

103^D CONGRESS
2^D SESSION

H. R. 5178

AN ACT

To amend the Fair Credit Reporting Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TABLE OF CONTENTS.**

4 The table of contents for this Act is as follows:

Sec. 1. Table of contents.

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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 1994”.

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 “(k)(1) The term ‘adverse action’ means the follow-
11 ing:

12 “(A) A denial or revocation of credit, a denial
13 of an application for an increase of an existing credit
14 limit, an unfavorable change in the terms of an ex-
15 isting credit arrangement, or a refusal to grant cred-
16 it in substantially the amount or on substantially the
17 terms requested; except that the term ‘adverse ac-
18 tion’ does not include—

19 “(i) a refusal to extend additional credit
20 under an existing credit arrangement if the ap-
21 plicant is delinquent or otherwise in default as
22 to that account, or

23 “(ii) a refusal or failure to authorize an ac-
24 count transaction at a point of sale which would
25 exceed a previously established credit limit.

1 “(B) A denial or cancellation of, an increase in
2 any charge for, or a reduction or other adverse or
3 unfavorable change in the terms of coverage or
4 amount of, any insurance, existing or applied for, in
5 connection with the underwriting of insurance.

6 “(C) A denial of employment or any other deci-
7 sion for employment purposes which adversely af-
8 fects any current or prospective employee.

9 “(D) A denial or cancellation of, an increase in
10 any charge for, or any other adverse or unfavorable
11 change in the terms of, any license or benefit de-
12 scribed in section 604(a)(3)(D).

13 “(E) An action taken or determination made—

14 “(i) in connection with an application
15 which was made by, or a transaction which was
16 initiated by, any consumer, or in connection
17 with a review of account information under sec-
18 tion 604(a)(3)(E)(ii); and

19 “(ii) which is adverse to the interest of the
20 consumer.

21 “(2) For purposes of any determination of whether
22 an action is an adverse action under paragraph (1)(A),
23 all appropriate final findings, decisions, commentary, and
24 orders issued under section 701(d)(6) of the Equal Credit

1 Opportunity Act by the Board of Governors of the Federal
2 Reserve System or any court shall apply.”.

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

7 “(l) The term ‘firm offer of credit’ means any offer
8 of credit to a consumer that will be honored if the
9 consumer is determined, based on information in a
10 consumer report on the consumer, to meet the specific cri-
11 teria used to select the consumer for the offer, except that
12 the offer may be further conditioned solely on any com-
13 bination of the following:

14 “(1) The consumer being determined, based on
15 information in the consumer’s application for the
16 credit, to meet specific criteria bearing on credit-
17 worthiness that are established—

18 “(A) before selection of the consumer for
19 the offer; and

20 “(B) for the purpose of determining
21 whether to extend credit pursuant to the offer.

22 “(2) Verification—

23 “(A) that the consumer continues to meet
24 the specific criteria used to select the consumer
25 for the offer, by using information in a

1 consumer report on the consumer, information
2 in the consumer's application for the credit, or
3 other information bearing on the creditworthi-
4 ness of the consumer; or

5 “(B) of the information in the consumer's
6 application for the credit, to determine that the
7 consumer meets the specific criteria bearing on
8 creditworthiness.

9 “(3) The consumer furnishing any collateral
10 that is a requirement for the extension of the credit
11 that was—

12 “(A) established before selection of the
13 consumer for the offer of credit; and

14 “(B) described to the consumer in the
15 offer of credit.”.

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

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

25 “(1) reviewing the account; or

1 “(2) collecting the account.”.

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

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

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

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

14 (2) by inserting before the semicolon at the end
15 the following: “, (ii) any communication of that in-
16 formation among persons related by common owner-
17 ship or affiliated by corporate control, or (iii) any
18 communication of information from a credit applica-
19 tion by a consumer among persons related by com-
20 mon ownership or affiliated by corporate control if
21 it is clearly and conspicuously disclosed that the in-
22 formation may be communicated among such per-
23 sons and the consumer is given the opportunity,
24 prior to the time that the information is initially

1 communicated, to direct that such information not
2 be communicated among such persons”;

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

5 (4) in clause (C) by striking the period and in-
6 serting a semicolon; and

7 (5) by adding at the end the following: “or (D)
8 any communication of information about a consumer
9 between persons who are affiliated by common own-
10 ership or common corporate control and in connec-
11 tion with a credit transaction which is not initiated
12 by the consumer, or an insurance transaction which
13 is not initiated by the consumer, if either of those
14 persons has complied with section 615(d)(4)(B) with
15 respect to a consumer report from which the infor-
16 mation is taken and the consumer has consented to
17 use of the report for the transaction, or with respect
18 to existing customers, the consumer has not directed
19 in writing that the report may not be used for the
20 transaction, in accordance with section
21 615(d)(4)(C).”.

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

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

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

6 “(o) A communication is described in this subsection
7 if it is a communication—

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

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

13 “(A) procuring an employee for the em-
14 ployer, or

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

17 “(3) that is made by a person that regularly
18 performs such procurement;

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

22 “(5) with respect to which—

23 “(A) the consumer who is the subject of
24 the communication—

1 “(i) consents orally or in writing to
2 the nature and scope of the communica-
3 tion, before the collection of any informa-
4 tion for the purpose of making the commu-
5 nication;

6 “(ii) consents orally or in writing to
7 the making of the communication to a pro-
8 spective employer, before the making of the
9 communication; and

10 “(iii) in the case of consent under
11 clause (i) or (ii) given orally, is provided
12 written confirmation of that consent by the
13 person making the communication, within
14 3 business days after the receipt of the
15 consent by that person;

16 “(B) the person that makes the commu-
17 nication does not, for the purpose of making
18 the communication, make any inquiry that if
19 made by a prospective employer of the
20 consumer who is the subject of the communica-
21 tion would violate any applicable Federal or
22 State equal employment opportunity law or reg-
23 ulation; and

24 “(C) the person that makes the commu-
25 nication—

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

14 “(ii) notifies the consumer that is the
15 subject of the communication, in writing,
16 of the consumer’s right to request the in-
17 formation described in clause (i).”.

18 (g) CONSUMER REPORTING AGENCY THAT COM-
19 PILES AND MAINTAINS FILES ON A NATIONWIDE
20 BASIS.—Section 603 of the Fair Credit Reporting Act (15
21 U.S.C. 1681a) is further amended by adding after sub-
22 section (o) (as added by subsection (f) of this section) the
23 following:

24 “(p) The term ‘consumer reporting agency that com-
25 piles and maintains files on consumers on a nationwide

1 basis' means a consumer reporting agency that regularly
2 engages in the practice of assembling or evaluating, and
3 maintaining, for the purpose of furnishing consumer re-
4 ports to third parties bearing on a consumer's credit-
5 worthiness, credit standing, or credit capacity, each of the
6 following regarding consumers residing nationwide:

7 “(1) Public record information.

8 “(2) Credit account information from persons
9 who furnish that information regularly and in the
10 ordinary course of business.”.

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

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

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

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

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

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

1 (2) in subsection (a)(3) (as designated by para-
2 graph (1) of this subsection) by striking subpara-
3 graph (E) and inserting the following:

4 “(E) otherwise has a legitimate business need
5 for the information—

6 “(i) in connection with a business trans-
7 action that is initiated by the consumer; or

8 “(ii) to review an account to determine
9 whether the consumer continues to meet the
10 terms of the account.”.

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

15 “(b) CONDITIONS FOR FURNISHING AND USING
16 CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.—

17 “(1) CERTIFICATION FROM USER.—A consumer
18 reporting agency may furnish a consumer report for
19 employment purposes only if—

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

22 “(i) the person has complied with
23 paragraph (2) with respect to the
24 consumer report, and the person will com-
25 ply with paragraph (3) with respect to the

1 consumer report if paragraph (3) becomes
2 applicable; and

3 “(ii) information from the consumer
4 report will not be used in violation of any
5 applicable Federal or State equal employ-
6 ment opportunity law or regulation; and

7 “(B) the consumer reporting agency pro-
8 vides with the report a summary of the consum-
9 er’s rights under this title, as prescribed by the
10 Federal Trade Commission under section
11 609(c)(3).

12 “(2) DISCLOSURE TO CONSUMER.—A person
13 may not procure a consumer report, or cause a
14 consumer report to be procured, for employment
15 purposes with respect to any consumer unless—

16 “(A) a clear and conspicuous disclosure
17 has been made in writing to the consumer at
18 any time before the report is procured or
19 caused to be procured, in a document that con-
20 sists solely of the disclosure, that a consumer
21 report may be obtained for employment pur-
22 poses; and

23 “(B) the consumer has authorized in writ-
24 ing the procurement of the report by that per-
25 son.

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

6 “(A) a copy of the report;

7 “(B) a description in writing of the con-
8 sumer’s rights under this title, as prescribed by
9 the Federal Trade Commission under section
10 609(c)(3); and

11 “(C) a reasonable period (not required to
12 exceed 5 business days following receipt of the
13 report by the consumer) to respond to any in-
14 formation in the report that is disputed by the
15 consumer and notice in writing of the oppor-
16 tunity for the consumer to respond in that pe-
17 riod, except that such an opportunity to re-
18 spond and notice are not required if the person
19 takes the adverse action based on a reasonable
20 belief that the consumer has engaged in fraudu-
21 lent or criminal activity that is related to, or
22 that could affect, the consumer’s employment.

23 “(4) LIMITATION ON PURPOSES.—Subject to
24 paragraph (1), a consumer reporting agency may
25 furnish information bearing on the creditworthiness

1 of a consumer, and a person may use such informa-
2 tion, for employment purposes that do not relate to
3 employment of an individual in an executive or ad-
4 ministrative position, only if—

5 “(A) the employment requires or is ex-
6 pected to require a security clearance issued by
7 an agency of the United States or any State as
8 a condition for employment;

9 “(B) the employment requires or is ex-
10 pected to require the individual to be covered by
11 a fidelity bond; or

12 “(C) the employment requires or is ex-
13 pected to require the individual, on a regular
14 basis and as part of the normal duties of em-
15 ployment—

16 “(i) to handle or otherwise have ac-
17 cess to substantial amounts of cash or
18 other things of value of the employer; or

19 “(ii) to engage in any conduct or ac-
20 tivity with respect to which the employee
21 has a fiduciary duty.

22 “(5) EXECUTIVE OR ADMINISTRATIVE POSITION
23 DEFINED.—

1 “(A) IN GENERAL.—For purposes of para-
2 graph (4), the term ‘executive or administrative
3 position’ means any position—

4 “(i) for which compensation is on a
5 salary basis and not an hourly basis; and

6 “(ii) having policy making, manage-
7 rial, professional, or supervisory respon-
8 sibilities.

9 “(B) APPLICATION OF EXISTING FIND-
10 INGS, ETC.—For purposes of determining under
11 subparagraph (A)(ii) whether a position has
12 policy making, managerial, professional, or su-
13 pervisory responsibilities, all appropriate final
14 administrative and judicial findings, decisions,
15 commentary, and orders issued under the Fed-
16 eral Election Campaign Act of 1971, or the reg-
17 ulations issued under that Act, shall apply.”.

18 **SEC. 104. AMENDMENTS RELATING TO USE OF CONSUMER**
19 **REPORTS FOR PRESCREENING; PROHIBITION**
20 **ON UNAUTHORIZED OR UNCERTIFIED USE OF**
21 **INFORMATION.**

22 (a) IN GENERAL.—Section 604 of the Fair Credit
23 Reporting Act (15 U.S.C. 1681b), as amended by section
24 103, is further amended—

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

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

6 “(c) FURNISHING REPORTS IN CONNECTION WITH
7 CREDIT TRANSACTIONS NOT INITIATED BY THE
8 CONSUMER.—

9 “(1) IN GENERAL.—A consumer reporting
10 agency may furnish a consumer report relating to
11 any consumer pursuant to subsection (a)(3)(A) in
12 connection with any credit transaction which is not
13 initiated by the consumer only if—

14 “(A) the consumer authorizes the agency
15 to provide such report to such person; or

16 “(B)(i) the transaction consists of a firm
17 offer of credit;

18 “(ii) the consumer reporting agency has
19 complied with subsection (d); and

20 “(iii) there is not in effect an election by
21 the consumer, made in accordance with sub-
22 section (d), to have the consumer’s name and
23 address excluded from lists of names provided
24 by the agency pursuant to this paragraph.

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

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

5 “(B) an identifier that is not unique to the
6 consumer and is used by the person solely for
7 the purpose of verifying the identity of the
8 consumer; and

9 “(C) information pertaining to a consumer
10 that is not identified or identifiable with the
11 consumer.

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

17 “(d) ELECTION OF CONSUMER TO BE EXCLUDED
18 FROM LISTS.—

19 “(1) IN GENERAL.—A consumer may elect to
20 have the consumer’s name and address excluded
21 from any list provided by a consumer reporting
22 agency in connection with a credit transaction which
23 is not initiated by the consumer, by notifying the
24 agency in accordance with paragraph (2) that the
25 consumer does not consent to any use of consumer

1 reports relating to the consumer in connection with
2 any credit transaction which is not initiated by the
3 consumer.

4 “(2) MANNER OF NOTIFICATION.—A consumer
5 shall notify a consumer reporting agency under
6 paragraph (1)—

7 “(A) through the notification system main-
8 tained by the agency under paragraph (5), or

9 “(B) by submitting to the agency a signed
10 notice of election form issued by the agency for
11 purposes of this subparagraph.

12 “(3) RESPONSE OF AGENCY AFTER NOTIFICA-
13 TION THROUGH SYSTEM.—Upon receipt of notifica-
14 tion of the election of a consumer under paragraph
15 (1) through the notification system maintained by
16 the agency under paragraph (5), a consumer report-
17 ing agency shall—

18 “(A) inform the consumer that the election
19 is effective only for a 2-year period if the
20 consumer does not submit to the agency a
21 signed notice of election form issued by the
22 agency for purposes of paragraph (2)(B); and

23 “(B) provide to the consumer such a form
24 if requested by the consumer, by not later than
25 5 business days after receiving the notification

1 through the system in the case of a request
2 made at the time the consumer provides notifi-
3 cation through the system.

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

6 “(A) shall be effective with respect to a
7 consumer reporting agency beginning on the
8 date the consumer notifies the agency in ac-
9 cordance with paragraph (2);

10 “(B) shall be effective with respect to a
11 consumer reporting agency—

12 “(i) subject to subparagraph (C), for
13 the 2-year period beginning on the date the
14 consumer notifies the agency of the elec-
15 tion, in the case of an election for which a
16 consumer notifies the agency only in ac-
17 cordance with paragraph (2)(A); or

18 “(ii) until the consumer notifies the
19 agency under subparagraph (C), in the
20 case of an election for which a consumer
21 notifies the agency in accordance with
22 paragraph (2)(B);

23 “(C) shall not be effective after the date on
24 which the consumer notifies the agency,
25 through the notification system established by

1 the agency under paragraph (5), that the elec-
2 tion is no longer effective; and

3 “(D) shall be effective with respect to each
4 affiliate of the agency.

5 “(5) NOTIFICATION SYSTEM, GENERALLY.—
6 Each consumer reporting agency which furnishes a
7 consumer report in connection with any credit trans-
8 action which is not initiated by a consumer, shall—

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

18 “(B) publish by not later than 365 days
19 after the date of the enactment of the
20 Consumer Reporting Reform Act of 1994, and
21 at least annually thereafter, in a publication of
22 general circulation in the area served by the
23 agency—

24 “(i) a notification that information in
25 consumer files maintained by the agency

1 may be used in connection with such trans-
2 actions; and

3 “(ii) the address and toll-free tele-
4 phone number for consumers to use to no-
5 tify the agency of the consumer’s election
6 under subparagraph (A).

7 Establishment and maintenance of a notification
8 system (including a toll-free telephone number) and
9 publication by a consumer reporting agency on its
10 own behalf and on behalf of any of its affiliates in
11 accordance with this paragraph is deemed to be
12 compliance with this paragraph by each of those af-
13 filiates.

14 “(6) NOTIFICATION SYSTEM BY AGENCIES
15 WHICH OPERATE NATIONWIDE.—Each consumer re-
16 porting agency which compiles and maintains files
17 on consumers on a nationwide basis shall establish
18 and maintain a notification system for purposes of
19 paragraph (5) jointly with other such consumer re-
20 porting agencies.”.

21 (b) USE OF INFORMATION OBTAINED FROM RE-
22 PORTS.—Section 604 of the Fair Credit Reporting Act (15
23 U.S.C. 1681b) is further amended by adding after sub-
24 section (d) (as added by subsection (a) of this section) the
25 following new subsection:

1 “(e) CERTAIN USE OR OBTAINING OF INFORMATION
2 PROHIBITED.—A person shall not use or obtain a
3 consumer report for any purpose unless—

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

7 “(2) the purpose is certified in accordance with
8 section 607 by a prospective user of the report
9 through a general or specific certification.”.

10 **SEC. 105. CONSUMER CONSENT REQUIRED TO FURNISH**
11 **CONSUMER REPORT CONTAINING MEDICAL**
12 **INFORMATION.**

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

16 “(f) FURNISHING REPORTS CONTAINING MEDICAL
17 INFORMATION.—A consumer reporting agency shall not
18 furnish for employment purposes, or in connection with
19 a credit transaction, a consumer report which contains
20 medical information about a consumer, unless the
21 consumer consents to the furnishing of the report.”.

1 **SEC. 106. AMENDMENTS RELATING TO OBSOLETE INFOR-**
2 **MATION AND INFORMATION CONTAINED IN**
3 **CONSUMER REPORTS.**

4 (a) REPEAL LARGE-DOLLAR EXCEPTIONS.—Section
5 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c)
6 is amended—

7 (1) in subsection (a) by striking “(a) Except as
8 authorized under subsection (b), no” and inserting
9 “(a) INFORMATION EXCLUDED FROM CONSUMER
10 REPORTS.—No”; and

11 (2) by striking subsection (b).

12 (b) CLARIFICATION OF REPORTING PERIOD.—Sec-
13 tion 605 of the Fair Credit Reporting Act (15 U.S.C.
14 1681c), as amended by subsection (a), is further amended
15 by adding at the end the following new subsection:

16 “(b) RUNNING OF REPORTING PERIOD.—(1) The 7-
17 year period referred to in paragraphs (4) and (6) of sub-
18 section (a) shall begin, with respect to any delinquent ac-
19 count which is placed for collection (internally or by refer-
20 ral to a 3d party, whichever is earlier), charged to profit
21 and loss, or subjected to any similar action, upon the expi-
22 ration of the 180-day period beginning on the date of the
23 commencement of the delinquency which immediately pre-
24 ceded the collection activity, charge to profit and loss, or
25 similar action.

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

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

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

22 (d) INDICATION OF CLOSURE OF ACCOUNT; INDICA-
23 TION OF DISPUTE BY CONSUMER.—Section 605 of the
24 Fair Credit Reporting Act (15 U.S.C. 1681c) is further

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

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

9 “(e) INDICATION OF DISPUTE BY CONSUMER.—If a
10 consumer reporting agency is notified pursuant to section
11 623(a)(3) that information regarding a consumer that was
12 furnished to the agency is disputed by the consumer, the
13 agency shall indicate that fact in each consumer report
14 that includes the disputed information.”.

15 (e) NOTATION ON CONSUMER REPORT.—Section 605
16 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is
17 further amended by adding at the end the following new
18 subsection:

19 “(f) CERTAIN ACCOUNT INFORMATION.—A consumer
20 reporting agency, upon the written request of a consumer,
21 and subject to the submission of appropriate documenta-
22 tion by the consumer, shall include with any information
23 regarding a failure of the consumer to make any payment
24 on an account of the consumer, a statement (in such form
25 as the Federal Trade Commission shall prescribe) that

1 during the period when the account in question became
2 due, the consumer was receiving assistance pursuant to
3 a declaration of a disaster by the President under the Rob-
4 ert T. Stafford Disaster Relief and Emergency Assistance
5 Act, or unemployment compensation under the laws of any
6 State (or, but for the exhaustion of benefits, would be enti-
7 tled to receive such compensation).”.

8 (f) CLERICAL AMENDMENTS.—

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

14 (2) The table of sections at the beginning of the
15 Fair Credit Reporting Act (15 U.S.C. 1681a et seq.)
16 is amended by striking the item relating to section
17 605 and inserting the following:

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

18 **SEC. 107. AMENDMENTS RELATING TO COMPLIANCE PRO-**
19 **CEDURES.**

20 (a) DISCLOSURE OF CONSUMER REPORTS BY
21 USERS.—Section 607 of the Fair Credit Reporting Act
22 (15 U.S.C. 1681e) is amended by adding at the end the
23 following new subsection:

24 “(c) DISCLOSURE OF CONSUMER REPORTS BY
25 USERS ALLOWED.—A consumer reporting agency may not

1 prohibit a user of a consumer report furnished by the
2 agency on a consumer from disclosing the contents of the
3 report to the consumer, if adverse action against the
4 consumer has been taken, or is contemplated, by the user
5 based in whole or in part on the report.”.

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

11 “(d) NOTICE TO USERS AND FURNISHERS OF INFOR-
12 MATION.—

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

15 “(A) who regularly and in the ordinary
16 course of business furnishes information to the
17 agency with respect to any consumer; or

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

20 a notice of such person’s responsibilities under this
21 title.

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

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

6 “(e) PROCUREMENT OF CONSUMER REPORT FOR RE-
7 SALE.—

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

13 “(A) the identity of the end-user of the re-
14 port (or information), and

15 “(B) each permissible purpose under sec-
16 tion 604 for which the report is furnished to
17 the end-user of the report (or information).

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

22 “(A) establish and comply with reasonable
23 procedures designed to ensure that the report
24 (or information) is resold by the person only for
25 a purpose for which the report may be fur-

1 nished under section 604, including by requir-
2 ing that each person to which the report (or
3 information) is resold and which resells or pro-
4 vides the report (or information) to any other
5 person—

6 “(i) identifies each end user of the re-
7 sold report (or information);

8 “(ii) certifies each purpose for which
9 the report (or information) will be used;
10 and

11 “(iii) certifies that the report (or in-
12 formation) will be used for no other pur-
13 pose; and

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

18 **SEC. 108. AMENDMENTS RELATING TO CONSUMER DISCLO-**
19 **SURES.**

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

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

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

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

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

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

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

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

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

19 (c) DISCLOSURE OF PERMISSIBLE PURPOSES.—Sec-
20 tion 609(a) of the Fair Credit Reporting Act (15 U.S.C.
21 1681g(a)) is further amended by adding at the end the
22 following:

23 “(4) The permissible purpose under section
24 604, by category, for which each person identified
25 under paragraph (3) procured a consumer report.”.

1 (d) INFORMATION REGARDING INQUIRIES.—Section
2 609(a) of the Fair Credit Reporting Act (15 U.S.C.
3 1681g(a)) is amended by adding after paragraph (4) (as
4 added by subsection (c) of this section) the following:

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

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

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

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

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

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

23 “(B) in the case of a consumer reporting
24 agency that compiles and maintains files on
25 consumers on a nationwide basis, a toll-free

1 telephone number established by the agency at
2 which personnel are accessible to consumers
3 during normal business hours.

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

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

9 “(B) an explanation of how the consumer
10 may exercise the rights of the consumer under
11 this title;

12 “(C) a list of all Federal agencies respon-
13 sible for enforcing any provision of this title
14 and the address and any appropriate phone
15 number of each such agency, in a form that will
16 assist the consumer in selecting the appropriate
17 agency;

18 “(D) a statement that the consumer may
19 have additional rights under State law and that
20 the consumer may wish to contact a State or
21 local consumer protection agency or a State at-
22 torney general to learn of those rights; and

23 “(E) a statement that a consumer report-
24 ing agency is not required to remove accurate
25 derogatory information from a consumer’s file,

1 unless the information is outdated under sec-
2 tion 605 or cannot be verified.

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

11 (2) TECHNICAL AMENDMENT.—Section
12 606(a)(1)(B) of the Fair Credit Reporting Act (15
13 U.S.C. 1681d(a)(1)(B)) is amended by inserting
14 “and the written summary of the rights of the
15 consumer prepared pursuant to section 609(c)” be-
16 fore the semicolon.

17 (f) FORM OF DISCLOSURES.—

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

21 “(a) IN GENERAL.—

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

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

5 “(b) OTHER FORMS OF DISCLOSURE.—

6 “(1) IN GENERAL.—If authorized by a
7 consumer, a consumer reporting agency may make
8 the disclosures required under 609—

9 “(A) other than in writing; and

10 “(B) in such form as may be—

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

13 “(ii) available from the agency.

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

17 “(A) in person, upon the appearance of the
18 consumer at the place of business of the
19 consumer reporting agency where disclosures
20 are regularly provided, during normal business
21 hours, and on reasonable notice;

22 “(B) by telephone, if the consumer has
23 made a written request for disclosure by tele-
24 phone;

1 “(C) by electronic means, if available from
2 the agency; or

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

5 (2) SIMPLIFIED DISCLOSURE.—Not later than
6 90 days after the date of enactment of this Act, each
7 consumer reporting agency shall develop a form on
8 which such consumer reporting agency shall make
9 the disclosures required under section 609(a) of the
10 Fair Credit Reporting Act, for the purpose of maxi-
11 mizing the comprehensibility and standardization of
12 such disclosures.

13 (3) GOALS.—The Federal Trade Commission
14 shall take appropriate action to assure that the goals
15 of comprehensibility and standardization are
16 achieved in accordance with paragraph (2).

17 (4) 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 a consumer’s file at a consumer reporting
20 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 for up to,
8 but for no more than, 15 additional days if the
9 consumer reporting agency receives information
10 from the consumer within that 30-day period
11 that is relevant to the reinvestigation.

12 “(C) LIMITATIONS ON EXTENSION OF PE-
13 RIOD TO REINVESTIGATE.—Subparagraph (B)
14 shall not apply to any reinvestigation in which,
15 in the 30-day period described in subparagraph
16 (A), the information that is the subject of the
17 reinvestigation is found to be inaccurate or in-
18 complete or the consumer reporting agency de-
19 termines that the information cannot be veri-
20 fied.

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

23 “(A) IN GENERAL.—Before the end of the
24 5-business-day period beginning on the date a
25 consumer reporting agency receives notice of a

1 dispute from any consumer in accordance with
2 paragraph (1), the agency shall provide notifi-
3 cation of the dispute to any person that pro-
4 vided any item of information in dispute, at the
5 address and in the manner established with the
6 person. The notice shall include all relevant in-
7 formation regarding the dispute that the agency
8 has received from the consumer.

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

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

20 “(A) IN GENERAL.—Notwithstanding para-
21 graph (1), a consumer reporting agency may
22 terminate a reinvestigation of information dis-
23 puted by a consumer under that paragraph if
24 the agency reasonably determines that the dis-
25 pute by the consumer is frivolous or irrelevant,

1 including by reason of a failure by a consumer
2 to provide sufficient information to investigate
3 the disputed information.

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

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

14 “(i) the reasons for the determination
15 under subparagraph (A); and

16 “(ii) identification of any information
17 required to investigate the disputed infor-
18 mation, which may consist of a standard-
19 ized form describing the general nature of
20 such information.

21 “(4) CONSIDERATION OF CONSUMER INFORMA-
22 TION.—In conducting any reinvestigation under
23 paragraph (1) with respect to disputed information
24 in the file of any consumer, the consumer reporting
25 agency shall review and consider all relevant infor-

1 mation submitted by the consumer in the period de-
2 scribed in paragraph (1)(A) with respect to such dis-
3 puted information.

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

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

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

20 “(i) CERTIFICATION OF ACCURACY OF
21 INFORMATION.—If any information is de-
22 leted from a consumer’s file pursuant to
23 subparagraph (A), the information may
24 not be reinserted in the file by the
25 consumer reporting agency unless the per-

1 son who furnishes the information certifies
2 that the information is complete and accu-
3 rate.

4 “(ii) NOTICE TO CONSUMER.—If any
5 information which has been deleted from a
6 consumer’s file pursuant to subparagraph
7 (A) is reinserted in the file, the consumer
8 reporting agency shall notify the consumer
9 of the reinsertion in writing within 5 busi-
10 ness days after the reinsertion or, if au-
11 thorized by the consumer for that purpose,
12 by any other means available to the agen-
13 cy.

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 5 business days after the date of
19 the reinsertion—

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

23 “(II) the name, business address,
24 and telephone number of any fur-
25 nisher of information contacted, or of

1 any furnisher of information which
2 contacted the consumer reporting
3 agency, in connection with the
4 reinsertion of such information; and

5 “(III) a notice that the consumer
6 has the right to add a statement to
7 the consumer’s file disputing the accu-
8 racy or completeness of the disputed
9 information.

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

19 “(D) FREE CONSUMER REPORT DURING
20 12-MONTH PERIOD AFTER DELETION OF INFOR-
21 MATION.—Upon the request of a consumer, a
22 consumer reporting agency shall make all dis-
23 closures pursuant to section 609 without charge
24 to that consumer at least once during the 12-
25 month period after the consumer receives a no-

1 tification under paragraph (6) or paragraph (8)
2 of the deletion of information that is found to
3 be inaccurate or cannot be verified.

4 “(E) AUTOMATED REINVESTIGATION SYS-
5 TEM.—

6 “(i) IN GENERAL.—Any consumer re-
7 porting agency that compiles and main-
8 tains files on consumers on a nationwide
9 basis shall implement an automated system
10 through which furnishers of information to
11 that consumer reporting agency may re-
12 port the results of a reinvestigation that
13 finds incomplete or inaccurate information
14 in a consumer’s file to other such
15 consumer reporting agencies.

16 “(ii) NATIONWIDE CONSUMER RE-
17 PORTING AGENCIES.—A consumer report-
18 ing agency that compiles and maintains
19 files on consumers on a nationwide basis
20 shall report the results of a reinvestigation
21 initiated by a consumer under section 611
22 that finds in the consumer’s file informa-
23 tion that is incomplete or inaccurate or in-
24 formation that cannot be verified, to any
25 other consumer reporting agency that com-

1 piles and maintains files on consumers on
2 a nationwide basis and—

3 “(I) to which a consumer report
4 on the consumer was provided within
5 the preceding 2-year period for pur-
6 poses of resale by that other agency;
7 or

8 “(II) to which a consumer report
9 on the consumer was provided within
10 the preceding 7-year period for pur-
11 poses of merging that report to that
12 other agency’s proprietary files.

13 “(iii) ACTION REQUIRED UPON RE-
14 CEIPT OF REPORT.—If a consumer report-
15 ing agency receives a report under clause
16 (ii), the agency shall—

17 “(I) change the data in its files
18 in accordance with the report;

19 “(II) delete data from its propri-
20 etary files in accordance with the re-
21 port; or

22 “(III) reinvestigate the disputed
23 data that is the subject of the report
24 in accordance with section 611, with
25 the source of that data.

1 “(6) NOTICE OF RESULTS OF
2 REINVESTIGATION.—

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

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

16 “(i) a statement that the reinves-
17 tigation is completed;

18 “(ii) a consumer report that is based
19 upon the consumer’s file as that file is re-
20 vised as a result of the reinvestigation;

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

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

10 “(v) a notice that the consumer has
11 the right to add a statement to the con-
12 sumer’s file disputing the accuracy or com-
13 pleteness of the information; and

14 “(vi) a notice that the consumer has
15 the right to request under subsection (d)
16 that the consumer reporting agency fur-
17 nish notifications under that subsection.

18 “(7) DESCRIPTION OF REINVESTIGATION PRO-
19 CEDURE.—A consumer reporting agency shall pro-
20 vide to a consumer a description referred to in para-
21 graph (6)(B)(iv) by not later than 15 days after re-
22 ceiving a request from the consumer for that de-
23 scription.

24 “(8) EXPEDITED DISPUTE RESOLUTION.—If a
25 dispute regarding an item of information in a con-

1 consumer's file at a consumer reporting agency is re-
2 solved in accordance with paragraph (5)(A) by the
3 deletion of the disputed information by not later
4 than 3 business days after the date on which the
5 agency receives notice of the dispute from the
6 consumer in accordance with paragraph (1)(A), then
7 the agency shall not be required to comply with
8 paragraphs (2), (6), and (7) with respect to that dis-
9 pute if the agency—

10 “(A) provides prompt notice of the deletion
11 to the consumer by telephone;

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

19 “(C) provides written confirmation of the
20 deletion and a copy of a consumer report on the
21 consumer which is based on the consumer's file
22 after the deletion, within 5 business days after
23 making the deletion.”.

24 (b) CONFORMING AMENDMENT.—Subsection (d) of
25 section 611 of the Fair Credit Reporting Act (15 U.S.C.

1 1681i(d)) is amended by striking “The consumer report-
2 ing agency shall clearly” and all that follows through the
3 end of the subsection.

4 **SEC. 110. AMENDMENT RELATING TO CHARGES FOR DIS-**
5 **CLOSURE.**

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

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

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

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

15 “(A) shall not exceed \$8; and

16 “(B) shall be indicated to the consumer
17 prior to making disclosure; and

18 “(2) for furnishing pursuant to section 611(d),
19 following a reinvestigation under section 611(a), a
20 statement, codification, or summary to a person des-
21 ignated by the consumer under that section after the
22 30-day period beginning on the date of notification
23 of the consumer under section 611(a)(6) or (8) with
24 respect to the reinvestigation, 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) OTHER CHARGES PROHIBITED.—A consumer
7 reporting agency shall not impose any charge on a
8 consumer for providing any notification required by this
9 Act or making any disclosure required by this Act, except
10 as authorized by subsection (a).

11 “(e) ANNUAL CONSUMER REPORT UPON REQUEST
12 AT SPECIFIED CHARGE.—

13 “(1) IN GENERAL.—Upon the written request
14 of a consumer, a consumer reporting agency that
15 maintains a file on the consumer shall make all dis-
16 closures pursuant to section 609 once in any 12-
17 month period, at the charge specified in paragraph
18 (2).

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

22 “(A) the total cost incurred by the
23 consumer reporting agency in making the dis-
24 closures; or

25 “(B) \$3.”.

1 **SEC. 111. AMENDMENTS RELATING TO DUTIES OF USERS**
2 **OF CONSUMER REPORTS AND DUTIES OF AF-**
3 **FILIATES SHARING CERTAIN INFORMATION.**

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

7 “(a) DUTIES OF USERS TAKING ADVERSE ACTIONS
8 ON THE BASIS OF INFORMATION CONTAINED IN
9 CONSUMER REPORTS.—If any person takes any adverse
10 action with respect to any consumer which is based in
11 whole or in part on any information contained in a
12 consumer report, the person shall—

13 “(1) provide written notice of the adverse action
14 to the consumer;

15 “(2) provide to the consumer in writing—

16 “(A) the name, address, and telephone
17 number of the consumer reporting agency (in-
18 cluding a toll-free telephone number established
19 by the agency if the agency compiles and main-
20 tains files on consumers on a nationwide basis)
21 which furnished the report to the person; and

22 “(B) a statement that the consumer re-
23 porting agency did not make the decision to
24 take the adverse action and is unable to provide
25 the consumer the specific reasons why the ad-
26 verse action was taken; and

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

3 “(A) to obtain, under section 612, a free
4 copy of a consumer report on the consumer
5 from the consumer reporting agency referred to
6 in paragraph (2), which notice shall include an
7 indication of the 60-day period under that sec-
8 tion for obtaining such a copy; and

9 “(B) to dispute, under section 611, with a
10 consumer reporting agency the accuracy or
11 completeness of any information in a consumer
12 report furnished by the agency.”.

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

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

20 “(1) IN GENERAL.—Any person who uses a
21 consumer report on any consumer in connection with
22 any credit transaction which is not initiated by the
23 consumer and which consists of a firm offer of credit
24 shall provide with any written solicitation made to

1 the consumer regarding the transaction a clear and
2 conspicuous statement that—

3 “(A) information contained in the consum-
4 er’s consumer report was used in connection
5 with the transaction;

6 “(B) the consumer received the offer of
7 credit because the consumer satisfied the cri-
8 teria for creditworthiness under which the
9 consumer was selected for the offer;

10 “(C) if applicable, the credit may not be
11 extended if, after the consumer responds to the
12 offer, the consumer does not meet the criteria
13 used to select the consumer for the offer or any
14 applicable criteria bearing on creditworthiness
15 or does not furnish any required collateral;

16 “(D) the consumer has a right to prohibit
17 information contained in the consumer’s file
18 with any consumer reporting agency from being
19 used in connection with any credit transaction
20 which is not initiated by the consumer; and

21 “(E) the consumer may exercise the right
22 referred to in subparagraph (D) by notifying a
23 notification system established under section
24 604(d).

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

6 “(3) MAINTAINING CRITERIA ON FILE.—A per-
7 son who makes an offer of credit to a consumer
8 under a credit transaction described in paragraph
9 (1) shall maintain on file the criteria used to select
10 the consumer to receive the offer, all criteria bearing
11 on creditworthiness that are the basis for determin-
12 ing whether or not to extend credit pursuant to the
13 offer, and any requirement for the furnishing of col-
14 lateral as a condition of the extension of credit, until
15 the end of the 3-year period beginning on the date
16 on which the offer is made to the consumer.

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

20 “(A) the person is affiliated by common
21 ownership or by common corporate control with
22 the person who procured the report;

23 “(B) the person who procured the report
24 clearly and conspicuously disclosed to the
25 consumer to whom the report relates, before the

1 report is provided to the person using the re-
2 port, that the report might be provided to and
3 used by other persons who are affiliated in the
4 manner described in subparagraph (A) to the
5 person who procured the report; and

6 “(C) the provision and use of the report
7 is—

8 “(i) consented to by the consumer in
9 writing, or

10 “(ii) with respect to existing cus-
11 tomers, the consumer has been afforded
12 the opportunity to direct in writing that
13 the report may not be provided to or used
14 by persons who are affiliated in the man-
15 ner described in subparagraph (A) and has
16 not done so.

17 “(5) AUTHORITY OF FEDERAL AGENCIES RE-
18 GARDING UNFAIR OR DECEPTIVE ACTS OR PRAC-
19 TICES NOT AFFECTED.—This title is not intended to
20 affect the authority of any Federal agency to enforce
21 a prohibition against unfair or deceptive acts or
22 practices, including the making of false or mislead-
23 ing statements in connection with credit transactions
24 not initiated by the consumer.”.

1 (c) DUTIES OF PERSON TAKING CERTAIN ACTIONS
2 BASED ON INFORMATION PROVIDED BY AFFILIATE.—
3 Section 615 of the Fair Credit Reporting Act (15 U.S.C.
4 1681m) is further amended by adding after subsection (d),
5 as added by subsection (b) of this section, the following
6 new subsection:

7 “(e) DUTIES OF PERSON TAKING CERTAIN ACTIONS
8 BASED ON INFORMATION PROVIDED BY AFFILIATE.—

9 “(1) DUTIES, GENERALLY.—If a person takes
10 an action described in paragraph (2) with respect to
11 a consumer based in whole or in part on information
12 described in paragraph (3), the person shall—

13 “(A) notify the consumer in writing of the
14 action, including a statement that the consumer
15 may obtain the information in accordance with
16 subparagraph (B) and may contact the toll-free
17 telephone number required by subparagraph
18 (C);

19 “(B) upon a written request from the
20 consumer received within 60 days after trans-
21 mittal of the notice required by subparagraph
22 (A), disclose to the consumer in writing the na-
23 ture of the information upon which the action
24 is based by not later than 30 days after receipt
25 of the request; and

1 “(C) make available a toll-free telephone
2 number at which personnel are available to
3 communicate with the consumer regarding the
4 action during normal business hours.

5 “(2) ACTION DESCRIBED.—An action referred
6 to in paragraph (1) is—

7 “(A) an adverse action described in section
8 603(k)(1)(A) taken in connection with a trans-
9 action initiated by the consumer, or any adverse
10 action described in section 603(k)(1) (B) or
11 (C);

12 “(B) a denial of any other transaction ini-
13 tiated by the consumer for personal, family, or
14 household purposes; or

15 “(C) an increase in any charge for a trans-
16 action described in subparagraph (B).

17 “(3) INFORMATION DESCRIBED.—Information
18 referred to in paragraph (1)—

19 “(A) except as provided in subparagraph
20 (B), is information that—

21 “(i) is furnished to the person taking
22 the action by a person related by common
23 ownership or affiliated by common cor-
24 porate control to the person taking the ac-
25 tion; and

1 “(ii) bears on the consumer’s credit
2 worthiness, credit standing, credit capacity,
3 character, general reputation, personal
4 characteristics, or mode of living; and

5 “(B) does not include—

6 “(i) information solely as to trans-
7 actions or experiences between the
8 consumer and the person furnishing the in-
9 formation; or

10 “(ii) information in a consumer re-
11 port.”.

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

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

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

23 (b) MINIMUM CIVIL LIABILITY FOR WILLFUL NON-
24 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 damages of no
5 less than \$100 and no more than \$1,000; or

6 “(B) in the case of liability of a natural person
7 for obtaining a consumer report under false pre-
8 tenses or knowingly without a permissible purpose,
9 actual damages sustained by the consumer as a re-
10 sult of the failure or \$1,000, whichever is greater;”.

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

16 (d) ATTORNEY’S FEES.—

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

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

1 in relation to the work expended in responding to the
2 pleading, motion, or other paper.”.

3 (2) NEGLIGENT NONCOMPLIANCE.—Section
4 617 of the Fair Credit Reporting Act (15 U.S.C.
5 1681o) is amended by adding at the end the follow-
6 ing:

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

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

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

21 **“§ 623. Responsibilities of furnishers of information**
22 **to consumer reporting agencies**

23 “(a) DUTY OF FURNISHERS OF INFORMATION TO
24 PROVIDE COMPLETE AND ACCURATE INFORMATION.—

1 “(1) PROHIBITIONS.—A person shall not fur-
2 nish any information to any consumer reporting
3 agency if the person knows or should have known
4 the information is incomplete or inaccurate.

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

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

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

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

23 “(3) DUTY TO PROVIDE NOTICE OF DISPUTE.—
24 If the completeness or accuracy of any information
25 furnished by any person to any consumer reporting

1 agency is disputed to such person by a consumer,
2 the person may not furnish the information to any
3 consumer reporting agency without notice that such
4 information is disputed by the consumer.

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

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

22 “(b) DUTIES OF FURNISHERS OF INFORMATION
23 UPON NOTICE OF DISPUTE.—

24 “(1) IN GENERAL.—After receiving notice pur-
25 suant to section 611(a)(2) of a dispute with regard

1 to the completeness or accuracy of any information
2 provided by a person to a consumer reporting agen-
3 cy, the person shall—

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

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

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

11 “(D) if the investigation finds that the in-
12 formation is incomplete or inaccurate, report
13 those results to all other consumer reporting
14 agencies to which the person furnished the in-
15 formation and that compile and maintain files
16 on consumers on a nationwide basis.

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

1 “(c) LIMITATION ON LIABILITY.—Sections 616 and
2 617 do not apply to any failure to comply with subsection
3 (a), except as provided in section 621(c)(1)(B).

4 “(d) LIMITATION ON ENFORCEMENT.—Subsection
5 (a) may be enforced exclusively under section 621 by the
6 Federal agencies and officials and the State officials iden-
7 tified in that section.”.

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

“623. Responsibilities of furnishers of information to consumer reporting agencies.

“624. Relation to State laws.”.

12 **SEC. 114. INVESTIGATIVE CONSUMER REPORTS.**

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

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

17 (2) by striking subsection (a)(2) and inserting
18 the following:

19 “(2) the person certifies or has certified to the
20 consumer reporting agency that—

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

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

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

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

4 “(d) PROHIBITIONS.—

5 “(1) CERTIFICATION.—A consumer reporting
6 agency shall not prepare or furnish an investigative
7 consumer report unless the agency has received a
8 certification under subsection (a)(2) from the person
9 who requested the report.

10 “(2) INQUIRIES.—A consumer reporting agency
11 shall not make an inquiry for the purpose of prepar-
12 ing an investigative consumer report on a consumer
13 for employment purposes if the making of the in-
14 quiry by an employer or prospective employer of the
15 consumer would violate any applicable Federal or
16 State equal employment opportunity law or regula-
17 tion.

18 “(3) CERTAIN PUBLIC RECORD INFORMA-
19 TION.—Except as otherwise provided in section 613,
20 a consumer reporting agency shall not furnish an in-
21 vestigative consumer report which includes informa-
22 tion which is a matter of public record and which re-
23 lates to an arrest, indictment, conviction, civil judi-
24 cial action, tax lien, or outstanding judgment, unless
25 the agency has verified the accuracy of the informa-

1 tion within the 30-day period ending on the date the
2 report is furnished.

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

12 “(A) the agency has followed reasonable
13 procedures to obtain confirmation of the infor-
14 mation, from an additional source that has
15 independent and direct knowledge of the infor-
16 mation; or

17 “(B) the person interviewed is the best
18 possible source of the information.”.

19 **SEC. 115. INCREASED CRIMINAL PENALTIES FOR OBTAIN-**
20 **ING INFORMATION UNDER FALSE PRE-**
21 **TENSES.**

22 (a) OBTAINING INFORMATION UNDER FALSE PRE-
23 TENSES.—Section 619 of the Fair Credit Reporting Act
24 (15 U.S.C. 1681q) is amended by striking “fined not more
25 than \$5,000 or imprisoned not more than one year, or

1 both” and inserting “fined under title 18, United States
2 Code, imprisoned for not more than 2 years, or both”.

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

9 **SEC. 116. ADMINISTRATIVE ENFORCEMENT.**

10 (a) AVAILABLE ENFORCEMENT POWERS.—Section
11 621(a) of the Fair Credit Reporting Act (15 U.S.C.
12 1681s(a))—

13 (1) is amended in the second sentence by strik-
14 ing “Act and shall be subject to enforcement by the
15 Federal Trade Commission under section 5(b) there-
16 of with respect to any consumer reporting agency or
17 person subject to enforcement by the Federal Trade
18 Commission pursuant to this subsection, irrespec-
19 tive” and inserting “Act. All functions and powers of
20 the Federal Trade Commission under the Federal
21 Trade Commission Act shall be available to the
22 Commission to enforce compliance with this title by
23 any person subject to enforcement by the Federal
24 Trade Commission pursuant to this subsection and

1 not subject to enforcement pursuant to section 8 of
2 the Federal Deposit Insurance Act, irrespective”;

3 (2) as amended by paragraph (1), is further
4 amended by inserting before the 3rd period the fol-
5 lowing: “, including the power to enforce the provi-
6 sions of this title in the same manner as if the viola-
7 tion had been a violation of any Federal Trade Com-
8 mission trade regulation rule”; and

9 (3) as amended by paragraph (1), is further
10 amended by adding after the 3rd period the follow-
11 ing: “Notwithstanding the preceding sentence, a
12 court may not impose any civil penalty on a person
13 for a violation of section 623(a)(1) unless the person
14 has been enjoined from committing the violation, or
15 ordered not to commit the violation, in an action or
16 proceeding brought by or on behalf of the Federal
17 Trade Commission and has violated the injunction
18 or order, and the court may not impose any civil
19 penalty for any violation occurring before the date of
20 the violation of the injunction or order.”.

21 (b) AGENCIES RESPONSIBLE FOR ENFORCEMENT.—
22 Section 621 of the Fair Credit Reporting Act (15 U.S.C.
23 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) subject to paragraph (5), may bring
6 an action on behalf of its 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 FEDERAL REGULATORS.—The
23 State shall serve prior written notice of any such ac-
24 tion upon the Federal Trade Commission or the ap-
25 propriate Federal regulator determined under sub-

1 section (b) and provide the Commission or appro-
2 priate Federal regulator with a copy of its com-
3 plaint, except in any case where such prior notice is
4 not feasible, in which case the State shall serve such
5 notice immediately upon instituting such action. The
6 Federal Trade Commission or appropriate Federal
7 regulator shall have the right (A) to intervene in the
8 action, (B) upon so intervening, to be heard on all
9 matters arising therein, (C) to remove the action to
10 the appropriate United States district court, and (D)
11 to file petitions for appeal.

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

22 “(4) LIMITATION ON STATE ACTION WHILE
23 FEDERAL ACTION PENDING.—Whenever the Federal
24 Trade Commission or the appropriate Federal regu-
25 lator has instituted a civil action or an administra-

1 tive action under section 8 of the Federal Deposit
2 Insurance Act for a violation of this title, no State
3 may, during the pendency of such action, bring an
4 action under this section against any defendant
5 named in the complaint of the Commission or the
6 appropriate Federal regulator for any violation of
7 this title that is alleged in that complaint.

8 “(5) LIMITATIONS ON STATE ACTIONS FOR VIO-
9 LATION OF SECTION 621(a)(1).—

10 “(A) VIOLATION OF INJUNCTION RE-
11 QUIRED.—A State may not bring an action
12 against a person under paragraph (1)(B) for a
13 violation of section 623(a)(1), unless—

14 “(i) the person has been enjoined
15 from committing the violation, in an action
16 brought by the State under paragraph
17 (1)(A); and

18 “(ii) the person has violated the in-
19 junction.

20 “(B) LIMITATION ON DAMAGES RECOVER-
21 ABLE.—In an action against a person under
22 paragraph (1)(B) for a violation of section
23 623(a)(1), a State may not recover any dam-
24 ages incurred before the date of the violation of
25 an injunction on which the action is based.”.

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

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

6 “(e) INTERPRETIVE AUTHORITY.—The Board of
7 Governors of the Federal Reserve System may issue inter-
8 pretations of any provision of this title as it may apply
9 to any persons identified under paragraph (1), (2), and
10 (3) of subsection (b), or to the holding companies and af-
11 filiates of such persons, in consultation with Federal agen-
12 cies identified in paragraphs (1), (2), and (3) of subsection
13 (b).”.

14 **SEC. 119. PREEMPTION OF STATE LAW.**

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

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

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

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

24 “(1) with respect to any subject matter regu-
25 lated under—

1 “(A) subsection (c) or (d) of section 604,
2 relating to the prescreening of consumer re-
3 ports;

4 “(B) section 611, relating to the time by
5 which a consumer reporting agency must take
6 any action, including the provision of notifica-
7 tion to a consumer or other person, in any pro-
8 cedure related to the disputed accuracy of infor-
9 mation in a consumer’s file, except that this
10 subparagraph does not apply to any State law
11 in effect on the date of the enactment of the
12 Consumer Reporting Reform Act of 1994;

13 “(C) section 615(a), relating to the duties
14 of a person who takes any adverse action with
15 respect to a consumer on the basis of informa-
16 tion contained in a consumer report;

17 “(D) section 615(d), relating to the duties
18 of persons who use a consumer report of a
19 consumer in connection with any credit trans-
20 action which is not initiated by the consumer
21 and which consists of a firm offer of credit;

22 “(E) section 605, relating to obsolete in-
23 formation, except that this subparagraph does
24 not apply to any State law in effect on the date

1 of the enactment of the Consumer Reporting
2 Reform Act of 1994; or

3 “(F) section 623(b)(2), relating to the
4 time by which a person must take any action
5 required under section 623(b)(1) with respect
6 to an investigation of information furnished by
7 the person to a consumer reporting agency, ex-
8 cept that this subparagraph does not apply to
9 any State law in effect on the date of the enact-
10 ment of the Consumer Reporting Reform Act of
11 1994;

12 “(2) with respect to the exchange of informa-
13 tion among persons affiliated by common ownership
14 or common corporate control, except that this para-
15 graph does not apply to section 2480e (a) and (c)(1)
16 of title 9, Vermont Statutes Annotated (as in effect
17 on the date of the enactment of the Consumer Re-
18 porting Reform Act of 1994); or

19 “(3) with respect to the form and content of
20 any disclosure required to be made under section
21 609(c).

22 “(c) DEFINITION OF FIRM OFFER OF CREDIT.—Not-
23 withstanding any definition of the term ‘firm offer of cred-
24 it’ (or any equivalent term) under the laws of any State,
25 the definition of that term contained in section 603(l) shall

1 be construed to apply in the enforcement and interpreta-
2 tion of the laws of any State governing consumer reports.

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

4 “(1) do not affect any settlement, agreement, or
5 consent judgment between any State Attorney Gen-
6 eral and any consumer reporting agency in effect on
7 the date of the enactment of the Consumer Report-
8 ing Reform Act of 1994; and

9 “(2) do not apply to any provision of State law
10 (including any provision of a State constitution)
11 that—

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

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

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

17 **SEC. 120. ACTION BY FTC AND FEDERAL RESERVE BOARD.**

18 (a) MODIFICATION OF REQUIREMENTS BY FTC AND
19 FEDERAL RESERVE BOARD AUTHORIZED.—

20 (1) IN GENERAL.—Section 621 of the Fair
21 Credit Reporting Act (15 U.S.C. 1681s), is further
22 amended by adding after subsection (e) (as added by
23 section 118 of this Act) the following new sub-
24 section:

1 “(f) MODIFICATION OF REQUIREMENTS BY FTC AU-
2 THORIZED.—

3 “(1) IN GENERAL.—If the Federal Trade Com-
4 mission considers such action necessary for the pro-
5 tection of consumers, the Commission may, after
6 consultation with appropriate State regulatory and
7 law enforcement agencies, promulgate regulations in
8 accordance with section 553 of title 5, United States
9 Code, to impose, with respect to consumer reporting
10 agencies and all other persons subject to this title
11 other than any person described in paragraph (1),
12 (2), or (3) of subsection (b), requirements—

13 “(A) that are more stringent than those
14 imposed under—

15 “(i) section 611, relating to the time
16 by which a consumer reporting agency
17 must take any action, including the provi-
18 sion of notification to a consumer or other
19 person, in any procedure related to the dis-
20 puted accuracy of information in a con-
21 sumer’s file;

22 “(ii) section 615(a), relating to the
23 duties of a person who takes any adverse
24 action with respect to a consumer on the

1 basis of information contained in a
2 consumer report;

3 “(iii) section 615(d), relating to the
4 duties of persons who use a consumer re-
5 port on a consumer in connection with any
6 credit transaction which is not initiated by
7 the consumer and that consists of a firm
8 offer of credit; or

9 “(iv) section 623(b)(2), relating to the
10 time by which a person must take any ac-
11 tion required under section 623(b)(1) with
12 respect to an investigation of information
13 furnished by the person to a consumer re-
14 porting agency; and

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

18 “(2) FEDERAL RESERVE BOARD AUTHORITY.—
19 If the Board of Governors of the Federal Reserve
20 System determines such action to be necessary for
21 the protection of consumers, the Board may pre-
22 scribe regulations imposing on persons described in
23 paragraph (1), (2), or (3) of subsection (b) or on the
24 holding companies and affiliates of such persons any

1 requirement described in paragraph (1) of this sub-
2 section.”.

3 (2) CLERICAL AMENDMENTS.—

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

7 **“§ 621. Administrative enforcement and authorities;
8 State actions”.**

9 (B) The table of contents at the beginning
10 of the Fair Credit Reporting Act is amended by
11 striking the item relating to section 621 and in-
12 serting the following new item:

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

13 (b) DEADLINE TO PRESCRIBE MATTERS.—The Fed-
14 eral Trade Commission shall prescribe all matters required
15 by this title (including the amendments made by this title)
16 to be prescribed by that Commission, before the end of
17 the 300-day period beginning on the date of the enactment
18 of this Act.

19 **SEC. 121. AMENDMENT TO FAIR DEBT COLLECTION PRAC-
20 TICES ACT.**

21 Section 807(11) of the Fair Debt Collection Practices
22 Act (15 U.S.C. 1692e), relating to certain practices con-
23 stituting prohibited representations, is amended to read
24 as follows:

1 “(11) The failure to disclose clearly, in any
2 written communication made to collect a debt or to
3 obtain information about a consumer, that the debt
4 collector is attempting to collect a debt and that any
5 information obtained will be used for that purpose,
6 except that this paragraph does not apply to a com-
7 munication—

8 “(A) to acquire location information in ac-
9 cordance with section 804;

10 “(B) made solely to acknowledge receipt of
11 monies or payments; or

12 “(C) that consists solely of information re-
13 quested by the consumer or the consumer’s at-
14 torney.”.

15 **SEC. 122. FURNISHING CONSUMER REPORTS FOR CERTAIN**
16 **PURPOSES RELATING TO CHILD SUPPORT.**

17 Section 604(a) of the Fair Credit Reporting Act (15
18 U.S.C. 1681b) is amended in subsection (a) (as designated
19 by section 103(a)(1) of this Act) by adding at the end
20 the following:

21 “(4) In response to a request by the head of a
22 department, agency, or office of any State or any
23 political subdivision of any State that is responsible
24 under law for enforcing child support orders (or an
25 official authorized by the head of any such depart-

1 ment, agency, or office), if the person making the re-
2 quest certifies to the consumer reporting agency
3 that—

4 “(A) the consumer report is needed to es-
5 tablish an individual’s capacity to make child
6 support payments, or to determine the appro-
7 priate level of such payments;

8 “(B) the person has provided at least 10
9 days prior written notice to the consumer whose
10 report is requested, by certified or registered
11 mail to the last known address of the consumer,
12 that the report will be requested; and

13 “(C) the consumer report obtained pursu-
14 ant to this paragraph will be kept confidential,
15 will be used solely for establishing child support
16 payment obligations, and will not be used in
17 connection with any other civil, administrative,
18 or criminal proceeding or for any other pur-
19 pose.”.

20 **SEC. 123. DISCLOSURE OF INFORMATION AND CONSUMER**
21 **REPORTS TO FBI FOR COUNTERINTEL-**
22 **LIGENCE PURPOSES.**

23 (a) IN GENERAL.—The Fair Credit Reporting Act
24 (15 U.S.C. 1681 et seq.) is amended by adding after sec-

1 tion 624, as redesignated by section 113(a) of this Act,
2 the following new section:

3 **“§ 625. Disclosures to FBI for counterintelligence**
4 **purposes**

5 “(a) IDENTITY OF FINANCIAL INSTITUTIONS.—Not-
6 withstanding section 604 or any other provision of this
7 title, a consumer reporting agency shall furnish to the
8 Federal Bureau of Investigation the names and addresses
9 of all financial institutions (as that term is defined in sec-
10 tion 1101 of the Right to Financial Privacy Act of 1978)
11 at which a consumer maintains or has maintained an ac-
12 count, to the extent that information is in the files of the
13 agency, when presented with a written request for that
14 information, signed by the Director of the Federal Bureau
15 of Investigation, or the Director’s designee, which certifies
16 compliance with this section. The Director or the Direc-
17 tor’s designee may make such a certification only if the
18 Director or the Director’s designee has determined in writ-
19 ing that—

20 “(1) such information is necessary for the con-
21 duct of an authorized foreign counterintelligence in-
22 vestigation; and

23 “(2) there are specific and articulable facts giv-
24 ing reason to believe that the consumer—

1 “(A) is a foreign power (as defined in sec-
2 tion 101 of the Foreign Intelligence Surveil-
3 lance Act of 1978) or a person who is not a
4 United States person (as defined in such sec-
5 tion 101) and is an official of a foreign power;
6 or

7 “(B) is an agent of a foreign power and is
8 engaging or has engaged in international terror-
9 ism (as that term is defined in section 101(c)
10 of the Foreign Intelligence Surveillance Act of
11 1978) or clandestine intelligence activities that
12 involve or may involve a violation of criminal
13 statutes of the United States.

14 “(b) IDENTIFYING INFORMATION.—Notwithstanding
15 the provisions of section 604 or any other provision of this
16 title, a consumer reporting agency shall furnish identifying
17 information respecting a consumer, limited to name, ad-
18 dress, former addresses, places of employment, or former
19 places of employment, to the Federal Bureau of Investiga-
20 tion when presented with a written request, signed by the
21 Director or the Director’s designee, which certifies compli-
22 ance with this subsection. The Director or the Director’s
23 designee may make such a certification only if the Director
24 or the Director’s designee has determined in writing
25 that—

1 “(A) such information is necessary to the
2 conduct of an authorized counterintelligence in-
3 vestigation; and

4 “(B) there is information giving reason to
5 believe that the consumer has been, or is about
6 to be, in contact with a foreign power or an
7 agent of a foreign power (as defined in section
8 101 of the Foreign Intelligence Surveillance Act
9 of 1978).

10 “(c) COURT ORDER FOR DISCLOSURE OF CONSUMER
11 REPORTS.—Notwithstanding section 604 or any other
12 provision of this title, if requested in writing by the Direc-
13 tor of the Federal Bureau of Investigation, or a designee
14 of the Director, a court may issue an order ex parte direct-
15 ing a consumer reporting agency to furnish a consumer
16 report to the Federal Bureau of Investigation, upon a
17 showing in camera that—

18 “(1) the consumer report is necessary for the
19 conduct of an authorized foreign counterintelligence
20 investigation; and

21 “(2) there are specific and articulable facts giv-
22 ing reason to believe that the consumer whose
23 consumer report is sought—

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

1 “(B) is engaging or has engaged in inter-
2 national terrorism (as that term is defined in
3 section 101(c) of the Foreign Intelligence Sur-
4 veillance Act of 1978) or clandestine intel-
5 ligence activities that involve or may involve a
6 violation of criminal statutes of the United
7 States.

8 The terms of an order issued under this subsection shall
9 not disclose that the order is issued for purposes of a
10 counterintelligence investigation.

11 “(d) CONFIDENTIALITY.—No consumer reporting
12 agency or officer, employee, or agent of a consumer report-
13 ing agency shall disclose to any person, other than those
14 officers, employees, or agents of a consumer reporting
15 agency necessary to fulfill the requirement to disclose in-
16 formation to the Federal Bureau of Investigation under
17 this section, that the Federal Bureau of Investigation has
18 sought or obtained the identity of financial institutions or
19 a consumer report respecting any consumer under sub-
20 section (a), (b), or (c) and no consumer reporting agency
21 or officer, employee, or agent of a consumer reporting
22 agency shall include in any consumer report any informa-
23 tion that would indicate that the Federal Bureau of Inves-
24 tigation has sought or obtained such information or a
25 consumer report.

1 “(e) PAYMENT OF FEES.—The Federal Bureau of
2 Investigation shall, subject to the availability of appropria-
3 tions, pay to the consumer reporting agency assembling
4 or providing reports or information in accordance with
5 procedures established under this section, a fee for reim-
6 bursement for such costs as are reasonably necessary and
7 which have been directly incurred in searching, reproduc-
8 ing, or transporting books, papers, records, or other data
9 required or requested to be produced under this section.

10 “(f) LIMIT ON DISSEMINATION.—The Federal Bu-
11 reau of Investigation may not disseminate information ob-
12 tained pursuant to this section outside of the Federal Bu-
13 reau of Investigation, except to the Department of Justice
14 as may be necessary for the approval or conduct of a for-
15 eign counterintelligence investigation, or, where the infor-
16 mation concerns a person subject to the Uniform Code of
17 Military Justice, to appropriate investigative authorities
18 within the military department concerned as may be nec-
19 essary for the conduct of a joint foreign counterintel-
20 ligence investigation.

21 “(g) RULES OF CONSTRUCTION.—Nothing in this
22 section shall be construed to prohibit information from
23 being furnished by the Federal Bureau of Investigation
24 pursuant to a subpoena or court order, or in connection
25 with a judicial or administrative proceeding to enforce the

1 provisions of this Act. Nothing in this section shall be con-
2 strued to authorize or permit the withholding or informa-
3 tion from the Congress.

4 “(h) REPORTS TO CONGRESS.—On a semiannual
5 basis, the Attorney General of the United States shall fully
6 inform the Permanent Select Committee on Intelligence
7 and the Committee on Banking, Finance and Urban Af-
8 fairs of the House of Representatives, and the Select Com-
9 mittee on Intelligence and the Committee on Banking,
10 Housing, and Urban Affairs of the Senate concerning all
11 requests made pursuant to subsections (a), (b), and (c).

12 “(i) DAMAGES.—Any agency or department of the
13 United States obtaining or disclosing any consumer re-
14 ports, records, or information contained therein in viola-
15 tion of this section is liable to the consumer to whom such
16 consumer reports, records, or information relate in an
17 amount equal to the sum of—

18 “(1) \$100, without regard to the volume of
19 consumer reports, records, or information involved;

20 “(2) any actual damages sustained by the
21 consumer as a result of the disclosure;

22 “(3) if the violation is found to have been will-
23 ful or intentional, such punitive damages as a court
24 may allow; and

1 “(4) in the case of any successful action to en-
2 force liability under this subsection, the costs of the
3 action, together with reasonable attorney fees, as de-
4 termined by the court.

5 “(j) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a
6 court determines that any agency or department of the
7 United States has violated any provision of this section
8 and the court finds that the circumstances surrounding
9 the violation raise questions of whether or not an officer
10 or employee of the agency or department acted willfully
11 or intentionally with respect to the violation, the agency
12 or department shall promptly initiate a proceeding to de-
13 termine whether or not disciplinary action is warranted
14 against the officer or employee who was responsible for
15 the violation.

16 “(k) GOOD-FAITH EXCEPTION.—Notwithstanding
17 any other provision of this title, any consumer reporting
18 agency or agent or employee thereof making disclosure of
19 consumer reports or identifying information pursuant to
20 this subsection in good-faith reliance upon a certification
21 of the Federal Bureau of Investigation pursuant to provi-
22 sions of this section shall not be liable to any person for
23 such disclosure under this title, the constitution of any
24 State, or any law or regulation of any State or any politi-
25 cal subdivision of any State.

1 “(l) LIMITATION OF REMEDIES.—Notwithstanding
2 any other provision of this title, the remedies and sanc-
3 tions set forth in this section shall be the only judicial
4 remedies and sanctions for violation of this section.

5 “(m) INJUNCTIVE RELIEF.—In addition to any other
6 remedy contained in this section, injunctive relief shall be
7 available to require compliance with the procedures of this
8 section. In the event of any successful action under this
9 subsection, costs together with reasonable attorney fees,
10 as determined by the court, may be recovered.”.

11 (b) CLERICAL AMENDMENT.—The table of sections
12 at the beginning of the Fair Credit Reporting Act (15
13 U.S.C. 1681a et seq.), as amended by section 114(b) of
14 this Act, is further amended by adding after the item re-
15 lating to section 624 the following:

“625. Disclosures to FBI for counterintelligence purposes.”.

16 (c) REPEAL OF PROVISIONS.—The following provi-
17 sions of the Fair Credit Reporting Act, as amended by
18 this section, are repealed:

19 (1) Section 625.

20 (2) In the table of contents at the beginning of
21 the Fair Credit Reporting Act, the item relating to
22 section 625.

23 **SEC. 124. EFFECTIVE DATES.**

24 (a) IN GENERAL.—Except as provided in subsection
25 (b), the amendments and repeals made by this title shall

1 take effect 365 days after the date of the enactment of
2 this Act.

3 (b) EXCEPTIONS.—

4 (1) The amendment made by section 121 shall
5 take effect 90 days after the date of the enactment
6 of this Act.

7 (2) The amendments made by subsections (a)
8 and (b) of section 123 shall take effect on the date
9 of the enactment of this Act.

10 (3) Subsection (c) of section 123 shall take ef-
11 fect on the date that is 5 years after the date of the
12 enactment of this Act.

13 **SEC. 125. RELATIONSHIP TO OTHER LAW.**

14 Nothing in this title or the amendments made by this
15 Act shall be considered to supersede or otherwise affect
16 section 2721 of title 18, United States Code, with respect
17 to motor vehicle records for surveys, marketing, or solici-
18 tations.

19 **SEC. 126. SENSE OF SENATE.**

20 It is the sense of the Senate that—

21 (1) individuals should generally be judged for
22 credit worthiness based on their own credit worthi-
23 ness and not on the zip code or neighborhood in
24 which they live; and

1 (2) the Federal Trade Commission after con-
2 sultation with the appropriate Federal banking agen-
3 cies shall report to the Committee on Banking,
4 Housing, and Urban Affairs of the Senate within 6
5 months as to whether and how the location of the
6 residence of an applicant for unsecured credit is con-
7 sidered by many companies and financial institutions
8 in deciding whether an applicant should be granted
9 credit.

10 **SEC. 127. TECHNICAL CORRECTION TO DEPOSITORY INSTI-**
11 **TUTIONS MANAGEMENT INTERLOCKS ACT.**

12 Section 209(c)(1)(C) of the Depository Institution
13 Management Interlocks Act (12 U.S.C. 3207(c)(1)(C), as
14 added by section 338(b) of the Riegle Community Devel-
15 opment and Regulatory Improvement Act of 1994) is
16 amended by inserting “or institutions” after “newly char-
17 tered institutions”.

18 **TITLE II—CREDIT REPAIR**
19 **ORGANIZATIONS**

20 **SEC. 201. REGULATION OF CREDIT REPAIR ORGANIZA-**
21 **TIONS.**

22 Title IV of the Consumer Credit Protection Act is
23 amended to read as follows:

1 **“TITLE IV—CREDIT REPAIR**
2 **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.

3 **“SEC. 401. SHORT TITLE.**

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

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

7 “(a) FINDINGS.—The Congress makes the following
8 findings:

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

16 “(2) Certain advertising and business practices
17 of some companies engaged in the business of credit
18 repair services have worked a financial hardship

1 upon consumers, particularly those of limited eco-
2 nomic means and who are inexperienced in credit
3 matters.

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

6 “(1) To ensure that prospective buyers of the
7 services of credit repair organizations are provided
8 with the information necessary to make an informed
9 decision regarding the purchase of such services.

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

13 **“SEC. 403. DEFINITIONS.**

14 “For purposes of this title—

15 “(1) CONSUMER.—The term ‘consumer’ means
16 an individual.

17 “(2) CONSUMER CREDIT TRANSACTION.—The
18 term ‘consumer credit transaction’ means any trans-
19 action in which credit is offered or extended to an
20 individual for personal, family, or household pur-
21 poses.

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

24 “(A) means any person who uses any in-
25 strumentality of interstate commerce or the

1 mails to sell, provide, or perform (or represent
2 that such person can or will sell, provide, or
3 perform) any service, in return for the payment
4 of money or other valuable consideration, for
5 the express or implied purpose of—

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

8 “(ii) providing advice or assistance to
9 any consumer with regard to any activity
10 or service described in clause (i); and

11 “(B) does not include—

12 “(i) any nonprofit organization which
13 is exempt from taxation under section
14 501(c)(3) of the Internal Revenue Code of
15 1986;

16 “(ii) any attorney-at-law who is a
17 member of the bar of the highest court of
18 any State or otherwise licensed under the
19 laws of any State, with respect to services
20 rendered which are within the scope of reg-
21 ulations applicable to members of such bar
22 or such licensees; or

23 “(iii) any creditor (as defined in sec-
24 tion 103 of the Truth in Lending Act),
25 with respect to any consumer, to the extent

1 the creditor is assisting the consumer to
2 restructure any debt owed by the consumer
3 to the creditor.

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-
23 tracts entered into by a credit repair organization before
24 the end of such period.’”.

1 **TITLE III—TRUTH IN LENDING**
2 **ACT**

3 **SEC. 301. TREATMENT OF DELIVERY FEES AND INTANGI-**
4 **BLES TAXES.**

5 (a) IN GENERAL.—Section 106(a) of the Truth in
6 Lending Act (15 U.S.C. 1605) is amended by adding at
7 the end the following new paragraph:

8 “(6) Taxes levied on security instruments or on
9 documents evidencing indebtedness if such taxes
10 must be paid as a precondition to recording the in-
11 strument securing the evidence of indebtedness.”.

12 (b) EXCLUDED FEES.—Section 106(e) of the Truth
13 in Lending Act (15 U.S.C. 1605(e)) is amended by insert-
14 ing “, if bona fide and reasonable” before the colon.

15 (c) FEES FOR DELIVERY CHARGES.—Section 106(e)
16 of the Truth in Lending Act (15 U.S.C. 1605(e)) is
17 amended by adding at the end the following new para-
18 graph:

19 “(7) Fees for delivery charges imposed by third
20 parties (including settlement agents, attorneys, and
21 escrow and title companies) if the creditor does not
22 retain the charges and the fees do not exceed \$20
23 per delivery, or \$50 per consumer transaction.”.

1 (d) APPLICABILITY.—The amendments made by this
2 section shall apply to all consumer credit transactions con-
3 summated on or after February 1, 1995.

4 **SEC. 302. LIMITATIONS ON LIABILITY.**

5 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
6 ing Act (15 U.S.C. 1631 et seq.) is amended by adding
7 at the end the following new section:

8 **“SEC. 139. CERTAIN LIMITATIONS ON LIABILITY.**

9 “(a) IN GENERAL.—For transactions consummated
10 prior to February 1, 1995, a creditor or assignee shall
11 have no civil or criminal liability under this title, nor shall
12 a consumer have extended rescission rights under section
13 125, due to a creditor’s improper disclosure of—

14 “(1) delivery charges actually and reasonably
15 imposed by the creditor, or any delivery charges im-
16 posed by third parties (including settlement agents,
17 attorneys, and escrow and title companies), if the
18 creditor does not retain the charges; or

19 “(2) taxes levied on security instruments or
20 documents evidencing indebtedness.

21 “(b) APPLICABILITY.—Subsection (a) does not apply
22 to—

23 “(1) any individual action or counterclaim
24 brought under this title filed prior to October 1,

1 1994, that alleged (prior to such date) improper dis-
2 closure of delivery charges or taxes;

3 “(2) any class action brought under this title in
4 which a class was certified prior to October 1, 1994,
5 that alleged (prior to such date) improper disclosure
6 of delivery charges or taxes;

7 “(3) the named individual plaintiffs in any class
8 action filed under this title prior to October 1, 1994,
9 that alleged (prior to such date) improper disclosure
10 of delivery charges or taxes; or

11 “(4) any consumer credit transaction in which
12 a notice of rescission was sent to the creditor prior
13 to October 1, 1994.”.

14 (b) AMENDMENT TO THE TABLE OF SECTIONS.—The
15 table of sections for chapter 2 of the Truth in Lending
16 Act is amended by inserting after the item relating to sec-
17 tion 138 the following:

“139. Certain limitations on liability.”.

18 **TITLE IV—DISASTER RELIEF**

19 **SEC. 401. DEPOSITORY INSTITUTIONS DISASTER RELIEF.**

20 (a) TRUTH IN LENDING ACT; EXPEDITED FUNDS
21 AVAILABILITY ACT.—

22 (1) TRUTH IN LENDING ACT.—During the 240-
23 day period beginning on the date of enactment of
24 this Act, the Board of Governors of the Federal Re-
25 serve System may make exceptions to the Truth in

1 Lending Act for transactions within an area in
2 which the President, pursuant to section 401 of the
3 Robert T. Stafford Disaster Relief and Emergency
4 Assistance Act, has determined, on or after July 1,
5 1994, that a major disaster exists, or within an area
6 determined to be eligible for disaster relief under
7 other Federal law by reason of damage related to
8 the 1994 flooding in Georgia, Alabama, and Florida
9 resulting from Tropical Storm Alberto, if the Board
10 determines that the exception can reasonably be ex-
11 pected to alleviate hardships to the public resulting
12 from such disaster that outweigh possible adverse ef-
13 fects.

14 (2) EXPEDITED FUNDS AVAILABILITY ACT.—
15 During the 240-day period beginning on the date of
16 enactment of this Act, the Board of Governors of
17 the Federal Reserve System may make exceptions to
18 the Expedited Funds Availability Act for depository
19 institution offices located within any area referred to
20 in paragraph (1) of this section if the Board deter-
21 mines that the exception can reasonably be expected
22 to alleviate hardships to the public resulting from
23 such disaster that outweigh possible adverse effects.

1 (3) TIME LIMIT ON EXCEPTIONS.—Any excep-
2 tion made under this subsection shall expire not
3 later than July 1, 1995.

4 (4) PUBLICATION REQUIRED.—The Board of
5 Governors of the Federal Reserve System shall pub-
6 lish in the Federal Register a statement that—

7 (A) describes any exception made under
8 this subsection; and

9 (B) explains how the exception can reason-
10 ably be expected to produce benefits to the pub-
11 lic that outweigh possible adverse effects.

12 (b) DEPOSIT OF INSURANCE PROCEEDS.—

13 (1) IN GENERAL.—The appropriate Federal
14 banking agency may, by order, permit an insured de-
15 pository institution to subtract from the institution's
16 total assets, in calculating compliance with the lever-
17 age limit prescribed under section 38 of the Federal
18 Deposit Insurance Act, an amount not exceeding the
19 qualifying amount attributable to insurance pro-
20 ceeds, if the agency determines that—

21 (A) the institution—

22 (i) had its principal place of business
23 within an area in which the President, pur-
24 suant to section 401 of the Robert T. Staf-
25 ford Disaster Relief and Emergency Assist-

1 ance Act, has determined, on or after July
2 1, 1994, that a major disaster exists, or
3 within an area determined to be eligible for
4 disaster relief under other Federal law by
5 reason of damage related to the 1994
6 flooding in Georgia, Alabama, and Florida
7 resulting from Tropical Storm Alberto, on
8 the day before the date of any such deter-
9 mination;

10 (ii) derives more than 60 percent of
11 its total deposits from persons who nor-
12 mally reside within, or whose principal
13 place of business is normally within, areas
14 of intense devastation caused by the major
15 disaster;

16 (iii) was adequately capitalized (as de-
17 fined in section 38 of the Federal Deposit
18 Insurance Act) before the major disaster;
19 and

20 (iv) has an acceptable plan for manag-
21 ing the increase in its total assets and total
22 deposits; and

23 (B) the subtraction is consistent with the
24 purpose of section 38 of the Federal Deposit
25 Insurance Act.

1 (2) TIME LIMIT ON EXCEPTIONS.—Any excep-
2 tion made under this subsection shall expire not
3 later than July 1, 1995.

4 (3) DEFINITIONS.—For purposes of this sub-
5 section, the following definitions shall apply:

6 (A) APPROPRIATE FEDERAL BANKING
7 AGENCY.—The term “appropriate Federal
8 banking agency” has the same meaning as in
9 section 3 of the Federal Deposit Insurance Act.

10 (B) INSURED DEPOSITORY INSTITUTION.—
11 The term “insured depository institution” has
12 the same meaning as in section 3 of the Federal
13 Deposit Insurance Act.

14 (C) LEVERAGE LIMIT.—The term “lever-
15 age limit” has the same meaning as in section
16 38 of the Federal Deposit Insurance Act.

17 (D) QUALIFYING AMOUNT ATTRIBUTABLE
18 TO INSURANCE PROCEEDS.—The term “qualify-
19 ing amount attributable to insurance proceeds”
20 means the amount (if any) by which the institu-
21 tion’s total assets exceed the institution’s aver-
22 age total assets during the calendar quarter
23 ending before the date of any determination re-
24 ferred to in paragraph (1)(A)(i), because of the
25 deposit of insurance payments or governmental

1 assistance made with respect to damage caused
2 by, or other costs resulting from, the major dis-
3 aster.

4 (c) BANKING AGENCY PUBLICATION REQUIRE-
5 MENTS.—

6 (1) IN GENERAL.—A qualifying regulatory
7 agency may take any of the following actions with
8 respect to depository institutions or other regulated
9 entities whose principal place of business is within,
10 or with respect to transactions or activities within,
11 an area in which the President, pursuant to section
12 401 of the Robert T. Stafford Disaster Relief and
13 Emergency Assistance Act, has determined, on or
14 after July 1, 1994, that a major disaster exists, or
15 within an area determined to be eligible for disaster
16 relief under other Federal law by reason of damage
17 related to the 1994 flooding in Georgia, Alabama,
18 and Florida resulting from Tropical Storm Alberto,
19 if the agency determines that the action would facili-
20 tate recovery from the major disaster:

21 (A) PROCEDURE.—Exercising the agency's
22 authority under provisions of law other than
23 this subsection without complying with—

24 (i) any requirement of section 553 of
25 title 5, United States Code; or

1 (ii) any provision of law that requires
2 notice or opportunity for hearing or sets
3 maximum or minimum time limits with re-
4 spect to agency action.

5 (B) PUBLICATION REQUIREMENTS.—Mak-
6 ing exceptions, with respect to institutions or
7 other entities for which the agency is the pri-
8 mary Federal regulator, to—

9 (i) any publication requirement with
10 respect to establishing branches or other
11 deposit-taking facilities; or

12 (ii) any similar publication require-
13 ment.

14 (2) PUBLICATION REQUIRED.—A qualifying
15 regulatory agency shall publish in the Federal Reg-
16 ister a statement that—

17 (A) describes any action taken under this
18 subsection; and

19 (B) explains the need for the action.

20 (3) QUALIFYING REGULATORY AGENCY DE-
21 FINED.—For purposes of this subsection, the term
22 “qualifying regulatory agency” means—

23 (A) the Board of Governors of the Federal
24 Reserve System;

25 (B) the Comptroller of the Currency;

1 (C) the Director of the Office of Thrift Su-
2 pervision;

3 (D) the Federal Deposit Insurance Cor-
4 poration;

5 (E) the Financial Institutions Examination
6 Council;

7 (F) the National Credit Union Administra-
8 tion; and

9 (G) with respect to chapter 53 of title 31,
10 United States Code, the Secretary of the Treas-
11 ury.

12 (4) EXPIRATION.—Any exception made under
13 this subsection shall expire not later than July 1,
14 1995.

15 (d) SENSE OF THE CONGRESS.—It is the sense of
16 the Congress that the Board of Governors of the Federal
17 Reserve System, the Comptroller of the Currency, the Di-
18 rector of the Office of Thrift Supervision, the Federal De-
19 posit Insurance Corporation, and the National Credit
20 Union Administration should encourage depository insti-
21 tutions to meet the financial services needs of their com-
22 munities and customers located in areas affected by the
23 1994 flooding in Georgia, Alabama, and Florida resulting
24 from Tropical Storm Alberto.

1 (e) OTHER AUTHORITY NOT AFFECTED.—No provi-
2 sion of this section shall be construed as limiting the au-
3 thority of any department or agency under any other pro-
4 vision of law.

Passed the House of Representatives October 5,
1994.

Attest:

Clerk.

103RD CONGRESS
2^D SESSION

H. R. 5178

AN ACT

To amend the Fair Credit Reporting Act, and for
other purposes.