions”.

3 **SEC. 108. AMENDMENTS RELATING TO PROCEDURES IN**
4 **CASE OF THE DISPUTED ACCURACY OF ANY**
5 **INFORMATION IN A CONSUMER’S FILE.**

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

9 “(a) REINVESTIGATIONS OF DISPUTED INFORMA-
10 TION.—

11 “(1) IN GENERAL.—If the completeness or ac-
12 curacy of any item of information contained in any
13 consumer’s file at any consumer reporting agency is
14 disputed by the consumer and the consumer notifies
15 the agency directly of such dispute, the agency shall
16 reinvestigate free of charge and record the current
17 status of the disputed information, or delete the
18 item from the file in accordance with paragraph (5),
19 before the end of the 30-day period beginning on the
20 date the agency receives the notice of the dispute
21 from the consumer.

22 “(2) PROMPT NOTICE OF DISPUTE TO FUR-
23 NISHER OF INFORMATION.—

24 “(A) IN GENERAL.—Before the end of the
25 5-day period beginning on the date a consumer

1 reporting agency receives notice of a dispute
2 from any consumer in accordance with para-
3 graph (1), the agency shall provide notification
4 of the dispute to any person that provided any
5 item of information in dispute, at the address
6 and in the manner established with the person.
7 The notice shall include disclosure of the date
8 on which the consumer reporting agency re-
9 ceived notice of the dispute from the consumer
10 and all relevant information regarding the dis-
11 pute that the agency has received from the
12 consumer.

13 “(B) PROVISION OF OTHER INFORMATION
14 FROM CONSUMER.—The consumer reporting
15 agency shall promptly provide to the person
16 that provided the information in dispute all rel-
17 evant information regarding the dispute that is
18 received by the agency from the consumer after
19 the period referred to in subparagraph (A) and
20 before the end of the period referred to in para-
21 graph (1).

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

24 “(A) IN GENERAL.—Notwithstanding para-
25 graph (1), a consumer reporting agency may

1 terminate a reinvestigation of information dis-
2 puted by a consumer under that paragraph if
3 the agency determines that the dispute by the
4 consumer is frivolous or irrelevant, including by
5 reason of a failure by a consumer to provide
6 sufficient information to investigate the dis-
7 puted information.

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

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

18 “(i) the reasons for the determination
19 under subparagraph (A); and

20 “(ii) identification of any information
21 required to investigate the disputed infor-
22 mation.

23 “(4) CONSIDERATION OF CONSUMER INFORMA-
24 TION.—In conducting any reinvestigation under
25 paragraph (1) with respect to disputed information

1 in the file of any consumer, the consumer reporting
2 agency shall review and consider all relevant infor-
3 mation submitted by the consumer in the period de-
4 scribed in paragraph (1) with respect to such dis-
5 puted information.

6 “(5) TREATMENT OF INACCURATE OR UNVERIFI-
7 FIABLE INFORMATION.—

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

19 “(B) REQUIREMENTS RELATING TO
20 REINSERTION OF PREVIOUSLY DELETED MATE-
21 RIAL.—

22 “(i) CERTIFICATION OF ACCURACY OF
23 INFORMATION.—If any information is de-
24 leted from a consumer’s file pursuant to
25 subparagraph (A), the information may

1 not be reinserted in the file after the dele-
2 tion unless the person who furnishes the
3 information certifies that the information
4 is complete and accurate.

5 “(ii) NOTICE TO CONSUMER.—If any
6 information which has been deleted from a
7 consumer’s file pursuant to subparagraph
8 (A) is reinserted in the file, the consumer
9 reporting agency shall promptly notify the
10 consumer of the reinsertion in writing or,
11 if authorized by the consumer for that pur-
12 pose, by any other means available to the
13 agency.

14 “(iii) ADDITIONAL INFORMATION.—As
15 part of or in addition to the notice under
16 clause (ii), a consumer reporting agency
17 shall provide to a consumer in writing
18 within the 5-day period beginning on the
19 date of the reinsertion—

20 “(I) a statement that the dis-
21 puted information has been
22 reinserted;

23 “(II) a notice to the consumer
24 that if requested by the consumer the
25 agency shall provide to the consumer,

1 within 15 days after the date of the
2 request, the name, business address,
3 and telephone number of any fur-
4 nisher of information contacted, or of
5 any furnisher of information which
6 contacted the consumer reporting
7 agency, in connection with the
8 reinsertion of such information; and

9 “(III) the toll-free telephone
10 number of the consumer reporting
11 agency that the consumer can use to
12 contact the agency with respect to ob-
13 taining the information described in
14 subclause (II).

15 “(C) PROCEDURES TO PREVENT RE-
16 APPEARANCE.—A consumer reporting agency
17 shall maintain reasonable procedures designed
18 to prevent the reappearance in a consumer’s
19 file, and in consumer reports on the consumer,
20 of information that is deleted pursuant to this
21 paragraph (other than information that is
22 reinserted in accordance with subparagraph
23 (B)(i)).

24 “(6) NOTICE OF RESULTS OF
25 REINVESTIGATION.—

1 “(A) IN GENERAL.—A consumer reporting
2 agency shall provide written notice to a
3 consumer of the results of a reinvestigation
4 under this subsection within 5 days after the
5 completion of the reinvestigation, by mail or, if
6 authorized by the consumer for that purpose,
7 by other means available to the agency.

8 “(B) CONTENTS.—As part of or in addi-
9 tion to the notice under subparagraph (A), a
10 consumer reporting agency shall provide to a
11 consumer in writing within the 5-day period
12 referred to in subparagraph (A)—

13 “(i) a statement that the
14 reinvestigation is completed;

15 “(ii) a consumer report that is based
16 upon the consumer’s file as that file is re-
17 vised as a result of the reinvestigation;

18 “(iii) a description or indication of
19 any changes made in the consumer report
20 as a result of those revisions to the con-
21 sumer’s file;

22 “(iv) a notice that, if requested by the
23 consumer, a description of the procedure
24 used to determine the accuracy and com-
25 pleteness of the information shall be pro-

1 vided to the consumer by the agency, in-
2 cluding the name, business address, and
3 telephone number of any furnisher of in-
4 formation contacted in connection with
5 such information;

6 “(v) a notice that the consumer has
7 the right to add a statement to the con-
8 sumer’s file disputing the accuracy or com-
9 pleteness of the information; and

10 “(vi) a notice that the consumer has
11 the right to request under subsection (d)
12 that the consumer reporting agency fur-
13 nish notifications under that subsection.

14 “(7) DESCRIPTION OF REINVESTIGATION
15 PROCEDURE.—A consumer reporting agency
16 shall provide to a consumer a description re-
17 ferred to in paragraph (6)(B)(iv) by not later
18 than 15 days after receiving a request from the
19 consumer for that description.”.

20 (b) CONFORMING AMENDMENT.—Subsection (d) of
21 section 611 of the Fair Credit Reporting Act (15 U.S.C.
22 1681i(d)) is amended by striking “The consumer report-
23 ing agency shall clearly” and all that follows through the
24 end of the subsection.

1 **SEC. 109. AMENDMENT RELATING TO CHARGES FOR DIS-**
2 **CLOSURE.**

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

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

6 “(a) REASONABLE CHARGES ALLOWED FOR CER-
7 TAIN DISCLOSURES.—Except as provided in subsections
8 (b), (c), and (d), a consumer reporting agency may impose
9 a reasonable charge on a consumer—

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

12 “(A) shall not exceed \$8; and

13 “(B) shall be indicated to the consumer
14 prior to making disclosure; and

15 “(2) for furnishing a notification, statement,
16 summary, or codification to any person designated
17 by the consumer pursuant to section 611(d),
18 which—

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

22 “(B) shall be indicated to the consumer
23 prior to furnishing such information.

24 “(b) FREE CONSUMER REPORT AFTER ADVERSE
25 NOTICE TO CONSUMER.—Each consumer reporting agen-
26 cy that maintains a file on a consumer shall make all dis-

1 closures pursuant to section 609 without charge to the
2 consumer if, within 60 days after receipt by such
3 consumer of a notification pursuant to section 615 or of
4 a notification from a debt collection agency affiliated with
5 that consumer reporting agency stating that the consum-
6 er's credit rating may be or has been adversely affected,
7 the consumer makes a request under section 609.

8 “(c) FREE CONSUMER REPORT ANNUALLY UPON
9 REQUEST OF CONSUMER.—Upon the request of a
10 consumer, a consumer reporting agency shall make all dis-
11 closures pursuant to section 609 without charge to that
12 consumer at least once each calendar year.

13 “(d) CHARGE FOR CERTAIN NOTICES PROHIB-
14 ITED.—A consumer reporting agency shall not impose any
15 charge for—

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

18 “(2) notifying a person pursuant to section
19 611(d) of the deletion of information which is found
20 to be inaccurate or which can no longer be verified,
21 if the consumer designates that person to the agency
22 before the end of the 30-day period beginning on the
23 date of the notification of the consumer under sec-
24 tion 611(a)(6).

1 “(A) the name, address, and telephone
2 number of the consumer reporting agency which
3 furnished the report to the person; and

4 “(B) a statement that the consumer re-
5 porting agency did not make the decision to
6 take the adverse action and is unable to provide
7 the consumer the specific reasons why the
8 adverse action was taken;

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

11 “(A) to obtain, under section 612, a free
12 copy of a consumer report on the consumer,
13 from the consumer reporting agency referred to
14 in paragraph (2) and from any other consumer
15 reporting agency that maintains a file on the
16 consumer, which notice shall include an indica-
17 tion of the 60-day period under that section for
18 obtaining such a copy; and

19 “(B) to dispute, under section 611, with a
20 consumer reporting agency the accuracy or
21 completeness of any information in a consumer
22 report furnished by the agency; and

23 “(4) in the case of an adverse action based in
24 whole or in part on a credit score or other predictor
25 of credit worthiness, provide to the consumer—

1 “(A) notice that the predictor was used;
2 and

3 “(B) the principal factors used to deter-
4 mine that predictor, if those factors are re-
5 quired to be disclosed by the person for pur-
6 poses of compliance with section 701(d)(3) of
7 the Equal Credit Opportunity Act.”.

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

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

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

22 “(A) information contained in the consum-
23 er’s consumer report was used in connection
24 with the transaction;

1 “(B) the consumer received the offer of
2 credit because the consumer satisfied the cri-
3 teria for creditworthiness under which the
4 consumer was selected for the offer;

5 “(C) if applicable, the credit may not be
6 extended if, after the consumer responds to the
7 offer, the consumer does not meet the criteria
8 used to select the consumer for the offer;

9 “(D) the consumer has a right to prohibit
10 information contained in the consumer’s file
11 with any consumer reporting agency to be used
12 in connection with any credit transaction that is
13 not initiated by the consumer; and

14 “(E) the consumer may exercise the right
15 referred to in subparagraph (D) by notifying a
16 notification system established under section
17 604(d).

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

23 “(3) MAINTAINING CRITERIA ON FILE.—A per-
24 son who makes an offer of credit to a consumer
25 under a credit transaction described in paragraph

1 (1) shall maintain on file the criteria used to select
2 the consumer to receive the offer, until the end of
3 the 3-year period beginning on the date on which the
4 offer is made to the consumer.”.

5 **SEC. 111. AMENDMENTS RELATING TO CIVIL LIABILITY.**

6 (a) CIVIL LIABILITY FOR WILLFUL NONCOMPLI-
7 ANCE, GENERALLY.—Section 616 of the Fair Credit Re-
8 porting Act (15 U.S.C. 1681n) is amended by striking
9 “Any consumer reporting agency or user of information
10 which” and inserting “Any person who”.

11 (b) MINIMUM CIVIL LIABILITY FOR WILLFUL NON-
12 COMPLIANCE.—Section 616(1) of the Fair Credit Report-
13 ing Act (15 U.S.C. 1681n(1)) is amended to read as fol-
14 lows:

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

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

21 (c) CIVIL LIABILITY FOR NEGLIGENT NONCOMPLI-
22 ANCE.—Section 617 of the Fair Credit Reporting Act (15
23 U.S.C. 1681o) is amended by striking “Any consumer re-
24 porting agency or user of information which” and insert-
25 ing “Any person who”.

1 **SEC. 112. AMENDMENTS RELATING TO RESPONSIBILITIES**
2 **OF PERSONS WHO FURNISH INFORMATION**
3 **TO CONSUMER REPORTING AGENCIES.**

4 (a) IN GENERAL.—The Fair Credit Reporting Act
5 (15 U.S.C. 1681 et seq.) is amended by redesignating sec-
6 tion 622 as section 623 and inserting after section 621
7 the following new section:

8 **“§ 622. Responsibilities of furnishers of information**
9 **to consumer reporting agencies**

10 “(a) DUTY OF FURNISHERS OF INFORMATION TO
11 PROVIDE COMPLETE AND ACCURATE INFORMATION.—

12 “(1) PROHIBITIONS.—

13 “(A) IN GENERAL.—A person shall not
14 furnish any information to any consumer re-
15 porting agency if the person has reasonable
16 cause to believe the information is incomplete or
17 inaccurate.

18 “(B) ROUTINE FURNISHERS.—A person
19 shall not regularly, on a routine basis, and in
20 the ordinary course of business furnish informa-
21 tion to one or more consumer reporting agen-
22 cies about the person’s transactions or experi-
23 ences with any consumer, except in compliance
24 with reasonable procedures which are designed
25 to avoid violations of this section and to assure
26 the accuracy of the information.

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

3 “(A) in the ordinary course of business,
4 regularly and on a routine basis furnishes infor-
5 mation to one or more consumer reporting
6 agencies about the person’s transactions or ex-
7 periences with any consumer; and

8 “(B) furnishes information to a consumer
9 reporting agency, that the person determines is
10 not complete or accurate;

11 shall promptly notify the consumer reporting agency
12 of that determination and provide to the agency any
13 corrections to that information, or any additional in-
14 formation, that is necessary to make the information
15 provided by the person to the agency complete and
16 accurate.

17 “(3) DUTY TO PROVIDE NOTICE OF CONTINU-
18 ING DISPUTE.—If the completeness or accuracy of
19 any information furnished by any person to any
20 consumer reporting agency continues to be disputed
21 to such person, the person may not furnish the in-
22 formation to any consumer reporting agency without
23 notice that such information is disputed by the
24 consumer.

1 “(4) DUTY TO PROVIDE NOTICE OF CLOSED AC-
2 COUNTS.—A person who regularly furnishes infor-
3 mation to a consumer reporting agency regarding a
4 consumer who has a credit account with that person
5 shall notify the agency if the consumer closes the ac-
6 count with no outstanding balance, in information
7 regularly furnished for the period in which the ac-
8 count is closed.

9 “(5) DUTY TO PROVIDE NOTICE OF DELIN-
10 QUENCY OF ACCOUNTS.—A person who furnishes in-
11 formation to a consumer reporting agency regarding
12 a delinquent account being placed for collection,
13 charged to profit or loss, or subjected to any similar
14 action shall notify the agency of the commencement
15 of the delinquency immediately preceding that ac-
16 tion, by not later than 90 days after the date of that
17 commencement.

18 “(b) NOTICE TO CONSUMERS OF INFORMATION FUR-
19 NISHED TO CONSUMER REPORTING AGENCIES.—

20 “(1) NOTICE REQUIRED.—A person who in the
21 ordinary course of business regularly and on a rou-
22 tine basis furnishes information about that person’s
23 transactions or experiences with any consumer to
24 any consumer reporting agency, shall give notice of
25 that fact in writing to the consumer before first pro-

1 viding any information about the consumer to any
2 consumer reporting agency.

3 “(2) CONTENTS OF NOTICE.—Written notice
4 provided to a consumer by a person pursuant to
5 paragraph (1) shall contain the following informa-
6 tion:

7 “(A) A brief description of the type of in-
8 formation which may be furnished regularly to
9 any consumer reporting agency.

10 “(B) A brief description of the frequency
11 with which or the circumstances under which
12 information is furnished to any consumer re-
13 porting agency.

14 “(3) NOTICE BY CERTAIN PERSONS.—A person
15 who furnishes information about consumers who
16 have written checks with insufficient funds may give
17 notice for purposes of paragraph (1) by posting the
18 notice in a conspicuous manner at each location
19 where checks are accepted by the person.

20 “(c) DUTIES OF FURNISHERS OF INFORMATION
21 UPON NOTICE OF DISPUTE.—Upon receiving notice pur-
22 suant to section 611(a)(2) of a dispute with regard to the
23 completeness or accuracy of any information provided by
24 a person to a consumer reporting agency, the person shall,
25 before the end of the 30-day period beginning on the date

1 the agency received notice of the dispute from a consumer
2 in accordance with section 611(a)(1)—

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

5 “(2) review all relevant information provided by
6 the consumer reporting agency pursuant to section
7 611(a)(2);

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

10 “(4) if the investigation finds that the informa-
11 tion is incomplete or inaccurate, report those results
12 to all other consumer reporting agencies to which
13 the person furnished the information.”.

14 (b) CLERICAL AMENDMENT.—The table of sections
15 at the beginning of the Fair Credit Reporting Act (15
16 U.S.C. 1681a et seq.) is amended by striking the item re-
17 lating to section 622 and inserting the following:

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

18 **SEC. 113. INVESTIGATIVE CONSUMER REPORTS.**

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

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

23 (2) by striking subsection (a)(2) and inserting
24 the following:

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

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

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

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

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

10 “(d) PROHIBITIONS.—

11 “(1) CERTIFICATION.—A consumer reporting
12 agency shall not prepare or furnish an investigative
13 consumer report unless the agency has received a
14 certification under subsection (a)(2) from the person
15 who requested the report.

16 “(2) INQUIRIES.—A consumer reporting agency
17 shall not make an inquiry for the purpose of prepar-
18 ing a consumer report on a consumer if the making
19 of the inquiry by an employer or prospective em-
20 ployer of the consumer would violate any applicable
21 Federal or State equal employment opportunity law
22 or regulation.

23 “(3) PUBLIC RECORD INFORMATION.—A
24 consumer reporting agency shall not prepare or fur-
25 nish an investigative consumer report which includes

1 information which is a matter of public record unless
2 the agency has verified the accuracy of the informa-
3 tion by examining the public record.

4 “(4) CERTAIN ADVERSE INFORMATION.—A
5 consumer reporting agency shall not prepare or fur-
6 nish an investigative consumer report on a consumer
7 that contains information that is adverse to the in-
8 terest of the consumer and that is obtained through
9 a personal interview with a neighbor, friend, or asso-
10 ciate of the consumer or with another person with
11 whom the consumer is acquainted or who has knowl-
12 edge of such item of information, unless the agency
13 has verified the accuracy of the information by ex-
14 amining an independent source that is the best evi-
15 dence of the accuracy of the information.”.

16 **SEC. 114. INCREASED CRIMINAL PENALTIES FOR OBTAIN-**
17 **ING INFORMATION UNDER FALSE PRE-**
18 **TENSES.**

19 (a) OBTAINING INFORMATION UNDER FALSE PRE-
20 TENSES.—Section 619 of the Fair Credit Reporting Act
21 (15 U.S.C. 1681q) is amended by striking “fined not more
22 than \$5,000 or imprisoned not more than one year, or
23 both” and inserting “fined under title 18, United States
24 Code, imprisoned for not more than 2 years, or both”.

1 (b) UNAUTHORIZED DISCLOSURES BY OFFICERS OR
2 EMPLOYEES.—Section 620 of the Fair Credit Reporting
3 Act (15 U.S.C. 1681r) is amended by striking “fined not
4 more than \$5,000 or imprisoned not more than one year,
5 or both” and inserting “fined under title 18, United States
6 Code, imprisoned for not more than 2 years, or both”.

7 **SEC. 115. ADMINISTRATIVE ENFORCEMENT.**

8 The 2d sentence of section 621(a) of the Fair Credit
9 Reporting Act (15 U.S.C. 1681s(a)) is amended—

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

24 (2) by inserting “, including the power to en-
25 force the provisions of this title in the same manner

1 as if the violation had been a violation of any Fed-
2 eral Trade Commission trade regulation rule” before
3 the period.

4 **SEC. 116. STATE ENFORCEMENT OF FAIR CREDIT REPORT-**
5 **ING ACT.**

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

10 “(c) STATE ACTION TO ENFORCE FAIR CREDIT RE-
11 PORTING.—

12 “(1) AUTHORITY OF STATES.—Whenever the
13 chief law enforcement officer of the State, or an offi-
14 cial or agency designated by a State, has reason to
15 believe that any person has violated this title the
16 State may bring a civil action on behalf of its resi-
17 dents to enjoin such violation, an action to recover
18 for actual monetary loss, or both, and may seek such
19 other remedies as are provided under State law.

20 “(2) RIGHTS OF COMMISSION.—The State shall
21 serve prior written notice of any such civil action
22 upon the Federal Trade Commission or the appro-
23 priate Federal regulator determined under sub-
24 section (b) and provide the Commission or appro-
25 priate Federal regulator with a copy of its com-

1 plaint, except in any case where such prior notice is
2 not feasible, in which case the State shall serve such
3 notice immediately upon instituting such action. The
4 Commission or appropriate Federal regulator shall
5 have the right (A) to intervene in the action, (B)
6 upon so intervening, to be heard on all matters aris-
7 ing therein, and (C) to file petitions for appeal.

8 “(3) VENUE; SERVICE OF PROCESS.—Any civil
9 action brought under this subsection in a district
10 court of the United States may be brought in the
11 district wherein the defendant is found or is an in-
12 habitant or transacts business or wherein the viola-
13 tion occurred or is occurring, and process in such
14 cases may be served in any district in which the de-
15 fendant is an inhabitant or where the defendant may
16 be found.

17 “(4) INVESTIGATORY POWERS.—For purposes
18 of bringing any civil action under this subsection,
19 nothing in this subsection shall prevent the chief law
20 enforcement officer, or an official or agency des-
21 ignated by a State, from exercising the powers con-
22 ferred on the chief law enforcement officer or such
23 official by the laws of such State to conduct inves-
24 tigations or to administer oaths or affirmations or to

1 compel the attendance of witnesses or the production
2 of documentary and other evidence.

3 “(5) EFFECT ON STATE COURT PROCEED-
4 INGS.—Nothing contained in this subsection shall be
5 construed to prohibit an authorized State official
6 from proceeding in State court on the basis of an al-
7 leged violation of any civil or criminal statute of
8 such State.

9 “(6) LIMITATION.—Whenever the Federal
10 Trade Commission or the appropriate Federal regu-
11 lator has instituted a civil action for violation of this
12 title, no State may, during the pendency of such ac-
13 tion instituted by the Commission or the appropriate
14 Federal regulator, subsequently institute a civil ac-
15 tion against any defendant named in the complaint
16 of the Commission or the appropriate Federal regu-
17 lator for any violation of this title that is alleged in
18 the complaint of the Commission or the Federal reg-
19 ulator.”.

20 **SEC. 117. FEDERAL RESERVE BOARD AUTHORITY.**

21 Section 621 of the Fair Credit Reporting Act (15
22 U.S.C. 1681s), is further amended by adding after sub-
23 section (d) (as redesignated by section 116) the following
24 new subsection:

1 after the 455-day period beginning on the date of the en-
2 actment of this Act.

3 (b) EXCEPTIONS.—

4 (1) NOTIFICATION SYSTEM.—Section 604(d)(3)
5 of the Fair Credit Reporting Act, as amended by
6 section 104(a), shall be effective after the 365-day
7 period beginning on the date of the enactment of
8 this Act.

9 (2) FTC AUTHORITY.—Subsection (a) shall not
10 affect the authority of the Federal Trade Commis-
11 sion to prescribe matters under the amendments
12 made by this title.

13 **TITLE II—CREDIT REPAIR**
14 **ORGANIZATIONS**

15 **SEC. 201. REGULATION OF CREDIT REPAIR ORGANIZA-**
16 **TIONS.**

17 Title IV of the Consumer Credit Protection Act is
18 amended to read as follows:

19 **“TITLE IV—CREDIT REPAIR**
20 **ORGANIZATIONS**

“Sec.

“401. Short title.

“402. Findings and purposes.

“403. Definitions.

“404. Prohibited practices by credit repair organizations.

“405. Disclosures.

“406. Credit repair organizations contracts.

“407. Right to cancel contract.

“408. Noncompliance with this title.

“409. Civil liability.

“410. Administrative enforcement.

“411. Relation to State law.

1 **“SEC. 401. SHORT TITLE.**

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

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

5 “(a) FINDINGS.—The Congress makes the following
6 findings:

7 “(1) Consumers have a vital interest in estab-
8 lishing and maintaining their creditworthiness and
9 credit standing in order to obtain and use credit. As
10 a result, consumers who have experienced credit
11 problems may seek assistance from credit repair or-
12 ganizations which offer to improve the credit stand-
13 ing of such consumers.

14 “(2) Certain advertising and business practices
15 of some companies engaged in the business of credit
16 repair services have worked a financial hardship
17 upon consumers, particularly those of limited eco-
18 nomic means and who are inexperienced in credit
19 matters.

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

22 “(1) To ensure that prospective buyers of the
23 services of credit repair organizations are provided
24 with the information necessary to make an informed
25 decision regarding the purchase of such services.

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

4 **“SEC. 403. DEFINITIONS.**

5 “For purposes of this title—

6 “(1) CONSUMER.—The term ‘consumer’ means
7 an individual.

8 “(2) CONSUMER CREDIT TRANSACTION.—The
9 term ‘consumer credit transaction’ means any trans-
10 action in which credit is offered or extended to an
11 individual for personal, family, or household pur-
12 poses.

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

15 “(A) means any person who uses any in-
16 strumentality of interstate commerce or the
17 mails to sell, provide, or perform (or represent
18 that such person can or will sell, provide, or
19 perform) any service, in return for the payment
20 of money or other valuable consideration, for
21 the express or implied purpose of—

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

1 “(ii) providing advice or assistance to
2 any consumer with regard to any activity
3 or service described in clause (i); and

4 “(B) does not include—

5 “(i) any nonprofit organization which
6 is exempt from taxation under section
7 501(c)(3) of the Internal Revenue Code of
8 1986; or

9 “(ii) any attorney-at-law who is a
10 member of the bar of the highest court of
11 any State or otherwise licensed under the
12 laws of any State, with respect to services
13 rendered which are within the scope of reg-
14 ulations applicable to members of such bar
15 or such licensees.

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

18 **“SEC. 404. PROHIBITED PRACTICES.**

19 “(a) IN GENERAL.—No person may—

20 “(1) make any statement, or counsel or advise
21 any consumer to make any statement, which is un-
22 true or misleading (or which, upon the exercise of
23 reasonable care, should be known by the credit re-
24 pair organization, officer, employee, agent, or other
25 person to be untrue or misleading) with respect to

1 any consumer's creditworthiness, credit standing, or
2 credit capacity to—

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

5 “(B) any person—

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

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

11 “(2) make any statement, or counsel or advise
12 any consumer to make any statement, the intended
13 effect of which is to alter the consumer's identifica-
14 tion to prevent the display of the consumer's credit
15 record, history, or rating for the purpose of conceal-
16 ing adverse information that is accurate and not ob-
17 solete to—

18 “(A) any consumer reporting agency;

19 “(B) any person—

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

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

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

4 “(4) engage, directly or indirectly, in any act,
5 practice, or course of business that constitutes or re-
6 sults in the commission of, or an attempt to commit,
7 a fraud or deception on any person in connection
8 with the offer or sale of the services of the credit re-
9 pair organization.

10 “(b) PAYMENT IN ADVANCE.—No credit repair orga-
11 nization may charge or receive any money or other valu-
12 able consideration for the performance of any service
13 which the credit repair organization has agreed to perform
14 for any consumer before such service is fully performed.

15 **“SEC. 405. DISCLOSURES.**

16 “(a) DISCLOSURE REQUIRED.—Any credit repair or-
17 ganization shall provide any consumer with the following
18 written statement before any contract or agreement be-
19 tween the consumer and the credit repair organization is
20 executed:

21 **““Consumer Credit File Rights**
22 **Under State and Federal Law**

23 “‘You have a right to dispute inaccurate information
24 in your credit report by contacting the credit bureau di-
25 rectly. However, neither you nor any “credit repair” com-

1 pany or credit repair organization has the right to have
2 accurate, current, and verifiable information removed
3 from your credit report. The credit bureau must remove
4 accurate, negative information from your report only if it
5 is over 7 years old. Bankruptcy information can be re-
6 ported for 10 years.

7 “‘You have a right to obtain a copy of your credit
8 report from a credit bureau. You may be charged a rea-
9 sonable fee. There is no fee, however, if you have been
10 turned down for credit, employment, insurance, or a rental
11 dwelling because of information in your credit report with-
12 in the preceding 60 days. The credit bureau must provide
13 someone to help you interpret the information in your
14 credit file. The credit report is available annually at no
15 charge.

16 “‘You have a right to sue a credit repair company
17 that violates the Credit Repair Organization Act. This law
18 prohibits deceptive practices by credit repair companies.

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

22 “‘Credit bureaus are required to follow reasonable
23 procedures to ensure that creditors report information ac-
24 curately. However, mistakes may occur.

1 “‘You may, on your own, notify a credit bureau in
2 writing that you dispute the accuracy of information in
3 your credit file. The credit bureau must then reinvestigate
4 and modify or remove inaccurate or incomplete informa-
5 tion. The credit bureau may not charge any fee for this
6 service. Any pertinent information and copies of all docu-
7 ments you have concerning an error should be given to
8 the credit bureau.

9 “‘If reinvestigation does not resolve the dispute to
10 your satisfaction, you may send a brief statement to the
11 credit bureau, to be kept in your file, explaining why you
12 think the record is inaccurate. The credit bureau must in-
13 clude a summary of your statement about disputed infor-
14 mation with any report it issues about you.

15 “‘The Federal Trade Commission regulates credit
16 bureaus and credit repair organizations. For more infor-
17 mation contact:

18 The Public Reference Branch
19 Federal Trade Commission
20 Washington, D.C. 20580’.

21 “(b) SEPARATE STATEMENT REQUIREMENT.—The
22 written statement required under this section shall be pro-
23 vided as a document which is separate from any written
24 contract or other agreement between the credit repair or-

1 ganization and the consumer or any other written material
2 provided to the consumer.

3 “(c) RETENTION OF COMPLIANCE RECORDS.—

4 “(1) IN GENERAL.—The credit repair organiza-
5 tion shall maintain a copy of the statement signed
6 by the consumer acknowledging receipt of the state-
7 ment.

8 “(2) MAINTENANCE FOR 2 YEARS.—The copy
9 of any consumer’s statement shall be maintained in
10 the organization’s files for 2 years after the date on
11 which the statement is provided to the consumer.

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

13 “(a) WRITTEN CONTRACTS REQUIRED.—No services
14 may be provided by any credit repair organization for any
15 consumer—

16 “(1) unless a written and dated contract (for
17 the purchase of such services) which meets the re-
18 quirements of subsection (b) has been signed by the
19 consumer; or

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

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

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

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

8 “(A) all guarantees of performance; and

9 “(B) an estimate of—

10 “(i) the date by which the perform-
11 ance of the services (to be performed by
12 the credit repair organization or any other
13 person) will be complete; or

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

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

18 “(4) A conspicuous statement in bold face type,
19 in immediate proximity to the space reserved for the
20 consumer’s signature on the contract, which reads as
21 follows: ‘You may cancel this contract without pen-
22 alty or obligation at any time before midnight of the
23 3rd-business day after the date on which you signed
24 the contract. See the attached notice of cancellation
25 form for an explanation of this right.’.

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

2 “(a) IN GENERAL.—Any consumer may cancel any
3 contract with any credit repair organization without pen-
4 alty or obligation by notifying the credit repair organiza-
5 tion of the consumer’s intention to do so at any time be-
6 fore midnight of the 3rd-business day which begins after
7 the date on which the contract or agreement between the
8 consumer and the credit repair organization is executed
9 or would, but for this subsection, become enforceable
10 against the parties.

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

15 “‘You may cancel this contract, without any
16 penalty or obligation, at any time before midnight of
17 the 3rd day which begins after the date the contract
18 is signed by you.

19 “‘To cancel this contract, mail or deliver a
20 signed, dated copy of this cancellation notice, or any
21 other written notice to [name of credit repair
22 organization] at [address of credit repair
23 organization] before midnight on [date]

24 “‘I hereby cancel this transaction,
25 [date]
26 [purchaser’s signature].’.

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

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

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

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

10 “(a) CONSUMER WAIVERS INVALID.—Any waiver by
11 any consumer of any protection provided by or any right
12 of the consumer under this title—

13 “(1) shall be treated as void; and

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

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

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

23 “(1) shall be treated as void; and

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

1 **“SEC. 409. CIVIL LIABILITY.**

2 “(a) LIABILITY ESTABLISHED.—Any person who
3 fails to comply with any provision of this title with respect
4 to any other person shall be liable to such person in an
5 amount equal to the sum of the amounts determined
6 under each of the following paragraphs:

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

8 “(A) the amount of any actual damage
9 sustained by such person as a result of such
10 failure; or

11 “(B) any amount paid by the person to the
12 credit repair organization.

13 “(2) PUNITIVE DAMAGES.—

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

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

19 “(i) the aggregate of the amount
20 which the court may allow for each named
21 plaintiff; and

22 “(ii) the aggregate of the amount
23 which the court may allow for each other
24 class member, without regard to any mini-
25 mum individual recovery.

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

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

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

12 “(2) the nature of the noncompliance;

13 “(3) the extent to which such noncompliance
14 was intentional; and

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

17 “(c) JURISDICTION.—Any action under this section
18 may be brought in any United States district court, or
19 in any other court of competent jurisdiction, before the
20 later of—

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

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. 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 ENFORCEMENT OF TITLE.—

20 “(1) IN GENERAL.—The attorney general of
21 any State, or an official or agency designated under
22 the law of any State, may enforce the provisions of
23 this title in Federal or State court.

24 “(2) CIVIL ENFORCEMENT ACTIONS.—Any
25 State may bring a civil action in any Federal or

1 State court to enjoin any violation of this title and
2 recover damages under this title for consumers who
3 reside in such State, and may seek such other remedies as are provided under State law.

4
5 **“SEC. 411. RELATION TO STATE LAW.**

6 “This title shall not annul, alter, affect, or exempt
7 any person subject to the provisions of this title from complying with any law of any State except to the extent that
8 such law is inconsistent with any provision of this title,
9 and then only to the extent of the inconsistency.”.
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