

104TH CONGRESS
1ST SESSION

H. R. 561

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 18, 1995

Mr. GONZALEZ (for himself, Mr. VENTO, Mr. SCHUMER, Mr. FRANK of Massachusetts, Mr. KENNEDY of Massachusetts, Mr. FLAKE, Mr. MFUME, Ms. WATERS, Ms. ROYBAL-ALLARD, Mr. BARRETT of Wisconsin, and Mr. HINCHEY) introduced the following bill; which was referred to the Committee on Banking and Financial Services

A BILL

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.**

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Sec. 1. Table of contents.

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prohibition on unauthorized or uncertified use of information.

Sec. 105. Consumer consent required to furnish consumer report containing
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- Sec. 106. Amendments relating to obsolete information and information contained in consumer reports.
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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 1995”.

1 **SEC. 102. DEFINITIONS.**

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

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

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

14 “(i) a refusal to extend additional credit
15 under an existing credit arrangement if the ap-
16 plicant is delinquent or otherwise in default as
17 to that account, or

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

21 “(B) A denial or cancellation of, an increase in
22 any charge for, or a reduction or other adverse or
23 unfavorable change in the terms of coverage or
24 amount of, any insurance, existing or applied for, in
25 connection with the underwriting of insurance.

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

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

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

9 “(i) in connection with an application
10 which was made by, or a transaction which was
11 initiated by, any consumer, or in connection
12 with a review of account information under sec-
13 tion 604(a)(3)(E)(ii); and

14 “(ii) which is adverse to the interest of the
15 consumer.

16 “(2) For purposes of any determination of whether
17 an action is an adverse action under paragraph (1)(A),
18 all appropriate final findings, decisions, commentary, and
19 orders issued under section 701(d)(6) of the Equal Credit
20 Opportunity Act by the Board of Governors of the Federal
21 Reserve System or any court shall apply.”.

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

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

8 “(1) The consumer being determined, based on
9 information in the consumer’s application for the
10 credit, to meet specific criteria bearing on credit-
11 worthiness that are established—

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

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

16 “(2) Verification—

17 “(A) that the consumer continues to meet
18 the specific criteria used to select the consumer
19 for the offer, by using information in a
20 consumer report on the consumer, information
21 in the consumer’s application for the credit, or
22 other information bearing on the creditworthi-
23 ness of the consumer; or

24 “(B) of the information in the consumer’s
25 application for the credit, to determine that the

1 consumer meets the specific criteria bearing on
2 creditworthiness.

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

6 “(A) established before selection of the
7 consumer for the offer of credit; and

8 “(B) described to the consumer in the
9 offer of credit.”.

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

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

19 “(1) reviewing the account; or

20 “(2) collecting the account.”.

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

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

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

8 (1) by inserting “(i)” after “(A)”;

9 (2) by inserting before the semicolon at the end
10 the following: “, (ii) any communication of that in-
11 formation among persons related by common owner-
12 ship or affiliated by corporate control, or (iii) any
13 communication of information from a credit applica-
14 tion by a consumer among persons related by com-
15 mon ownership or affiliated by corporate control if
16 it is clearly and conspicuously disclosed that the in-
17 formation may be communicated among such per-
18 sons and the consumer is given the opportunity,
19 prior to the time that the information is initially
20 communicated, to direct that such information not
21 be communicated among such persons”;

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

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

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

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

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

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

1 “(o) A communication is described in this subsection
2 if it is a communication—

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

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

8 “(A) procuring an employee for the em-
9 ployer, or

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

12 “(3) that is made by a person that regularly
13 performs such procurement;

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

17 “(5) with respect to which—

18 “(A) the consumer who is the subject of
19 the communication—

20 “(i) consents orally or in writing to
21 the nature and scope of the communica-
22 tion, before the collection of any informa-
23 tion for the purpose of making the commu-
24 nication;

1 “(ii) consents orally or in writing to
2 the making of the communication to a pro-
3 spective employer, before the making of the
4 communication; and

5 “(iii) in the case of consent under
6 clause (i) or (ii) given orally, is provided
7 written confirmation of that consent by the
8 person making the communication, within
9 3 business days after the receipt of the
10 consent by that person;

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

19 “(C) the person that makes the commu-
20 nication—

21 “(i) discloses in writing to the
22 consumer who is the subject of the commu-
23 nication, within 5 business days after re-
24 ceiving any request from the consumer for
25 such disclosure, the nature and substance

1 of all information in the consumer's file at
2 the time of the request, except that the
3 sources of information that is acquired
4 solely for use in making the communica-
5 tion and actually used for no other purpose
6 need not be disclosed other than under ap-
7 propriate discovery procedures in the court
8 in which an action is brought; and

9 “(ii) notifies the consumer that is the
10 subject of the communication, in writing,
11 of the consumer's right to request the in-
12 formation described in clause (i).”.

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

19 “(p) The term ‘consumer reporting agency that com-
20 piles and maintains files on consumers on a nationwide
21 basis’ means a consumer reporting agency that regularly
22 engages in the practice of assembling or evaluating, and
23 maintaining, for the purpose of furnishing consumer re-
24 ports to third parties bearing on a consumer's credit-

1 worthiness, credit standing, or credit capacity, each of the
2 following regarding consumers residing nationwide:

3 “(1) Public record information.

4 “(2) Credit account information from persons
5 who furnish that information regularly and in the
6 ordinary course of business.”.

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

10 (1) by inserting “(1)” after “in whole or in part
11 for”; and

12 (2) by striking “(1)” before “credit or insur-
13 ance”.

14 **SEC. 103. FURNISHING CONSUMER REPORTS; USE FOR EM-**
15 **PLOYMENT PURPOSES.**

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

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

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

24 “(E) otherwise has a legitimate business need
25 for the information—

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

3 “(ii) to review an account to determine
4 whether the consumer continues to meet the
5 terms of the account.”.

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

10 “(b) CONDITIONS FOR FURNISHING AND USING
11 CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.—

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

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

17 “(i) the person has complied with
18 paragraph (2) with respect to the
19 consumer report, and the person will com-
20 ply with paragraph (3) with respect to the
21 consumer report if paragraph (3) becomes
22 applicable; and

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

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

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

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

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

19 “(B) the consumer has authorized in writ-
20 ing the procurement of the report by that per-
21 son.

22 “(3) CONDITIONS ON USE FOR ADVERSE AC-
23 TIONS.—In using a consumer report for employment
24 purposes, before taking any adverse action based in

1 whole or in part on the report a person shall provide
2 to the consumer to whom the report relates—

3 “(A) a copy of the report;

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

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

20 “(4) LIMITATION ON PURPOSES.—Subject to
21 paragraph (1), a consumer reporting agency may
22 furnish information bearing on the creditworthiness
23 of a consumer, and a person may use such informa-
24 tion, for employment purposes that do not relate to

1 employment of an individual in an executive or ad-
2 ministrative position, only if—

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

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

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

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

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

20 “(5) EXECUTIVE OR ADMINISTRATIVE POSITION
21 DEFINED.—

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

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

3 “(ii) having policy making, manage-
4 rial, professional, or supervisory respon-
5 sibilities.

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

15 **SEC. 104. AMENDMENTS RELATING TO USE OF CONSUMER**
16 **REPORTS FOR PRESCREENING; PROHIBITION**
17 **ON UNAUTHORIZED OR UNCERTIFIED USE OF**
18 **INFORMATION.**

19 (a) IN GENERAL.—Section 604 of the Fair Credit
20 Reporting Act (15 U.S.C. 1681b), as amended by section
21 103, is further amended—

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

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

3 “(c) FURNISHING REPORTS IN CONNECTION WITH
4 CREDIT TRANSACTIONS NOT INITIATED BY THE
5 CONSUMER.—

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

11 “(A) the consumer authorizes the agency
12 to provide such report to such person; or

13 “(B)(i) the transaction consists of a firm
14 offer of credit;

15 “(ii) the consumer reporting agency has
16 complied with subsection (d); and

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

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

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

1 “(B) an identifier that is not unique to the
2 consumer and is used by the person solely for
3 the purpose of verifying the identity of the
4 consumer; and

5 “(C) information pertaining to a consumer
6 that is not identified or identifiable with the
7 consumer.

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

13 “(d) ELECTION OF CONSUMER TO BE EXCLUDED
14 FROM LISTS.—

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

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

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

6 “(B) by submitting to the agency a signed
7 notice of election form issued by the agency for
8 purposes of this subparagraph.

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

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

20 “(B) provide to the consumer such a form
21 if requested by the consumer, by not later than
22 5 business days after receiving the notification
23 through the system in the case of a request
24 made at the time the consumer provides notifi-
25 cation through the system.

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

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

7 “(B) shall be effective with respect to a
8 consumer reporting agency—

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

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

20 “(C) shall not be effective after the date on
21 which the consumer notifies the agency,
22 through the notification system established by
23 the agency under paragraph (5), that the elec-
24 tion is no longer effective; and

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

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

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

16 “(B) publish by not later than 365 days
17 after the date of the enactment of the
18 Consumer Reporting Reform Act of 1995, and
19 at least annually thereafter, in a publication of
20 general circulation in the area served by the
21 agency—

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

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

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

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

19 (b) FURNISHING CONSUMER REPORTS FOR CERTAIN
20 DIRECT MARKETING TRANSACTIONS PROHIBITED.—Sec-
21 tion 604 of the Fair Credit Reporting Act (15 U.S.C.
22 1681b) is further amended by adding after subsection (d)
23 (as added by subsection (a) of this section) the following
24 new subsection:

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

8 (c) USE OF INFORMATION OBTAINED FROM RE-
9 PORTS.—Section 604 of the Fair Credit Reporting Act (15
10 U.S.C. 1681b) is further amended by adding after sub-
11 section (e) (as added by subsection (b) of this section) the
12 following new subsection:

13 “(f) CERTAIN USE OR OBTAINING OF INFORMATION
14 PROHIBITED.—A person shall not use or obtain a
15 consumer report for any purpose unless—

16 “(1) it is obtained for a purpose for which the
17 consumer report is authorized to be furnished under
18 subsection (a); and

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

1 **SEC. 105. CONSUMER CONSENT REQUIRED TO FURNISH**
2 **CONSUMER REPORT CONTAINING MEDICAL**
3 **INFORMATION.**

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

7 “(f) FURNISHING REPORTS CONTAINING MEDICAL
8 INFORMATION.—A consumer reporting agency shall not
9 furnish for employment purposes, or in connection with
10 a credit transaction, a consumer report which contains
11 medical information about a consumer, unless the
12 consumer consents to the furnishing of the report.”.

13 **SEC. 106. AMENDMENTS RELATING TO OBSOLETE INFOR-**
14 **MATION AND INFORMATION CONTAINED IN**
15 **CONSUMER REPORTS.**

16 (a) REPEAL LARGE-DOLLAR EXCEPTIONS.—Section
17 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c)
18 is amended—

19 (1) in subsection (a) by striking “(a) Except as
20 authorized under subsection (b), no” and inserting
21 “(a) INFORMATION EXCLUDED FROM CONSUMER
22 REPORTS.—No”; and

23 (2) by striking subsection (b).

24 (b) CLARIFICATION OF REPORTING PERIOD.—Sec-
25 tion 605 of the Fair Credit Reporting Act (15 U.S.C.

1 1681c), as amended by subsection (a), is further amended
2 by adding at the end the following new subsection:

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

13 “(2) Paragraph (1) applies only to items of informa-
14 tion added to a consumer report on or after the date that
15 is 455 days after the date of the enactment of the
16 Consumer Reporting Reform Act of 1995.”.

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

22 “(c) INFORMATION REQUIRED TO BE DISCLOSED.—
23 Any consumer reporting agency which furnishes a
24 consumer report which contains information regarding
25 any case involving the consumer which arises under title

1 11, United States Code, shall include in the report an
2 identification of the chapter of such title 11 under which
3 such case arises if provided by the source of the informa-
4 tion. If any case arising or filed under title 11, United
5 States Code, is withdrawn by the consumer prior to a final
6 judgment, the consumer reporting agency shall include in
7 the report that such case or filing was withdrawn upon
8 receipt of documentation certifying such withdrawal.”.

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

14 “(d) INDICATION OF CLOSURE OF ACCOUNT BY
15 CONSUMER.—If a consumer reporting agency is notified
16 pursuant to section 623(a)(4) that a credit account of a
17 consumer was voluntarily closed by the consumer, the
18 agency shall indicate that fact in any consumer report that
19 includes information related to the account.

20 “(e) INDICATION OF DISPUTE BY CONSUMER.—If a
21 consumer reporting agency is notified pursuant to section
22 623(a)(3) that information regarding a consumer that was
23 furnished to the agency is disputed by the consumer, the
24 agency shall indicate that fact in each consumer report
25 that includes the disputed information.”.

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

5 “(f) CERTAIN ACCOUNT INFORMATION.—A consumer
6 reporting agency, upon the written request of a consumer,
7 and subject to the submission of appropriate documenta-
8 tion by the consumer, shall include with any information
9 regarding a failure of the consumer to make any payment
10 on an account of the consumer, a statement (in such form
11 as the Federal Trade Commission shall prescribe) that
12 during the period when the account in question became
13 due, the consumer was receiving assistance pursuant to
14 a declaration of a disaster by the President under the Rob-
15 ert T. Stafford Disaster Relief and Emergency Assistance
16 Act, or unemployment compensation under the laws of any
17 State (or, but for the exhaustion of benefits, would be enti-
18 tled to receive such compensation).”.

19 (f) CLERICAL AMENDMENTS.—

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

1 (2) The table of sections at the beginning of the
2 Fair Credit Reporting Act (15 U.S.C. 1681a et seq.)
3 is amended by striking the item relating to section
4 605 and inserting the following:

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

5 **SEC. 107. AMENDMENTS RELATING TO COMPLIANCE PRO-**
6 **CEDURES.**

7 (a) DISCLOSURE OF CONSUMER REPORTS BY
8 USERS.—Section 607 of the Fair Credit Reporting Act
9 (15 U.S.C. 1681e) is amended by adding at the end the
10 following new subsection:

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

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

23 “(d) NOTICE TO USERS AND FURNISHERS OF INFOR-
24 MATION.—

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

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

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

8 a notice of such person’s responsibilities under this
9 title.

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

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

18 “(e) PROCUREMENT OF CONSUMER REPORT FOR RE-
19 SALE.—

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

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

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

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

10 “(A) establish and comply with reasonable
11 procedures designed to ensure that the report
12 (or information) is resold by the person only for
13 a purpose for which the report may be fur-
14 nished under section 604, including by requir-
15 ing that each person to which the report (or
16 information) is resold and which resells or pro-
17 vides the report (or information) to any other
18 person—

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

21 “(ii) certifies each purpose for which
22 the report (or information) will be used;
23 and

1 “(iii) certifies that the report (or in-
2 formation) will be used for no other pur-
3 pose; and

4 “(B) before reselling the report, make
5 reasonable efforts to verify the identifications
6 and certifications made under subparagraph
7 (A).”.

8 **SEC. 108. AMENDMENTS RELATING TO CONSUMER DISCLO-**
9 **SURES.**

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

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

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

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

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

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

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

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

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

10 (c) DISCLOSURE OF PERMISSIBLE PURPOSES.—Sec-
11 tion 609(a) of the Fair Credit Reporting Act (15 U.S.C.
12 1681g(a)) is further amended by adding at the end the
13 following:

14 “(4) The permissible purpose under section
15 604, by category, for which each person identified
16 under paragraph (3) procured a consumer report.”.

17 (d) INFORMATION REGARDING INQUIRIES.—Section
18 609(a) of the Fair Credit Reporting Act (15 U.S.C.
19 1681g(a)) is amended by adding after paragraph (4) (as
20 added by subsection (c) of this section) the following:

21 “(5) A record of all inquiries received by the
22 agency in the 1-year period preceding the request
23 that identified the consumer in connection with a
24 credit transaction which was not initiated by the
25 consumer.”.

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

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

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

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

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

14 “(B) in the case of a consumer reporting
15 agency that compiles and maintains files on
16 consumers on a nationwide basis, a toll-free
17 telephone number established by the agency at
18 which personnel are accessible to consumers
19 during normal business hours.

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

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

1 “(B) an explanation of how the consumer
2 may exercise the rights of the consumer under
3 this title;

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

10 “(D) a statement that the consumer may
11 have additional rights under State law and that
12 the consumer may wish to contact a State or
13 local consumer protection agency or a State at-
14 torney general to learn of those rights; and

15 “(E) a statement that a consumer report-
16 ing agency is not required to remove accurate
17 derogatory information from a consumer’s file,
18 unless the information is outdated under sec-
19 tion 605 or cannot be verified.

20 “(3) FORM OF SUMMARY OF RIGHTS.—For pur-
21 poses of this subsection and any disclosure by a
22 consumer reporting agency required under this title
23 with respect to consumers’ rights, the Federal Trade
24 Commission (after consultation with each Federal
25 agency referred to in section 621(b)) shall prescribe

1 the form and content of any disclosure of the rights
2 of consumers required under this title.”.

3 (2) TECHNICAL AMENDMENT.—Section
4 606(a)(1)(B) of the Fair Credit Reporting Act (15
5 U.S.C. 1681d(a)(1)(B)) is amended by inserting
6 “and the written summary of the rights of the
7 consumer prepared pursuant to section 609(c)” be-
8 fore the semicolon.

9 (f) FORM OF DISCLOSURES.—

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

13 “(a) IN GENERAL.—

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

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

22 “(b) OTHER FORMS OF DISCLOSURE.—

23 “(1) IN GENERAL.—If authorized by a
24 consumer, a consumer reporting agency may make
25 the disclosures required under 609—

1 “(A) other than in writing; and

2 “(B) in such form as may be—

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

5 “(ii) available from the agency.

6 “(2) FORM.—A consumer may specify pursuant
7 to paragraph (1) that disclosures under section 609
8 shall be made—

9 “(A) in person, upon the appearance of the
10 consumer at the place of business of the
11 consumer reporting agency where disclosures
12 are regularly provided, during normal business
13 hours, and on reasonable notice;

14 “(B) by telephone, if the consumer has
15 made a written request for disclosure by tele-
16 phone;

17 “(C) by electronic means, if available from
18 the agency; or

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

21 (2) SIMPLIFIED DISCLOSURE.—Not later than
22 90 days after the date of enactment of this Act, each
23 consumer reporting agency shall develop a form on
24 which such consumer reporting agency shall make
25 the disclosures required under section 609(a) of the

1 Fair Credit Reporting Act, for the purpose of maxi-
2 mizing the comprehensibility and standardization of
3 such disclosures.

4 (3) GOALS.—The Federal Trade Commission
5 shall take appropriate action to assure that the goals
6 of comprehensibility and standardization are
7 achieved in accordance with paragraph (2).

8 (4) CONFORMING AMENDMENTS.—

9 (A) Section 609(a) of the Fair Credit Re-
10 porting Act (15 U.S.C. 1681h(a)) is amended
11 in the matter preceding paragraph (1) by strik-
12 ing “and proper identification of any consumer”
13 and inserting “and subject to section
14 610(a)(1)”.

15 (B) Section 610 of the Fair Credit Report-
16 ing Act (15 U.S.C. 1681h) is amended in the
17 heading for the section by inserting “**and**
18 **form**” after “**Conditions**”.

19 (C) The table of sections at the beginning
20 of the Fair Credit Reporting Act (15 U.S.C.
21 1681a et seq.) is amended in the item relating
22 to section 610 by inserting “and form” after
23 “Conditions”.

1 **SEC. 109. AMENDMENTS RELATING TO PROCEDURES IN**
2 **CASE OF THE DISPUTED ACCURACY OF ANY**
3 **INFORMATION IN A CONSUMER'S FILE.**

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

7 “(a) REINVESTIGATIONS OF DISPUTED INFORMA-
8 TION.—

9 “(1) REINVESTIGATION REQUIRED.—

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

22 “(B) EXTENSION OF PERIOD TO
23 REINVESTIGATE.—Except as provided in sub-
24 paragraph (C), the 30-day period described in
25 subparagraph (A) may be extended for up to,
26 but for no more than, 15 additional days if the

1 consumer reporting agency receives information
2 from the consumer within that 30-day period
3 that is relevant to the reinvestigation.

4 “(C) LIMITATIONS ON EXTENSION OF PE-
5 RIOD TO REINVESTIGATE.—Subparagraph (B)
6 shall not apply to any reinvestigation in which,
7 in the 30-day period described in subparagraph
8 (A), the information that is the subject of the
9 reinvestigation is found to be inaccurate or in-
10 complete or the consumer reporting agency de-
11 termines that the information cannot be veri-
12 fied.

13 “(2) PROMPT NOTICE OF DISPUTE TO FUR-
14 NISHER OF INFORMATION.—

15 “(A) IN GENERAL.—Before the end of the
16 5-business-day period beginning on the date a
17 consumer reporting agency receives notice of a
18 dispute from any consumer in accordance with
19 paragraph (1), the agency shall provide notifi-
20 cation of the dispute to any person that pro-
21 vided any item of information in dispute, at the
22 address and in the manner established with the
23 person. The notice shall include all relevant in-
24 formation regarding the dispute that the agency
25 has received from the consumer.

1 “(B) PROVISION OF OTHER INFORMATION
2 FROM CONSUMER.—The consumer reporting
3 agency shall promptly provide to the person
4 that provided the information in dispute all rel-
5 evant information regarding the dispute that is
6 received by the agency from the consumer after
7 the period referred to in subparagraph (A) and
8 before the end of the period referred to in para-
9 graph (1)(A).

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

12 “(A) IN GENERAL.—Notwithstanding para-
13 graph (1), a consumer reporting agency may
14 terminate a reinvestigation of information dis-
15 puted by a consumer under that paragraph if
16 the agency reasonably determines that the dis-
17 pute by the consumer is frivolous or irrelevant,
18 including by reason of a failure by a consumer
19 to provide sufficient information to investigate
20 the disputed information.

21 “(B) NOTICE OF DETERMINATION.—Upon
22 making any determination in accordance with
23 subparagraph (A) that a dispute is frivolous or
24 irrelevant, a consumer reporting agency shall
25 notify the consumer within 5 business days of

1 such determination, by mail or, if authorized by
2 the consumer for that purpose, by any other
3 means available to the agency.

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

6 “(i) the reasons for the determination
7 under subparagraph (A); and

8 “(ii) identification of any information
9 required to investigate the disputed infor-
10 mation, which may consist of a standard-
11 ized form describing the general nature of
12 such information.

13 “(4) CONSIDERATION OF CONSUMER INFORMA-
14 TION.—In conducting any reinvestigation under
15 paragraph (1) with respect to disputed information
16 in the file of any consumer, the consumer reporting
17 agency shall review and consider all relevant infor-
18 mation submitted by the consumer in the period de-
19 scribed in paragraph (1)(A) with respect to such dis-
20 puted information.

21 “(5) TREATMENT OF INACCURATE OR UNVERI-
22 FIABLE INFORMATION.—

23 “(A) IN GENERAL.—If, after any
24 reinvestigation under paragraph (1) of any in-
25 formation disputed by a consumer, an item of

1 the information is found to be inaccurate or in-
2 complete or cannot be verified, the consumer re-
3 porting agency shall promptly delete that item
4 of information from the consumer's file. The in-
5 formation deleted shall consist solely of the in-
6 formation that was disputed by the consumer
7 and shall not include any portion of the same
8 item that was not disputed.

9 “(B) REQUIREMENTS RELATING TO
10 REINSERTION OF PREVIOUSLY DELETED MATE-
11 RIAL.—

12 “(i) CERTIFICATION OF ACCURACY OF
13 INFORMATION.—If any information is de-
14 leted from a consumer's file pursuant to
15 subparagraph (A), the information may
16 not be reinserted in the file by the
17 consumer reporting agency unless the per-
18 son who furnishes the information certifies
19 that the information is complete and accu-
20 rate.

21 “(ii) NOTICE TO CONSUMER.—If any
22 information which has been deleted from a
23 consumer's file pursuant to subparagraph
24 (A) is reinserted in the file, the consumer
25 reporting agency shall notify the consumer

1 of the reinsertion in writing within 5 busi-
2 ness days after the reinsertion or, if au-
3 thorized by the consumer for that purpose,
4 by any other means available to the agen-
5 cy.

6 “(iii) ADDITIONAL INFORMATION.—As
7 part of or in addition to the notice under
8 clause (ii), a consumer reporting agency
9 shall provide to a consumer in writing
10 within 5 business days after the date of
11 the reinsertion—

12 “(I) a statement that the dis-
13 puted information has been
14 reinserted;

15 “(II) the name, business address,
16 and telephone number of any fur-
17 nisher of information contacted, or of
18 any furnisher of information which
19 contacted the consumer reporting
20 agency, in connection with the
21 reinsertion of such information; and

22 “(III) a notice that the consumer
23 has the right to add a statement to
24 the consumer’s file disputing the accu-

1 racy or completeness of the disputed
2 information.

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

12 “(D) FREE CONSUMER REPORT DURING
13 12-MONTH PERIOD AFTER DELETION OF INFOR-
14 MATION.—Upon the request of a consumer, a
15 consumer reporting agency shall make all dis-
16 closures pursuant to section 609 without charge
17 to that consumer at least once during the 12-
18 month period after the consumer receives a no-
19 tification under paragraph (6) or paragraph (8)
20 of the deletion of information that is found to
21 be inaccurate or cannot be verified.

22 “(E) AUTOMATED REINVESTIGATION SYS-
23 TEM.—

24 “(i) IN GENERAL.—Any consumer re-
25 porting agency that compiles and main-

1 tains files on consumers on a nationwide
2 basis shall implement an automated system
3 through which furnishers of information to
4 that consumer reporting agency may re-
5 port the results of a reinvestigation that
6 finds incomplete or inaccurate information
7 in a consumer's file to other such
8 consumer reporting agencies.

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

21 “(I) to which a consumer report
22 on the consumer was provided within
23 the preceding 2-year period for pur-
24 poses of resale by that other agency;
25 or

1 “(II) to which a consumer report
2 on the consumer was provided within
3 the preceding 7-year period for pur-
4 poses of merging that report to that
5 other agency’s proprietary files.

6 “(iii) ACTION REQUIRED UPON RE-
7 CEIPT OF REPORT.—If a consumer report-
8 ing agency receives a report under clause
9 (ii), the agency shall—

10 “(I) change the data in its files
11 in accordance with the report;

12 “(II) delete data from its propri-
13 etary files in accordance with the re-
14 port; or

15 “(III) reinvestigate the disputed
16 data that is the subject of the report
17 in accordance with section 611, with
18 the source of that data.

19 “(6) NOTICE OF RESULTS OF
20 REINVESTIGATION.—

21 “(A) IN GENERAL.—A consumer reporting
22 agency shall provide written notice to a
23 consumer of the results of a reinvestigation
24 under this subsection within 5 business days
25 after the completion of the reinvestigation, by

1 mail or, if authorized by the consumer for that
2 purpose, by other means available to the agen-
3 cy.

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

9 “(i) a statement that the reinves-
10 tigation is completed;

11 “(ii) a consumer report that is based
12 upon the consumer’s file as that file is re-
13 vised as a result of the reinvestigation;

14 “(iii) a description or indication of
15 any changes made in the consumer report
16 as a result of those revisions to the con-
17 sumer’s file;

18 “(iv) a notice that, if requested by the
19 consumer, a description of the procedure
20 used to determine the accuracy and com-
21 pleteness of the information shall be pro-
22 vided to the consumer by the agency, in-
23 cluding the name, business address, and
24 telephone number of any furnisher of in-

1 formation contacted in connection with
2 such information;

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

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

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

17 “(8) EXPEDITED DISPUTE RESOLUTION.—If a
18 dispute regarding an item of information in a con-
19 sumer’s file at a consumer reporting agency is re-
20 solved in accordance with paragraph (5)(A) by the
21 deletion of the disputed information by not later
22 than 3 business days after the date on which the
23 agency receives notice of the dispute from the
24 consumer in accordance with paragraph (1)(A), then
25 the agency shall not be required to comply with

1 paragraphs (2), (6), and (7) with respect to that dis-
2 pute if the agency—

3 “(A) provides prompt notice of the deletion
4 to the consumer by telephone;

5 “(B) includes in that notice, or in a writ-
6 ten notice that accompanies a confirmation and
7 consumer report provided in accordance with
8 subparagraph (C), a statement of the consum-
9 er’s right to request under subsection (d) that
10 the agency furnish notifications under that sub-
11 section; and

12 “(C) provides written confirmation of the
13 deletion and a copy of a consumer report on the
14 consumer which is based on the consumer’s file
15 after the deletion, within 5 business days after
16 making the deletion.”.

17 (b) CONFORMING AMENDMENT.—Subsection (d) of
18 section 611 of the Fair Credit Reporting Act (15 U.S.C.
19 1681i(d)) is amended by striking “The consumer report-
20 ing agency shall clearly” and all that follows through the
21 end of the subsection.

22 **SEC. 110. AMENDMENT RELATING TO CHARGES FOR DIS-**
23 **CLOSURE.**

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

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

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

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

8 “(A) shall not exceed \$8; and

9 “(B) shall be indicated to the consumer
10 prior to making disclosure; and

11 “(2) for furnishing pursuant to section 611(d),
12 following a reinvestigation under section 611(a), a
13 statement, codification, or summary to a person des-
14 ignated by the consumer under that section after the
15 30-day period beginning on the date of notification
16 of the consumer under section 611(a)(6) or (8) with
17 respect to the reinvestigation, which—

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

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

23 “(b) FREE CONSUMER REPORT AFTER ADVERSE
24 NOTICE TO CONSUMER.—Each consumer reporting agen-
25 cy that maintains a file on a consumer shall make all dis-
26 closures pursuant to section 609 without charge to the

1 consumer if, within 60 days after receipt by such
2 consumer of a notification pursuant to section 615 or of
3 a notification from a debt collection agency affiliated with
4 that consumer reporting agency stating that the consum-
5 er's credit rating may be or has been adversely affected,
6 the consumer makes a request under section 609.

7 “(c) FREE CONSUMER REPORT UNDER CERTAIN
8 OTHER CIRCUMSTANCES.—Upon the request of the
9 consumer, a consumer reporting agency shall make all dis-
10 closures pursuant to section 609 without charge to that
11 consumer if the consumer certifies in writing that the
12 consumer—

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

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

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

21 “(d) OTHER CHARGES PROHIBITED.—A consumer
22 reporting agency shall not impose any charge on a
23 consumer for providing any notification required by this
24 Act or making any disclosure required by this Act, except
25 as authorized by subsection (a).

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

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

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

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

15 “(B) \$3.”.

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

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

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

1 whole or in part on any information contained in a
2 consumer report, the person shall—

3 “(1) provide written notice of the adverse action
4 to the consumer;

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

6 “(A) the name, address, and telephone
7 number of the consumer reporting agency (in-
8 cluding a toll-free telephone number established
9 by the agency if the agency compiles and main-
10 tains files on consumers on a nationwide basis)
11 which furnished the report to the person; and

12 “(B) a statement that the consumer re-
13 porting agency did not make the decision to
14 take the adverse action and is unable to provide
15 the consumer the specific reasons why the ad-
16 verse action was taken; and

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

19 “(A) to obtain, under section 612, a free
20 copy of a consumer report on the consumer
21 from the consumer reporting agency referred to
22 in paragraph (2), which notice shall include an
23 indication of the 60-day period under that sec-
24 tion for obtaining such a copy; and

1 “(B) to dispute, under section 611, with a
2 consumer reporting agency the accuracy or
3 completeness of any information in a consumer
4 report furnished by the agency.”.

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

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

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

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

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

1 “(C) if applicable, the credit may not be
2 extended if, after the consumer responds to the
3 offer, the consumer does not meet the criteria
4 used to select the consumer for the offer or any
5 applicable criteria bearing on creditworthiness
6 or does not furnish any required collateral;

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

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

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

21 “(3) MAINTAINING CRITERIA ON FILE.—A per-
22 son who makes an offer of credit to a consumer
23 under a credit transaction described in paragraph
24 (1) shall maintain on file the criteria used to select
25 the consumer to receive the offer, all criteria bearing

1 on creditworthiness that are the basis for determin-
2 ing whether or not to extend credit pursuant to the
3 offer, and any requirement for the furnishing of col-
4 lateral as a condition of the extension of credit, until
5 the end of the 3-year period beginning on the date
6 on which the offer is made to the consumer.

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

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

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

21 “(C) the provision and use of the report
22 is—

23 “(i) consented to by the consumer in
24 writing, or

1 “(ii) with respect to existing cus-
2 tomers, the consumer has been afforded
3 the opportunity to direct in writing that
4 the report may not be provided to or used
5 by persons who are affiliated in the man-
6 ner described in subparagraph (A) and has
7 not done so.

8 “(5) AUTHORITY OF FEDERAL AGENCIES RE-
9 GARDING UNFAIR OR DECEPTIVE ACTS OR PRAC-
10 TICES NOT AFFECTED.—This title is not intended to
11 affect the authority of any Federal agency to enforce
12 a prohibition against unfair or deceptive acts or
13 practices, including the making of false or mislead-
14 ing statements in connection with credit transactions
15 not initiated by the consumer.”.

16 (c) DUTIES OF PERSON TAKING CERTAIN ACTIONS
17 BASED ON INFORMATION PROVIDED BY AFFILIATE.—
18 Section 615 of the Fair Credit Reporting Act (15 U.S.C.
19 1681m) is further amended by adding after subsection (d),
20 as added by subsection (b) of this section, the following
21 new subsection:

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

24 “(1) DUTIES, GENERALLY.—If a person takes
25 an action described in paragraph (2) with respect to

1 a consumer based in whole or in part on information
2 described in paragraph (3), the person shall—

3 “(A) notify the consumer in writing of the
4 action, including a statement that the consumer
5 may obtain the information in accordance with
6 subparagraph (B) and may contact the toll-free
7 telephone number required by subparagraph
8 (C);

9 “(B) upon a written request from the
10 consumer received within 60 days after trans-
11 mittal of the notice required by subparagraph
12 (A), disclose to the consumer in writing the na-
13 ture of the information upon which the action
14 is based by not later than 30 days after receipt
15 of the request; and

16 “(C) make available a toll-free telephone
17 number at which personnel are available to
18 communicate with the consumer regarding the
19 action during normal business hours.

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

22 “(A) an adverse action described in section
23 603(k)(1)(A) taken in connection with a trans-
24 action initiated by the consumer, or any adverse

1 action described in section 603(k)(1) (B) or
2 (C);

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

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

8 “(3) INFORMATION DESCRIBED.—Information
9 referred to in paragraph (1)—

10 “(A) except as provided in subparagraph
11 (B), is information that—

12 “(i) is furnished to the person taking
13 the action by a person related by common
14 ownership or affiliated by common cor-
15 porate control to the person taking the ac-
16 tion; and

17 “(ii) bears on the consumer’s credit
18 worthiness, credit standing, credit capacity,
19 character, general reputation, personal
20 characteristics, or mode of living; and

21 “(B) does not include—

22 “(i) information solely as to trans-
23 actions or experiences between the
24 consumer and the person furnishing the in-
25 formation; or

1 “(ii) information in a consumer re-
2 port.”.

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

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

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

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

18 “(1)(A) any actual damages sustained by the
19 consumer as a result of the failure or damages of no
20 less than \$100 and no more than \$1,000; or

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

1 (c) CIVIL LIABILITY FOR NEGLIGENT NONCOMPLI-
2 ANCE.—Section 617 of the Fair Credit Reporting Act
3 (15 U.S.C. 1681o) is amended by striking “Any consumer
4 reporting agency or user of information which” and insert-
5 ing “(a) IN GENERAL.—Any person who”.

6 (d) ATTORNEY’S FEES.—

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

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

17 (2) NEGLIGENT NONCOMPLIANCE.—Section
18 617 of the Fair Credit Reporting Act (15 U.S.C.
19 1681o) is amended by adding at the end the follow-
20 ing:

21 “(b) ATTORNEY’S FEES.—On a finding by the court
22 that an unsuccessful pleading, motion, or other paper filed
23 in connection with an action under this section was filed
24 in bad faith or for purposes of harassment, the court shall
25 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 **SEC. 113. AMENDMENTS RELATING TO RESPONSIBILITIES**
4 **OF PERSONS WHO FURNISH INFORMATION**
5 **TO CONSUMER REPORTING AGENCIES.**

6 (a) IN GENERAL.—The Fair Credit Reporting Act
7 (15 U.S.C. 1681 et seq.) is amended by redesignating sec-
8 tion 623 as section 624 and inserting after section 622
9 the following new section:

10 **“§623. Responsibilities of furnishers of information**
11 **to consumer reporting agencies**

12 “(a) DUTY OF FURNISHERS OF INFORMATION TO
13 PROVIDE COMPLETE AND ACCURATE INFORMATION.—

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

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

20 “(A) regularly and in the ordinary course
21 of business furnishes information to one or
22 more consumer reporting agencies about the
23 person’s transactions or experiences with any
24 consumer; and

1 “(B) has furnished to a consumer report-
2 ing agency information that the person deter-
3 mines is not complete or accurate;
4 shall promptly notify the consumer reporting agency
5 of that determination and provide to the agency any
6 corrections to that information, or any additional in-
7 formation, that is necessary to make the information
8 provided by the person to the agency complete and
9 accurate, and shall not thereafter furnish to the
10 agency any of the information that remains not com-
11 plete or accurate.

12 “(3) DUTY TO PROVIDE NOTICE OF DISPUTE.—
13 If the completeness or accuracy of any information
14 furnished by any person to any consumer reporting
15 agency is disputed to such person by a consumer,
16 the person may not furnish the information to any
17 consumer reporting agency without notice that such
18 information is disputed by the consumer.

19 “(4) DUTY TO PROVIDE NOTICE OF CLOSED AC-
20 COUNTS.—A person who regularly and in the ordi-
21 nary course of business furnishes information to a
22 consumer reporting agency regarding a consumer
23 who has a credit account with that person shall no-
24 tify the agency of the voluntary closure of the ac-

1 count by the consumer, in information regularly fur-
2 nished for the period in which the account is closed.

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

12 “(b) DUTIES OF FURNISHERS OF INFORMATION
13 UPON NOTICE OF DISPUTE.—

14 “(1) IN GENERAL.—After receiving notice pur-
15 suant to section 611(a)(2) of a dispute with regard
16 to the completeness or accuracy of any information
17 provided by a person to a consumer reporting agen-
18 cy, the person shall—

19 “(A) complete an investigation with respect
20 to the disputed information;

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

24 “(C) report the results of the investigation
25 to the consumer reporting agency; and

1 “(D) if the investigation finds that the in-
2 formation is incomplete or inaccurate, report
3 those results to all other consumer reporting
4 agencies to which the person furnished the in-
5 formation and that compile and maintain files
6 on consumers on a nationwide basis.

7 “(2) DEADLINE.—A person shall complete all
8 investigations, reviews, and reports required under
9 paragraph (1) regarding information provided by the
10 person to a consumer reporting agency, before the
11 end of the period under section 611(a)(1) within
12 which the consumer reporting agency is required to
13 complete actions required by that section regarding
14 that information.

15 “(c) LIMITATION ON LIABILITY.—Sections 616 and
16 617 do not apply to any failure to comply with subsection
17 (a), except as provided in section 621(c)(1)(B).

18 “(d) LIMITATION ON ENFORCEMENT.—Subsection
19 (a) may be enforced exclusively under section 621 by the
20 Federal agencies and officials and the State officials iden-
21 tified in that section.”.

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

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

“624. Relation to State laws.”.

1 **SEC. 114. INVESTIGATIVE CONSUMER REPORTS.**

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

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

6 (2) by striking subsection (a)(2) and inserting
7 the following:

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

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

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

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

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

17 “(d) PROHIBITIONS.—

18 “(1) CERTIFICATION.—A consumer reporting
19 agency shall not prepare or furnish an investigative
20 consumer report unless the agency has received a
21 certification under subsection (a)(2) from the person
22 who requested the report.

23 “(2) INQUIRIES.—A consumer reporting agency
24 shall not make an inquiry for the purpose of prepar-

1 ing an investigative consumer report on a consumer
2 for employment purposes if the making of the in-
3 quiry by an employer or prospective employer of the
4 consumer would violate any applicable Federal or
5 State equal employment opportunity law or regula-
6 tion.

7 “(3) CERTAIN PUBLIC RECORD INFORMA-
8 TION.—Except as otherwise provided in section 613,
9 a consumer reporting agency shall not furnish an in-
10 vestigative consumer report which includes informa-
11 tion which is a matter of public record and which re-
12 lates to an arrest, indictment, conviction, civil judi-
13 cial action, tax lien, or outstanding judgment, unless
14 the agency has verified the accuracy of the informa-
15 tion within the 30-day period ending on the date the
16 report is furnished.

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

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

2 (a) AVAILABLE ENFORCEMENT POWERS.—Section
3 621(a) of the Fair Credit Reporting Act (15 U.S.C.
4 1681s(a))—

5 (1) is amended in the second sentence by strik-
6 ing “Act and shall be subject to enforcement by the
7 Federal Trade Commission under section 5(b) there-
8 of with respect to any consumer reporting agency or
9 person subject to enforcement by the Federal Trade
10 Commission pursuant to this subsection, irrespec-
11 tive” and inserting “Act. All functions and powers of
12 the Federal Trade Commission under the Federal
13 Trade Commission Act shall be available to the
14 Commission to enforce compliance with this title by
15 any person subject to enforcement by the Federal
16 Trade Commission pursuant to this subsection and
17 not subject to enforcement pursuant to section 8 of
18 the Federal Deposit Insurance Act, irrespective”;

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

25 (3) as amended by paragraph (1), is further
26 amended by adding after the 3rd period the follow-

1 ing: “Notwithstanding the preceding sentence, a
2 court may not impose any civil penalty on a person
3 for a violation of section 623(a)(1) unless the person
4 has been enjoined from committing the violation, or
5 ordered not to commit the violation, in an action or
6 proceeding brought by or on behalf of the Federal
7 Trade Commission and has violated the injunction
8 or order, and the court may not impose any civil
9 penalty for any violation occurring before the date of
10 the violation of the injunction or order.”.

11 (b) AGENCIES RESPONSIBLE FOR ENFORCEMENT.—
12 Section 621 of the Fair Credit Reporting Act (15 U.S.C.
13 1681s) is amended—

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

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

19 “(b) ENFORCEMENT BY OTHER AGENCIES.—Compli-
20 ance with the requirements imposed under this title with
21 respect to consumer reporting agencies, persons who use
22 consumer reports from such agencies, persons who furnish
23 information to such agencies, and users of information
24 who are subject to section 615(e) shall be enforced
25 under—”.

1 **SEC. 117. STATE ENFORCEMENT OF FAIR CREDIT REPORT-**
2 **ING ACT.**

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

7 “(c) STATE ACTION FOR VIOLATIONS.—

8 “(1) AUTHORITY OF STATES.—In addition to
9 such other remedies as are provided under State
10 law, whenever the chief law enforcement officer of a
11 State, or an official or agency designated by a State,
12 has reason to believe that any person has violated or
13 is violating this title, the State—

14 “(A) may bring an action to enjoin such
15 violation in any appropriate United States dis-
16 trict court or in any other court of competent
17 jurisdiction;

18 “(B) subject to paragraph (5), may bring
19 an action on behalf of its residents to recover—

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

23 “(ii) in the case of a violation of sec-
24 tion 623(a), damages for which the person
25 would, but for section 623(c), be liable to

1 such residents as a result of the violation;
2 or

3 “(iii) damages of not more than
4 \$1,000 for each willful or negligent viola-
5 tion; and

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

10 “(2) RIGHTS OF FEDERAL REGULATORS.—The
11 State shall serve prior written notice of any such ac-
12 tion upon the Federal Trade Commission or the ap-
13 propriate Federal regulator determined under sub-
14 section (b) and provide the Commission or appro-
15 priate Federal regulator with a copy of its com-
16 plaint, except in any case where such prior notice is
17 not feasible, in which case the State shall serve such
18 notice immediately upon instituting such action. The
19 Federal Trade Commission or appropriate Federal
20 regulator shall have the right (A) to intervene in the
21 action, (B) upon so intervening, to be heard on all
22 matters arising therein, (C) to remove the action to
23 the appropriate United States district court, and (D)
24 to file petitions for appeal.

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

11 “(4) LIMITATION ON STATE ACTION WHILE
12 FEDERAL ACTION PENDING.—Whenever the Federal
13 Trade Commission or the appropriate Federal regu-
14 lator has instituted a civil action or an administra-
15 tive action under section 8 of the Federal Deposit
16 Insurance Act for a violation of this title, no State
17 may, during the pendency of such action, bring an
18 action under this section against any defendant
19 named in the complaint of the Commission or the
20 appropriate Federal regulator for any violation of
21 this title that is alleged in that complaint.

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

24 “(A) VIOLATION OF INJUNCTION RE-
25 QUIRED.—A State may not bring an action

1 against a person under paragraph (1)(B) for a
2 violation of section 623(a)(1), unless—

3 “(i) the person has been enjoined
4 from committing the violation, in an action
5 brought by the State under paragraph
6 (1)(A); and

7 “(ii) the person has violated the in-
8 junction.

9 “(B) LIMITATION ON DAMAGES RECOVER-
10 ABLE.—In an action against a person under
11 paragraph (1)(B) for a violation of section
12 623(a)(1), a State may not recover any dam-
13 ages incurred before the date of the violation of
14 an injunction on which the action is based.”.

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

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

20 “(e) INTERPRETIVE AUTHORITY.—The Board of
21 Governors of the Federal Reserve System may issue inter-
22 pretations of any provision of this title as it may apply
23 to any persons identified under paragraph (1), (2), and
24 (3) of subsection (b), or to the holding companies and af-
25 filiates of such persons, in consultation with Federal agen-

1 cies identified in paragraphs (1), (2), and (3) of subsection
2 (b).”.

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

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

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

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

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

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

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

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

1 in effect on the date of the enactment of the
2 Consumer Reporting Reform Act of 1995;

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

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

12 “(E) section 605, relating to obsolete in-
13 formation, except that this subparagraph does
14 not apply to any State law in effect on the date
15 of the enactment of the Consumer Reporting
16 Reform Act of 1995; or

17 “(F) section 623(b)(2), relating to the
18 time by which a person must take any action
19 required under section 623(b)(1) with respect
20 to an investigation of information furnished by
21 the person to a consumer reporting agency, ex-
22 cept that this subparagraph does not apply to
23 any State law in effect on the date of the enact-
24 ment of the Consumer Reporting Reform Act of
25 1995;

1 “(2) with respect to the exchange of informa-
2 tion among persons affiliated by common ownership
3 or common corporate control, except that this para-
4 graph does not apply to section 2480e (a) and (c)(1)
5 of title 9, Vermont Statutes Annotated (as in effect
6 on the date of the enactment of the Consumer Re-
7 porting Reform Act of 1995); or

8 “(3) with respect to the form and content of
9 any disclosure required to be made under section
10 609(c).

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

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

18 “(1) do not affect any settlement, agreement, or
19 consent judgment between any State Attorney Gen-
20 eral and any consumer reporting agency in effect on
21 the date of the enactment of the Consumer Report-
22 ing Reform Act of 1995; and

23 “(2) do not apply to any provision of State law
24 (including any provision of a State constitution)
25 that—

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

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

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

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

7 (a) MODIFICATION OF REQUIREMENTS BY FTC AND
8 FEDERAL RESERVE BOARD AUTHORIZED.—

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

14 “(f) MODIFICATION OF REQUIREMENTS BY FTC AU-
15 THORIZED.—

16 “(1) IN GENERAL.—If the Federal Trade Com-
17 mission considers such action necessary for the pro-
18 tection of consumers, the Commission may, after
19 consultation with appropriate State regulatory and
20 law enforcement agencies, promulgate regulations in
21 accordance with section 553 of title 5, United States
22 Code, to impose, with respect to consumer reporting
23 agencies and all other persons subject to this title
24 other than any person described in paragraph (1),
25 (2), or (3) of subsection (b), requirements—

1 “(A) that are more stringent than those
2 imposed under—

3 “(i) section 611, relating to the time
4 by which a consumer reporting agency
5 must take any action, including the provi-
6 sion of notification to a consumer or other
7 person, in any procedure related to the dis-
8 puted accuracy of information in a con-
9 sumer’s file;

10 “(ii) section 615(a), relating to the
11 duties of a person who takes any adverse
12 action with respect to a consumer on the
13 basis of information contained in a
14 consumer report;

15 “(iii) section 615(d), relating to the
16 duties of persons who use a consumer re-
17 port on a consumer in connection with any
18 credit transaction which is not initiated by
19 the consumer and that consists of a firm
20 offer of credit; or

21 “(iv) section 623(b)(2), relating to the
22 time by which a person must take any ac-
23 tion required under section 623(b)(1) with
24 respect to an investigation of information

1 furnished by the person to a consumer re-
2 porting agency; and

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

6 “(2) FEDERAL RESERVE BOARD AUTHORITY.—
7 If the Board of Governors of the Federal Reserve
8 System determines such action to be necessary for
9 the protection of consumers, the Board may pre-
10 scribe regulations imposing on persons described in
11 paragraph (1), (2), or (3) of subsection (b) or on the
12 holding companies and affiliates of such persons any
13 requirement described in paragraph (1) of this sub-
14 section.”.

15 (2) CLERICAL AMENDMENTS.—

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

19 **“§ 621. Administrative enforcement and authorities;
20 State actions”.**

21 (B) The table of contents at the beginning
22 of the Fair Credit Reporting Act is amended by
23 striking the item relating to section 621 and in-
24 serting the following new item:

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

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

7 **SEC. 121. AMENDMENT TO FAIR DEBT COLLECTION PRAC-**
8 **TICES ACT.**

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

13 “(11) The failure to disclose clearly, in any
14 written communication made to collect a debt or to
15 obtain information about a consumer, that the debt
16 collector is attempting to collect a debt and that any
17 information obtained will be used for that purpose,
18 except that this paragraph does not apply to a com-
19 munication—

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

22 “(B) made solely to acknowledge receipt of
23 monies or payments; or

1 “(C) that consists solely of information re-
2 quested by the consumer or the consumer’s at-
3 torney.”.

4 **SEC. 122. FURNISHING CONSUMER REPORTS FOR CERTAIN**
5 **PURPOSES RELATING TO CHILD SUPPORT.**

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

10 “(4) In response to a request by the head of a
11 department, agency, or office of any State or any
12 political subdivision of any State that is responsible
13 under law for enforcing child support orders (or an
14 official authorized by the head of any such depart-
15 ment, agency, or office), if the person making the re-
16 quest certifies to the consumer reporting agency
17 that—

18 “(A) the consumer report is needed to es-
19 tablish an individual’s capacity to make child
20 support payments, or to determine the appro-
21 priate level of such payments;

22 “(B) the person has provided at least 10
23 days prior written notice to the consumer whose
24 report is requested, by certified or registered

1 mail to the last known address of the consumer,
2 that the report will be requested; and

3 “(C) the consumer report obtained pursu-
4 ant to this paragraph will be kept confidential,
5 will be used solely for establishing child support
6 payment obligations, and will not be used in
7 connection with any other civil, administrative,
8 or criminal proceeding or for any other pur-
9 pose.”.

10 **SEC. 123. DISCLOSURE OF INFORMATION AND CONSUMER**
11 **REPORTS TO FBI FOR COUNTERINTEL-**
12 **LIGENCE PURPOSES.**

13 (a) IN GENERAL.—The Fair Credit Reporting Act
14 (15 U.S.C. 1681 et seq.) is amended by adding after sec-
15 tion 624, as redesignated by section 113(a) of this Act,
16 the following new section:

17 **“§625. Disclosures to FBI for counterintelligence**
18 **purposes**

19 “(a) IDENTITY OF FINANCIAL INSTITUTIONS.—Not-
20 withstanding section 604 or any other provision of this
21 title, a consumer reporting agency shall furnish to the
22 Federal Bureau of Investigation the names and addresses
23 of all financial institutions (as that term is defined in sec-
24 tion 1101 of the Right to Financial Privacy Act of 1978)
25 at which a consumer maintains or has maintained an ac-

1 count, to the extent that information is in the files of the
2 agency, when presented with a written request for that
3 information, signed by the Director of the Federal Bureau
4 of Investigation, or the Director's designee, which certifies
5 compliance with this section. The Director or the Direc-
6 tor's designee may make such a certification only if the
7 Director or the Director's designee has determined in writ-
8 ing that—

9 “(1) such information is necessary for the con-
10 duct of an authorized foreign counterintelligence in-
11 vestigation; and

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

14 “(A) is a foreign power (as defined in sec-
15 tion 101 of the Foreign Intelligence Surveil-
16 lance Act of 1978) or a person who is not a
17 United States person (as defined in such sec-
18 tion 101) and is an official of a foreign power;
19 or

20 “(B) is an agent of a foreign power and is
21 engaging or has engaged in international terror-
22 ism (as that term is defined in section 101(c)
23 of the Foreign Intelligence Surveillance Act of
24 1978) or clandestine intelligence activities that

1 involve or may involve a violation of criminal
2 statutes of the United States.

3 “(b) IDENTIFYING INFORMATION.—Notwithstanding
4 the provisions of section 604 or any other provision of this
5 title, a consumer reporting agency shall furnish identifying
6 information respecting a consumer, limited to name, ad-
7 dress, former addresses, places of employment, or former
8 places of employment, to the Federal Bureau of Investiga-
9 tion when presented with a written request, signed by the
10 Director or the Director’s designee, which certifies compli-
11 ance with this subsection. The Director or the Director’s
12 designee may make such a certification only if the Director
13 or the Director’s designee has determined in writing
14 that—

15 “(A) such information is necessary to the
16 conduct of an authorized counterintelligence in-
17 vestigation; and

18 “(B) there is information giving reason to
19 believe that the consumer has been, or is about
20 to be, in contact with a foreign power or an
21 agent of a foreign power (as defined in section
22 101 of the Foreign Intelligence Surveillance Act
23 of 1978).

24 “(c) COURT ORDER FOR DISCLOSURE OF CONSUMER
25 REPORTS.—Notwithstanding section 604 or any other

1 provision of this title, if requested in writing by the Direc-
2 tor of the Federal Bureau of Investigation, or a designee
3 of the Director, a court may issue an order ex parte direct-
4 ing a consumer reporting agency to furnish a consumer
5 report to the Federal Bureau of Investigation, upon a
6 showing in camera that—

7 “(1) the consumer report is necessary for the
8 conduct of an authorized foreign counterintelligence
9 investigation; and

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

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

14 “(B) is engaging or has engaged in inter-
15 national terrorism (as that term is defined in
16 section 101(c) of the Foreign Intelligence Sur-
17 veillance Act of 1978) or clandestine intel-
18 ligence activities that involve or may involve a
19 violation of criminal statutes of the United
20 States.

21 The terms of an order issued under this subsection shall
22 not disclose that the order is issued for purposes of a
23 counterintelligence investigation.

24 “(d) CONFIDENTIALITY.—No consumer reporting
25 agency or officer, employee, or agent of a consumer report-

1 ing agency shall disclose to any person, other than those
2 officers, employees, or agents of a consumer reporting
3 agency necessary to fulfill the requirement to disclose in-
4 formation to the Federal Bureau of Investigation under
5 this section, that the Federal Bureau of Investigation has
6 sought or obtained the identity of financial institutions or
7 a consumer report respecting any consumer under sub-
8 section (a), (b), or (c) and no consumer reporting agency
9 or officer, employee, or agent of a consumer reporting
10 agency shall include in any consumer report any informa-
11 tion that would indicate that the Federal Bureau of Inves-
12 tigation has sought or obtained such information or a
13 consumer report.

14 “(e) PAYMENT OF FEES.—The Federal Bureau of
15 Investigation shall, subject to the availability of appropria-
16 tions, pay to the consumer reporting agency assembling
17 or providing reports or information in accordance with
18 procedures established under this section, a fee for reim-
19 bursement for such costs as are reasonably necessary and
20 which have been directly incurred in searching, reproduc-
21 ing, or transporting books, papers, records, or other data
22 required or requested to be produced under this section.

23 “(f) LIMIT ON DISSEMINATION.—The Federal Bu-
24 reau of Investigation may not disseminate information ob-
25 tained pursuant to this section outside of the Federal Bu-

1 reau of Investigation, except to the Department of Justice
2 as may be necessary for the approval or conduct of a for-
3 eign counterintelligence investigation, or, where the infor-
4 mation concerns a person subject to the Uniform Code of
5 Military Justice, to appropriate investigative authorities
6 within the military department concerned as may be nec-
7 essary for the conduct of a joint foreign counterintel-
8 ligence investigation.

9 “(g) RULES OF CONSTRUCTION.—Nothing in this
10 section shall be construed to prohibit information from
11 being furnished by the Federal Bureau of Investigation
12 pursuant to a subpoena or court order, or in connection
13 with a judicial or administrative proceeding to enforce the
14 provisions of this Act. Nothing in this section shall be con-
15 strued to authorize or permit the withholding or informa-
16 tion from the Congress.

17 “(h) REPORTS TO CONGRESS.—On a semiannual
18 basis, the Attorney General of the United States shall fully
19 inform the Permanent Select Committee on Intelligence
20 and the Committee on Banking, Finance and Urban Af-
21 fairs of the House of Representatives, and the Select Com-
22 mittee on Intelligence and the Committee on Banking,
23 Housing, and Urban Affairs of the Senate concerning all
24 requests made pursuant to subsections (a), (b), and (c).

1 “(i) DAMAGES.—Any agency or department of the
2 United States obtaining or disclosing any consumer re-
3 ports, records, or information contained therein in viola-
4 tion of this section is liable to the consumer to whom such
5 consumer reports, records, or information relate in an
6 amount equal to the sum of—

7 “(1) \$100, without regard to the volume of
8 consumer reports, records, or information involved;

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

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

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

18 “(j) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a
19 court determines that any agency or department of the
20 United States has violated any provision of this section
21 and the court finds that the circumstances surrounding
22 the violation raise questions of whether or not an officer
23 or employee of the agency or department acted willfully
24 or intentionally with respect to the violation, the agency
25 or department shall promptly initiate a proceeding to de-

1 termine whether or not disciplinary action is warranted
2 against the officer or employee who was responsible for
3 the violation.

4 “(k) GOOD-FAITH EXCEPTION.—Notwithstanding
5 any other provision of this title, any consumer reporting
6 agency or agent or employee thereof making disclosure of
7 consumer reports or identifying information pursuant to
8 this subsection in good-faith reliance upon a certification
9 of the Federal Bureau of Investigation pursuant to provi-
10 sions of this section shall not be liable to any person for
11 such disclosure under this title, the constitution of any
12 State, or any law or regulation of any State or any politi-
13 cal subdivision of any State.

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

18 “(m) INJUNCTIVE RELIEF.—In addition to any other
19 remedy contained in this section, injunctive relief shall be
20 available to require compliance with the procedures of this
21 section. In the event of any successful action under this
22 subsection, costs together with reasonable attorney fees,
23 as determined by the court, may be recovered.”.

24 (b) CLERICAL AMENDMENT.—The table of sections
25 at the beginning of the Fair Credit Reporting Act (15

1 U.S.C. 1681a et seq.), as amended by section 114(b) of
2 this Act, is further amended by adding after the item re-
3 lating to section 624 the following:

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

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

7 (1) Section 625.

8 (2) In the table of contents at the beginning of
9 the Fair Credit Reporting Act, the item relating to
10 section 625.

11 **SEC. 124. EFFECTIVE DATES.**

12 (a) IN GENERAL.—Except as provided in subsection
13 (b), the amendments and repeals made by this title shall
14 take effect 365 days after the date of the enactment of
15 this Act.

16 (b) EXCEPTIONS.—

17 (1) The amendment made by section 121 shall
18 take effect 90 days after the date of the enactment
19 of this Act.

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

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

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

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

7 **SEC. 126. TECHNICAL CORRECTION TO DEPOSITORY INSTI-
 8 TUTIONS MANAGEMENT INTERLOCKS ACT.**

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

15 **TITLE II—CREDIT REPAIR
 16 ORGANIZATIONS**

17 **SEC. 201. REGULATION OF CREDIT REPAIR ORGANIZA-
 18 TIONS.**

19 Title IV of the Consumer Credit Protection Act is
 20 amended to read as follows:

21 **“TITLE IV—CREDIT REPAIR
 22 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.

1 **“SEC. 401. SHORT TITLE.**

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

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

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

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

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

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

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

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

8 **“SEC. 403. DEFINITIONS.**

9 “For purposes of this title—

10 “(1) CONSUMER.—The term ‘consumer’ means
11 an individual.

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

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

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

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

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

6 “(B) does not include—

7 “(i) any nonprofit organization which
8 is exempt from taxation under section
9 501(c)(3) of the Internal Revenue Code of
10 1986;

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

18 “(iii) any creditor (as defined in sec-
19 tion 103 of the Truth in Lending Act),
20 with respect to any consumer, to the extent
21 the creditor is assisting the consumer to
22 restructure any debt owed by the consumer
23 to the creditor.

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

1 **“SEC. 404. PROHIBITED PRACTICES.**

2 “(a) IN GENERAL.—No person may—

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

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

13 “(B) any person—

14 “(i) who has extended credit to the
15 consumer; or

16 “(ii) to whom the consumer has ap-
17 plied or is applying for an extension of
18 credit;

19 “(2) make any statement, or counsel or advise
20 any consumer to make any statement, the intended
21 effect of which is to alter the consumer’s identifica-
22 tion to prevent the display of the consumer’s credit
23 record, history, or rating for the purpose of conceal-
24 ing adverse information that is accurate and not ob-
25 solete to—

26 “(A) any consumer reporting agency;

1 “(B) any person—

2 “(i) who has extended credit to the
3 consumer; or

4 “(ii) to whom the consumer has ap-
5 plied or is applying for an extension of
6 credit;

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

10 “(4) engage, directly or indirectly, in any act,
11 practice, or course of business that constitutes or re-
12 sults in the commission of, or an attempt to commit,
13 a fraud or deception on any person in connection
14 with the offer or sale of the services of the credit re-
15 pair organization.

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

21 **“SEC. 405. DISCLOSURES.**

22 “(a) DISCLOSURE REQUIRED.—Any credit repair or-
23 ganization shall provide any consumer with the following
24 written statement before any contract or agreement be-

1 tween the consumer and the credit repair organization is
2 executed:

3 **“Consumer Credit File Rights**
4 **Under State and Federal Law**

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

14 “‘You have a right to obtain a copy of your credit
15 report from a credit bureau. You may be charged a rea-
16 sonable fee. There is no fee, however, if you have been
17 turned down for credit, employment, insurance, or a rental
18 dwelling because of information in your credit report with-
19 in the preceding 60 days. The credit bureau must provide
20 someone to help you interpret the information in your
21 credit file. You are entitled to receive a free copy of your
22 credit report if you are unemployed and intend to apply
23 for employment in the next 60 days, if you are a recipient
24 of public welfare assistance, or if you have reason to be-

1 I believe that there is inaccurate information in your credit
2 report due to fraud.

3 “‘You have a right to sue a credit repair organization
4 that violates the Credit Repair Organization Act. This law
5 prohibits deceptive practices by credit repair organiza-
6 tions.

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

10 “‘Credit bureaus are required to follow reasonable
11 procedures to ensure that the information they report is
12 accurate. However, mistakes may occur.

13 “‘You may, on your own, notify a credit bureau in
14 writing that you dispute the accuracy of information in
15 your credit file. The credit bureau must then reinvestigate
16 and modify or remove inaccurate or incomplete informa-
17 tion. The credit bureau may not charge any fee for this
18 service. Any pertinent information and copies of all docu-
19 ments you have concerning an error should be given to
20 the credit bureau.

21 “‘If the credit bureau’s reinvestigation does not re-
22 solve the dispute to your satisfaction, you may send a brief
23 statement to the credit bureau, to be kept in your file,
24 explaining why you think the record is inaccurate. The
25 credit bureau must include a summary of your statement

1 about disputed information with any report it issues about
2 you.

3 “The Federal Trade Commission regulates credit
4 bureaus and credit repair organizations. For more infor-
5 mation contact:

6 “The Public Reference Branch

7 “Federal Trade Commission

8 “Washington, D.C. 20580’.

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

15 “(c) RETENTION OF COMPLIANCE RECORDS.—

16 “(1) IN GENERAL.—The credit repair organiza-
17 tion shall maintain a copy of the statement signed
18 by the consumer acknowledging receipt of the state-
19 ment.

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

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

2 “(a) WRITTEN CONTRACTS REQUIRED.—No services
3 may be provided by any credit repair organization for any
4 consumer—

5 “(1) unless a written and dated contract (for
6 the purchase of such services) which meets the re-
7 quirements of subsection (b) has been signed by the
8 consumer; or

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

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

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

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

22 “(A) all guarantees of performance; and

23 “(B) an estimate of—

24 “(i) the date by which the perform-
25 ance of the services (to be performed by

1 the credit repair organization or any other
2 person) will be complete; or

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

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

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

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

16 “(a) IN GENERAL.—Any consumer may cancel any
17 contract with any credit repair organization without pen-
18 alty or obligation by notifying the credit repair organiza-
19 tion of the consumer’s intention to do so at any time be-
20 fore midnight of the 3rd business day which begins after
21 the date on which the contract or agreement between the
22 consumer and the credit repair organization is executed
23 or would, but for this subsection, become enforceable
24 against the parties.

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

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

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

14 “‘I hereby cancel this transaction,
15 [date]
16 [purchaser’s signature].’.

17 “(c) CONSUMER COPY OF CONTRACT REQUIRED.—

18 Any consumer who enters into any contract with any cred-
19 it repair organization shall be given, by the organization—

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

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

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

2 “(a) CONSUMER WAIVERS INVALID.—Any waiver by
3 any consumer of any protection provided by or any right
4 of the consumer under this title—

5 “(1) shall be treated as void; and

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

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

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

15 “(1) shall be treated as void; and

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

18 **“SEC. 409. CIVIL LIABILITY.**

19 “(a) LIABILITY ESTABLISHED.—Any person who
20 fails to comply with any provision of this title with respect
21 to any other person shall be liable to such person in an
22 amount equal to the sum of the amounts determined
23 under each of the following paragraphs:

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

1 “(A) the amount of any actual damage
2 sustained by such person as a result of such
3 failure; or

4 “(B) any amount paid by the person to the
5 credit repair organization.

6 “(2) PUNITIVE DAMAGES.—

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

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

12 “(i) the aggregate of the amount
13 which the court may allow for each named
14 plaintiff; and

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

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

23 “(b) FACTORS TO BE CONSIDERED IN AWARDING
24 PUNITIVE DAMAGES.—In determining the amount of any
25 liability of any credit repair organization under subsection

1 (a)(2), the court shall consider, among other relevant fac-
2 tors—

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

5 “(2) the nature of the noncompliance;

6 “(3) the extent to which such noncompliance
7 was intentional; and

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

10 **“SEC. 410. ADMINISTRATIVE ENFORCEMENT.**

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

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

17 “(1) IN GENERAL.—For the purpose of the ex-
18 ercise by the Federal Trade Commission of the Com-
19 mission’s functions and powers under the Federal
20 Trade Commission Act, any violation of any require-
21 ment or prohibition imposed under this title with re-
22 spect to credit repair organizations shall constitute
23 an unfair or deceptive act or practice in commerce
24 in violation of section 5(a) of the Federal Trade
25 Commission Act.

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

13 “(A) is engaged in commerce; or

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

16 “(c) STATE ACTION FOR VIOLATIONS.—

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

23 “(A) may bring an action to enjoin such
24 violation;

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

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

9 “(2) RIGHTS OF COMMISSION.—

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

18 “(B) INTERVENTION.—The Commission
19 shall have the right—

20 “(i) to intervene in any action re-
21 ferred to in subparagraph (A);

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

24 “(iii) to file petitions for appeal.

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

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

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

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

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

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

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

7 “(B) is material to the establishment of
8 the credit repair organization’s liability to the
9 consumer under this 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.”.

○

HR 561 IH—2

HR 561 IH—3

HR 561 IH—4

HR 561 IH—5

HR 561 IH—6

HR 561 IH—7

HR 561 IH—8

HR 561 IH—9