

104TH CONGRESS
1ST SESSION

S. 709

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

IN THE SENATE OF THE UNITED STATES

APRIL 6 (legislative day, APRIL 5), 1995

Mr. BOND (for himself and Mr. BRYAN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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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Sec. 104. Use of consumer reports for prescreening and direct marketing; prohibition on unauthorized or uncertified use of information.

Sec. 105. Consumer consent required to furnish consumer report containing medical information; furnishing consumer reports for commercial transactions.

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- Sec. 108. Consumer disclosures.
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TITLE II—CREDIT REPAIR ORGANIZATIONS

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TITLE III—TRUTH IN LENDING ACT

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- Sec. 302. Limitations on liability.

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”.

6 **SEC. 102. DEFINITIONS.**

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

10 “(k) **ADVERSE ACTION.**—

1 “(1) ACTIONS INCLUDED.—The term ‘adverse
2 action’ means the following:

3 “(A) A denial or revocation of credit, a de-
4 nial of an application for an increase of an ex-
5 isting credit limit, an unfavorable change in the
6 terms of an existing credit arrangement, or a
7 refusal to grant credit in substantially the
8 amount or on substantially the terms requested,
9 except that the term ‘adverse action’ does not
10 include—

11 “(i) a refusal to extend additional
12 credit under an existing credit arrange-
13 ment if the applicant is delinquent or oth-
14 erwise in default as to that account; or

15 “(ii) a refusal or failure to authorize
16 an account transaction at a point of sale
17 that would exceed a previously established
18 credit limit.

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

1 “(C) A denial of employment or any other
2 decision for employment purposes that ad-
3 versely affects any current or prospective em-
4 ployee.

5 “(D) A denial or cancellation of, an in-
6 crease in any charge for, or any other adverse
7 or unfavorable change in the terms of, any
8 license or benefit described in section
9 604(a)(3)(D).

10 “(E) An action taken or determination
11 made—

12 “(i) in connection with an application
13 that was made by, or a transaction that
14 was initiated by, any consumer, or in con-
15 nection with a review of account informa-
16 tion under section 604(a)(3)(E)(ii); and

17 “(ii) that is adverse to the interest of
18 the consumer.

19 “(2) APPLICABLE FINDINGS, DECISIONS, COM-
20 MENTARY, AND ORDERS.—For purposes of any de-
21 termination of whether an action is an adverse ac-
22 tion under paragraph (1)(A), all appropriate final
23 findings, decisions, commentary, and orders issued
24 under section 701(d)(6) of the Equal Credit Oppor-

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

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

7 “(J) FIRM OFFER OF CREDIT OR INSURANCE.—The
8 term ‘firm offer of credit or insurance’ means any offer
9 of credit or insurance to a consumer that will be honored
10 if the consumer is determined, based on information in
11 a consumer report on the consumer, to meet the specific
12 criteria used to select the consumer for the offer, except
13 that the offer may be further conditioned on any combina-
14 tion of the following:

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

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

21 “(B) for the purpose of determining
22 whether to extend credit or insurance pursuant
23 to the offer.

24 “(2) Verification—

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

8 “(B) of the information in the consumer’s
9 application for the credit or insurance, to deter-
10 mine that the consumer meets the specific cri-
11 teria bearing on creditworthiness.

12 “(3) The consumer furnishing any collateral
13 that is a requirement for the extension of the credit
14 or insurance that was—

15 “(A) established before selection of the
16 consumer for the offer of credit or insurance;
17 and

18 “(B) disclosed to the consumer in the offer
19 of credit or insurance.”.

20 (c) CREDIT OR INSURANCE TRANSACTION THAT IS
21 NOT INITIATED BY THE CONSUMER.—Section 603 of the
22 Fair Credit Reporting Act (15 U.S.C. 1681a) is amended
23 by adding after subsection (l) (as added by subsection (b))
24 the following:

1 “(m) CREDIT OR INSURANCE TRANSACTION THAT IS
2 NOT INITIATED BY THE CONSUMER.—The term ‘credit or
3 insurance transaction that is not initiated by the
4 consumer’ does not include the use of a consumer report
5 by a person with which the consumer has an account, for
6 purposes of—

7 “(1) reviewing the account; or

8 “(2) collecting the account.”.

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

12 “(n) STATE.—The term ‘State’ means any State, the
13 Commonwealth of Puerto Rico, the District of Columbia,
14 and any territory or possession of the United States.”.

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

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

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

1 ownership or affiliated by corporate control if it is
2 clearly and conspicuously disclosed that the informa-
3 tion may be communicated among such persons and
4 the consumer is given the opportunity, prior to the
5 time that the information is initially communicated,
6 to direct that such information not be communicated
7 among such persons”;

8 (3) in subparagraph (B), by striking “or” after
9 the semicolon at the end;

10 (4) in subparagraph (C), by striking the period
11 and inserting a semicolon; and

12 (5) by adding at the end the following: “or (D)
13 any communication of information about a consumer
14 among persons who are affiliated by common owner-
15 ship or common corporate control if one or more
16 of those persons has complied with section
17 615(d)(4)(B) or section 615(e)(3)(B) with respect to
18 a consumer report from which the information is
19 taken and the consumer has not directed in writing
20 that the report may not be communicated among
21 such persons, in accordance with section
22 615(d)(4)(C) or section 615(e)(3)(B).”.

23 (f) EXCLUSION OF CERTAIN COMMUNICATIONS BY
24 EMPLOYMENT AGENCIES FROM DEFINITION OF

1 CONSUMER REPORT.—Section 603 of the Fair Credit Re-
2 porting Act (15 U.S.C. 1681(a)) is amended—

3 (1) in subsection (d) (as amended by subsection
4 (e)), by adding at the end the following: “The term
5 also does not include a communication described in
6 subsection (o).”; and

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

8 “(o) EXCLUDED COMMUNICATIONS.—A communica-
9 tion is described in this subsection if it is a communica-
10 tion—

11 “(1) that, but for the third sentence of sub-
12 section (d), would be an investigative consumer re-
13 port;

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

16 “(A) procuring an employee for the em-
17 ployer; or

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

20 “(3) that is made by a person who regularly
21 performs such procurement;

22 “(4) that is not used by any person for any
23 purpose other than a purpose described in subpara-
24 graph (A) or (B) of paragraph (2);

25 “(5) with respect to which—

1 “(A) the consumer who is the subject of
2 the communication—

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

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

12 “(iii) in the case of consent under
13 clause (i) or (ii) given orally, is provided
14 written confirmation of that consent by the
15 person making the communication, not
16 later than 3 business days after the receipt
17 of the consent by that person;

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

1 “(C) the person who makes the commu-
2 nication—

3 “(i) discloses in writing to the
4 consumer who is the subject of the commu-
5 nication, not later than 5 business days
6 after receiving any request from the
7 consumer for such disclosure, the nature
8 and substance of all information in the
9 consumer’s file at the time of the request,
10 except that the sources of information that
11 is acquired solely for use in making the
12 communication and actually used for no
13 other purpose need not be disclosed other
14 than under appropriate discovery proce-
15 dures in the court in which an action is
16 brought; and

17 “(ii) notifies the consumer who is the
18 subject of the communication, in writing,
19 of the consumer’s right to request the in-
20 formation described in clause (i).”.

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

1 “(p) CONSUMER REPORTING AGENCY THAT COM-
2 PILES AND MAINTAINS FILES ON CONSUMERS ON A NA-
3 TIONWIDE BASIS.—The term ‘consumer reporting agency
4 that compiles and maintains files on consumers on a na-
5 tionwide basis’ means a consumer reporting agency that
6 regularly engages in the practice of assembling or evaluat-
7 ing, and maintaining, for the purpose of furnishing
8 consumer reports to third parties bearing on a consumer’s
9 creditworthiness, credit standing, or credit capacity, each
10 of the following regarding consumers residing nationwide:

11 “(1) Public record information.

12 “(2) Credit account information from persons
13 who furnish that information regularly and in the
14 ordinary course of business.”.

15 (h) CONFORMING AMENDMENT.—Section 603(d) of
16 the Fair Credit Reporting Act (15 U.S.C. 1681a(d)) is
17 amended in the first sentence—

18 (1) by inserting “(1)” after “in whole or in part
19 for”; and

20 (2) by striking “(1)” before “credit or insur-
21 ance”.

1 **SEC. 103. FURNISHING CONSUMER REPORTS; USE FOR EM-**
2 **PLOYMENT PURPOSES.**

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

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

8 (2) in subsection (a)(3) (as so designated by
9 paragraph (1)), by striking subparagraph (E) and
10 inserting the following:

11 “(E) otherwise has a legitimate business need
12 for the information—

13 “(i) in connection with a business trans-
14 action that—

15 “(I) is initiated by the consumer; or

16 “(II) is a direct marketing transaction
17 for which the furnishing of information
18 from a consumer’s file by the agency is not
19 prohibited under subsection (d); or

20 “(ii) to review an account to determine
21 whether the consumer continues to meet the
22 terms of the account.”.

23 (b) FURNISHING AND USING CONSUMER REPORTS
24 FOR EMPLOYMENT PURPOSES.—Section 604 of the Fair
25 Credit Reporting Act (15 U.S.C. 1681b) is amended by
26 adding at the end the following:

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

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

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

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

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

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

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

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

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

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

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

18 “(A) a copy of the report;

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

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

1 formation in the report that is disputed by the
 2 consumer and notice in writing of the oppor-
 3 tunity for the consumer to respond in that pe-
 4 riod, except that such an opportunity to re-
 5 spond and notice are not required if the person
 6 takes the adverse action based on a reasonable
 7 belief that the consumer has engaged in fraudu-
 8 lent or criminal activity that is related to, or
 9 that could affect, the consumer’s employment.”.

10 **SEC. 104. USE OF CONSUMER REPORTS FOR**
 11 **PRESCREENING AND DIRECT MARKETING;**
 12 **PROHIBITION ON UNAUTHORIZED OR**
 13 **UNCERTIFIED USE OF INFORMATION.**

14 (a) IN GENERAL.—Section 604 of the Fair Credit
 15 Reporting Act (15 U.S.C. 1681b) (as amended by section
 16 103) is amended—

17 (1) in subsection (a), by striking “A consumer
 18 reporting agency” and inserting “Subject to sub-
 19 sections (c) and (d), any consumer reporting agen-
 20 cy”; and

21 (2) by adding after subsection (b) (as added by
 22 section 103(b)) the following:

23 “(c) FURNISHING REPORTS IN CONNECTION WITH
 24 CREDIT OR INSURANCE TRANSACTIONS THAT ARE NOT
 25 INITIATED BY THE CONSUMER.—

1 “(1) IN GENERAL.—A consumer reporting
2 agency may furnish a consumer report relating to
3 any consumer pursuant to subsection (a)(3)(A) in
4 connection with any credit or insurance transaction
5 that is not initiated by the consumer only if—

6 “(A) the consumer authorizes the agency
7 to provide such report to such person; or

8 “(B)(i) the transaction consists of a firm
9 offer of credit or insurance;

10 “(ii) the consumer reporting agency has
11 complied with subsection (e); and

12 “(iii) there is not in effect an election by
13 the consumer, made in accordance with sub-
14 section (e), to have the consumer’s name and
15 address excluded from lists of names provided
16 by the agency pursuant to this paragraph.

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

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

21 “(B) an identifier that is not unique to the
22 consumer and is used by the person solely for
23 the purpose of verifying the identity of the
24 consumer; and

1 “(C) other information pertaining to a
2 consumer that does not identify the relationship
3 or experience of the consumer with a particular
4 creditor or other entity.

5 “(3) INFORMATION REGARDING INQUIRIES.—
6 Except as provided in section 609(a)(5), a consumer
7 reporting agency shall not furnish to any person a
8 record of inquiries in connection with a credit or in-
9 surance transaction that is not initiated by a
10 consumer.

11 “(d) FURNISHING INFORMATION FROM CONSUMER
12 FILES IN CONNECTION WITH DIRECT MARKETING
13 TRANSACTIONS THAT ARE NOT INITIATED BY THE
14 CONSUMER.—

15 “(1) IN GENERAL.—A consumer reporting
16 agency may furnish information from a file relating
17 to a consumer pursuant to subsection (a)(3)(E) in
18 connection with a direct marketing transaction that
19 is not initiated by the consumer only if—

20 “(A) the consumer authorizes the agency
21 to provide such information to such person; or

22 “(B)(i) the consumer reporting agency has
23 complied with subsection (e); and

24 “(ii) there is not in effect an election by
25 the consumer, made in accordance with sub-

1 section (e), to have the consumer's name and
2 address excluded from lists of names provided
3 by the agency pursuant to this paragraph.

4 “(2) LIMITS ON FURNISHING INFORMATION
5 UNDER PARAGRAPH (1)(B).—A consumer reporting
6 agency may furnish, pursuant to paragraph (1)(B),
7 only the name and address of a consumer and other
8 information that would not disclose the credit pay-
9 ment history, credit limit, credit balance, or any neg-
10 ative information pertaining to the consumer.

11 “(3) INFORMATION REGARDING INQUIRIES.—
12 Except as provided in section 609(a)(5), a consumer
13 reporting agency shall not furnish to any person a
14 record of inquiries in connection with a direct mar-
15 keting transaction that is not initiated by a
16 consumer.

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

19 “(1) IN GENERAL.—A consumer may elect to
20 have the consumer's name and address excluded
21 from any list provided by a consumer reporting
22 agency under subsection (c)(1)(B) in connection
23 with a credit or insurance transaction that is not ini-
24 tiated by the consumer or under subsection
25 (d)(1)(B) in connection with a direct marketing

1 transaction that is not initiated by the consumer, by
2 notifying the agency in accordance with paragraph
3 (2) that the consumer does not consent to any use
4 of consumer reports relating to the consumer in con-
5 nection with any credit or insurance transaction that
6 is not initiated by the consumer or any direct mar-
7 keting transaction that is not initiated by the
8 consumer.

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

12 “(A) through the notification system main-
13 tained by the agency under paragraph (5); or

14 “(B) by submitting to the agency a signed
15 notice of election form issued by the agency for
16 purposes of this subparagraph.

17 “(3) RESPONSE OF AGENCY AFTER NOTIFICA-
18 TION THROUGH SYSTEM.—Upon receipt of notifica-
19 tion of the election of a consumer under paragraph
20 (1) through the notification system maintained by
21 the agency under paragraph (5), a consumer report-
22 ing agency shall—

23 “(A) inform the consumer that the election
24 is effective only for a 2-year period if the
25 consumer does not submit to the agency a

1 signed notice of election form issued by the
2 agency for purposes of paragraph (2)(B); and

3 “(B) provide to the consumer such a form
4 if requested by the consumer, by not later than
5 5 business days after receiving the notification
6 through the system in the case of a request
7 made at the time the consumer provides notifi-
8 cation through the system.

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

11 “(A) shall be effective with respect to a
12 consumer reporting agency beginning on the
13 date on which the consumer notifies the agency
14 in accordance with paragraph (2);

15 “(B) shall be effective with respect to a
16 consumer reporting agency—

17 “(i) subject to subparagraph (C), dur-
18 ing the 2-year period beginning on the date
19 on which the consumer notifies the agency
20 of the election, in the case of an election
21 for which a consumer notifies the agency
22 only in accordance with paragraph (2)(A);
23 or

24 “(ii) until the consumer notifies the
25 agency under subparagraph (C), in the

1 case of an election for which a consumer
2 notifies the agency in accordance with
3 paragraph (2)(B);

4 “(C) shall not be effective after the date on
5 which the consumer notifies the agency,
6 through the notification system established by
7 the agency under paragraph (5), that the elec-
8 tion is no longer effective; and

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

11 “(5) NOTIFICATION SYSTEM.—Each consumer
12 reporting agency that, under subsection (c)(1)(B),
13 furnishes a consumer report in connection with a
14 credit or insurance transaction that is not initiated
15 by a consumer or, under or subsection (d)(1)(B),
16 furnishes a consumer report in connection with a di-
17 rect marketing transaction that is not initiated by a
18 consumer, shall—

19 “(A) establish and maintain a notification
20 system, including a toll-free telephone number,
21 which permits any consumer whose consumer
22 report is maintained by the agency to notify the
23 agency, with appropriate identification, of the
24 consumer’s election to have the consumer’s
25 name and address excluded from any such list

1 of names and addresses provided by the agency
2 for such a transaction; and

3 “(B) publish by not later than 365 days
4 after the date of enactment of the Consumer
5 Reporting Reform Act of 1995, and not less
6 than annually thereafter, in a publication of
7 general circulation in the area served by the
8 agency—

9 “(i) a notification that information in
10 consumer files maintained by the agency
11 may be used in connection with such trans-
12 actions; and

13 “(ii) the address and toll-free tele-
14 phone number for consumers to use to no-
15 tify the agency of the consumer’s election
16 under subparagraph (A).

17 Establishment and maintenance of a notification
18 system (including a toll-free telephone number) and
19 publication by a consumer reporting agency on the
20 agency’s own behalf and on behalf of any of its af-
21 filiates in accordance with this paragraph is deemed
22 to be compliance with this paragraph by each of
23 those affiliates.

24 “(6) NOTIFICATION SYSTEM BY AGENCIES
25 THAT OPERATE NATIONWIDE.—Each consumer re-

1 reporting agency that compiles and maintains files on
2 consumers on a nationwide basis shall establish and
3 maintain a notification system for purposes of para-
4 graph (5) jointly with other such consumer reporting
5 agencies.”.

6 (b) USE OF INFORMATION OBTAINED FROM RE-
7 PORTS.—Section 604 of the Fair Credit Reporting Act (15
8 U.S.C. 1681b) is amended by adding at the end (as added
9 by subsection (a)) the following:

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

13 “(1) the consumer report is obtained for a pur-
14 pose for which the consumer report is authorized to
15 be furnished under subsection (a); and

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

19 **SEC. 105. CONSUMER CONSENT REQUIRED TO FURNISH**
20 **CONSUMER REPORT CONTAINING MEDICAL**
21 **INFORMATION; FURNISHING CONSUMER RE-**
22 **PORTS FOR COMMERCIAL TRANSACTIONS.**

23 (a) IN GENERAL.—Section 604 of the Fair Credit
24 Reporting Act (15 U.S.C. 1681b) (as amended by sections

1 103 and 104) is amended by adding at the end the follow-
2 ing:

3 “(g) FURNISHING REPORTS CONTAINING MEDICAL
4 INFORMATION.—A consumer reporting agency shall not
5 furnish for employment purposes, or in connection with
6 a credit or insurance transaction or a direct marketing
7 transaction, a consumer report that contains medical in-
8 formation about a consumer, unless the consumer con-
9 sents to the furnishing of the report.

10 “(h) FURNISHING CONSUMER REPORTS FOR COM-
11 Mercial Transactions.—A consumer reporting agency
12 may furnish a consumer report to a person if the agency
13 has a reasonable belief that the person intends to use the
14 information in connection with a commercial transaction
15 involving the consumer.”.

16 (b) CONFORMING AMENDMENT.—Section 603(d) of
17 the Fair Credit Reporting Act (15 U.S.C. 1681a(d)) is
18 amended in the first sentence by striking “section 604”
19 and inserting “section 604(a)”.

20 **SEC. 106. OBSOLETE INFORMATION AND INFORMATION**
21 **CONTAINED IN CONSUMER REPORTS.**

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

1 (1) in subsection (a), by striking “(a) Except as
2 authorized under subsection (b), no” and inserting
3 the following:

4 “(a) INFORMATION EXCLUDED FROM CONSUMER
5 REPORTS.—No”; and

6 (2) by striking subsection (b).

7 (b) CLARIFICATION OF REPORTING PERIOD.—Sec-
8 tion 605 of the Fair Credit Reporting Act (15 U.S.C.
9 1681c) (as amended by subsection (a)) is amended by add-
10 ing at the end the following:

11 “(b) RUNNING OF REPORTING PERIOD.—

12 “(1) IN GENERAL.—The 7-year period referred
13 to in paragraphs (4) and (6) of subsection (a) shall
14 begin, with respect to any delinquent account that is
15 placed for collection (internally or by referral to a
16 third party, whichever is earlier), charged to profit
17 and loss, or subjected to any similar action, upon the
18 expiration of the 180-day period beginning on the
19 date of the commencement of the delinquency which
20 immediately preceded the collection activity, charge
21 to profit and loss, or similar action.

22 “(2) EFFECTIVE DATE.—Paragraph (1) shall
23 apply only to items of information added to a
24 consumer report on or after the date that is 455

1 days after the date of enactment of the Consumer
2 Reporting Reform Act of 1995.”.

3 (c) ADDITIONAL INFORMATION ON BANKRUPTCY
4 FILINGS REQUIRED.—Section 605 of the Fair Credit Re-
5 porting Act (15 U.S.C. 1681c) is amended by adding after
6 subsection (b) (as added by subsection (b)) the following:

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

19 (d) INDICATION OF CLOSURE OF ACCOUNT; INDICA-
20 TION OF DISPUTE BY CONSUMER.—Section 605 of the
21 Fair Credit Reporting Act (15 U.S.C. 1681c) is amended
22 by adding after subsection (c) (as added by subsection (c))
23 the following:

24 “(d) INDICATION OF CLOSURE OF ACCOUNT BY
25 CONSUMER.—If a consumer reporting agency is notified

1 pursuant to section 623(a)(4) that a credit account of a
2 consumer was voluntarily closed by the consumer, the
3 agency shall indicate that fact in any consumer report that
4 includes information related to the account.

5 “(e) INDICATION OF DISPUTE BY CONSUMER.—If a
6 consumer reporting agency is notified pursuant to section
7 623(a)(3) that information regarding a consumer who was
8 furnished to the agency is disputed by the consumer, the
9 agency shall indicate that fact in each consumer report
10 that includes the disputed information.”.

11 (e) CONFORMING AMENDMENTS.—

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

17 (2) The table of sections at the beginning of the
18 Fair Credit Reporting Act (15 U.S.C. 1681a et seq.)
19 is amended by striking the item relating to section
20 605 and inserting the following:

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

21 **SEC. 107. COMPLIANCE PROCEDURES.**

22 (a) DISCLOSURE OF CONSUMER REPORTS BY
23 USERS.—Section 607 of the Fair Credit Reporting Act
24 (15 U.S.C. 1681e) is amended by adding at the end the
25 following:

1 “(c) DISCLOSURE OF CONSUMER REPORTS BY
2 USERS ALLOWED.—A consumer reporting agency may not
3 prohibit a user of a consumer report furnished by the
4 agency on a consumer from disclosing the contents of the
5 report to the consumer, if adverse action against the
6 consumer has been taken by the user based in whole or
7 in part on the report.”.

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

13 “(d) NOTICE TO USERS AND FURNISHERS OF INFOR-
14 MATION.—

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

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

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

22 a notice of such person’s responsibilities under this
23 title.

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

4 (c) RECORD OF IDENTITY OF USERS AND PURPOSES
5 CERTIFIED BY USERS OF REPORTS.—Section 607 of the
6 Fair Credit Reporting Act (15 U.S.C. 1681e) is amended
7 by adding after subsection (d) (as added by subsection (b))
8 the following:

9 “(e) PROCUREMENT OF CONSUMER REPORT FOR RE-
10 SALE.—

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

16 “(A) the identity of the end-user of the re-
17 port (or information); and

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

21 “(2) RESPONSIBILITIES OF PROCURERS FOR
22 RESALE.—A person who procures a consumer report
23 for purposes of reselling the report (or any informa-
24 tion in the report) shall—

1 “(A) establish and comply with reasonable
2 procedures designed to ensure that the report
3 (or information) is resold by the person only for
4 a purpose for which the report may be fur-
5 nished under section 604, including by requir-
6 ing that each person to which the report (or in-
7 formation) is resold and that resells or provides
8 the report (or information) to any other per-
9 son—

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

12 “(ii) certifies each purpose for which
13 the report (or information) will be used;
14 and

15 “(iii) certifies that the report (or in-
16 formation) will be used for no other pur-
17 pose; and

18 “(B) before reselling the report, make rea-
19 sonable efforts to verify the identifications and
20 certifications made under subparagraph (A).”.

21 **SEC. 108. CONSUMER DISCLOSURES.**

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

1 “(1) All information in the consumer’s file at
2 the time of the request, except that nothing in this
3 paragraph shall be construed to require a consumer
4 reporting agency to disclose to a consumer any in-
5 formation concerning credit scores or any other risk
6 scores or predictors relating to the consumer.”.

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

11 “(3)(A) Identification of each person (including
12 each end-user identified under section 607(e)(1))
13 that procured a consumer report—

14 “(i) for employment purposes during the 2-
15 year period preceding the date on which the re-
16 quest is made; or

17 “(ii) for any other purpose during the 1-
18 year period preceding the date on which the re-
19 quest is made.

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

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

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

3 (c) INFORMATION REGARDING INQUIRIES.—Section
4 609(a) of the Fair Credit Reporting Act (15 U.S.C.
5 1681g(a)) is amended by adding at the end the following:

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

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

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

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

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

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

24 “(B) in the case of a consumer reporting
25 agency that compiles and maintains files on

1 consumers on a nationwide basis, a toll-free
2 telephone number established by the agency at
3 which personnel are accessible to consumers
4 during normal business hours.

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

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

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

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

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

24 “(E) a statement that a consumer report-
25 ing agency is not required to remove accurate

1 derogatory information from a consumer’s file,
2 unless the information is outdated under sec-
3 tion 605 or cannot be verified.

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

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

18 (e) FORM OF DISCLOSURES.—

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

22 “(a) IN GENERAL.—

23 “(1) PROPER IDENTIFICATION.—A consumer
24 reporting agency shall require, as a condition of

1 making the disclosures required under section 609,
2 that the consumer furnish proper identification.

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

7 “(b) OTHER FORMS OF DISCLOSURE.—

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

11 “(A) other than in writing; and

12 “(B) in such form as may be—

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

15 “(ii) available from the agency.

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

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

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

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

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

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

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

20 (4) CONFORMING AMENDMENTS.—

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

1 and inserting “and subject to section
2 610(a)(1)”.

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

7 (C) The table of sections at the beginning
8 of the Fair Credit Reporting Act (15 U.S.C.
9 1681a et seq.) is amended in the item relating
10 to section 610 by inserting “and form” after
11 “Conditions”.

12 **SEC. 109. PROCEDURES IN CASE OF THE DISPUTED ACCU-**
13 **RACY OF ANY INFORMATION IN A CONSUM-**
14 **ER’S FILE.**

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

18 “(a) REINVESTIGATIONS OF DISPUTED INFORMA-
19 TION.—

20 “(1) REINVESTIGATION REQUIRED.—

21 “(A) IN GENERAL.—If the completeness or
22 accuracy of any item of information contained
23 in a consumer’s file at a consumer reporting
24 agency is disputed by the consumer and the
25 consumer notifies the agency directly of such

1 dispute, the agency shall reinvestigate free of
2 charge and record the current status of the dis-
3 puted information, or delete the item from the
4 file in accordance with paragraph (5), before
5 the end of the 30-day period beginning on the
6 date on which the agency receives the notice of
7 the dispute from the consumer.

8 “(B) EXTENSION OF PERIOD TO
9 REINVESTIGATE.—Except as provided in sub-
10 paragraph (C), the 30-day period described in
11 subparagraph (A) may be extended for not
12 more than 15 additional days if the consumer
13 reporting agency receives information from the
14 consumer during that 30-day period that is rel-
15 evant to the reinvestigation.

16 “(C) LIMITATIONS ON EXTENSION OF PE-
17 RIOD TO REINVESTIGATE.—Subparagraph (B)
18 shall not apply to any reinvestigation in which,
19 during the 30-day period described in subpara-
20 graph (A), the information that is the subject
21 of the reinvestigation is found to be inaccurate
22 or incomplete or the consumer reporting agency
23 determines that the information cannot be veri-
24 fied.

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

3 “(A) IN GENERAL.—Prior to the expiration
4 of the 5-business-day period beginning on the
5 date on which a consumer reporting agency re-
6 ceives notice of a dispute from any consumer in
7 accordance with paragraph (1), the agency shall
8 provide notification of the dispute to any person
9 who provided any item of information in dis-
10 pute, at the address and in the manner estab-
11 lished with the person. The notice shall include
12 all relevant information regarding the dispute
13 that the agency has received from the
14 consumer.

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

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

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

10 “(B) NOTICE OF DETERMINATION.—Upon
11 making any determination in accordance with
12 subparagraph (A) that a dispute is frivolous or
13 irrelevant, a consumer reporting agency shall
14 notify the consumer of such determination not
15 later than 5 business days after making such
16 determination, by mail or, if authorized by the
17 consumer for that purpose, by any other means
18 available to the agency.

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

21 “(i) the reasons for the determination
22 under subparagraph (A); and

23 “(ii) identification of any information
24 required to investigate the disputed infor-
25 mation, which may consist of a standard-

1 ized form describing the general nature of
2 such information.

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

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

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

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

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

13 “(ii) NOTICE TO CONSUMER.—If any
14 information that has been deleted from a
15 consumer’s file pursuant to subparagraph
16 (A) is reinserted in the file, the consumer
17 reporting agency shall notify the consumer
18 of the reinsertion in writing not later than
19 5 business days after the reinsertion or, if
20 authorized by the consumer for that pur-
21 pose, by any other means available to the
22 agency.

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

1 shall provide to a consumer in writing not
2 later than 5 business days after the date
3 of the reinsertion—

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

7 “(II) the name, business address,
8 and telephone number of any fur-
9 nisher of information contacted, or of
10 any furnisher of information that con-
11 tacted the consumer reporting agency,
12 in connection with the reinsertion of
13 such information; and

14 “(III) a notice that the consumer
15 has the right to add a statement to
16 the consumer’s file disputing the accu-
17 racy or completeness of the disputed
18 information.

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

1 reinserted in accordance with subparagraph
2 (B)(i).

3 “(D) AUTOMATED REINVESTIGATION SYS-
4 TEM.—Any consumer reporting agency that
5 compiles and maintains files on consumers on a
6 nationwide basis shall implement an automated
7 system through which furnishers of information
8 to that consumer reporting agency may report
9 the results of a reinvestigation that finds in-
10 complete or inaccurate information in a con-
11 sumer’s file to other such consumer reporting
12 agencies.

13 “(6) NOTICE OF RESULTS OF
14 REINVESTIGATION.—

15 “(A) IN GENERAL.—A consumer reporting
16 agency shall provide written notice to a
17 consumer of the results of a reinvestigation
18 under this subsection not later than 5 business
19 days after the completion of the reinvestigation,
20 by mail or, if authorized by the consumer for
21 that purpose, by other means available to the
22 agency.

23 “(B) CONTENTS.—As part of, or in addi-
24 tion to, the notice under subparagraph (A), a
25 consumer reporting agency shall provide to a

1 consumer in writing prior to the expiration of
2 the 5-day period referred to in subparagraph
3 (A)—

4 “(i) a statement that the
5 reinvestigation is completed;

6 “(ii) a consumer report that is based
7 upon the consumer’s file as that file is re-
8 vised as a result of the reinvestigation;

9 “(iii) a description or indication of
10 any changes made in the consumer report
11 as a result of those revisions to the con-
12 sumer’s file;

13 “(iv) a notice that, if requested by the
14 consumer, a description of the procedure
15 used to determine the accuracy and com-
16 pleteness of the information shall be pro-
17 vided to the consumer by the agency, in-
18 cluding the name, business address, and
19 telephone number of any furnisher of in-
20 formation contacted in connection with
21 such information;

22 “(v) a notice that the consumer has
23 the right to add a statement to the con-
24 sumer’s file disputing the accuracy or com-
25 pleteness of the information; and

1 “(vi) a notice that the consumer has
2 the right to request under subsection (d)
3 that the consumer reporting agency fur-
4 nish notifications under that subsection.

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

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

22 “(A) provides prompt notice of the deletion
23 to the consumer by telephone;

24 “(B) includes in that notice, or in a writ-
25 ten notice that accompanies a confirmation and

1 consumer report provided in accordance with
2 subparagraph (C), a statement of the consum-
3 er's right to request under subsection (d) that
4 the agency furnish notifications under that sub-
5 section; and

6 “(C) provides written confirmation of the
7 deletion and a copy of a consumer report on the
8 consumer that is based on the consumer's file
9 after the deletion, not later than 5 business
10 days after making the deletion.”.

11 (b) CONFORMING AMENDMENT.—Section 611(d) of
12 the Fair Credit Reporting Act (15 U.S.C. 1681i(d)) is
13 amended by striking “The consumer reporting agency
14 shall clearly” and all that follows through the end of the
15 subsection.

16 **SEC. 110. CHARGES FOR CERTAIN DISCLOSURES.**

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

19 **“SEC. 612. CHARGES FOR CERTAIN DISCLOSURES.**

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

24 “(1) for making a disclosure to the consumer
25 pursuant to section 609, which charge—

1 “(A) shall not exceed \$8; and

2 “(B) shall be indicated to the consumer
3 prior to making disclosure; and

4 “(2) for furnishing pursuant to section 611(d),
5 following a reinvestigation under section 611(a), a
6 statement, codification, or summary to a person des-
7 ignated by the consumer under that section after the
8 30-day period beginning on the date of notification
9 of the consumer under paragraph (6) or (8) of sec-
10 tion 611(a) with respect to the reinvestigation, which
11 charge—

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

15 “(B) shall be indicated to the consumer
16 prior to furnishing such information.

17 “(b) FREE CONSUMER REPORT AFTER ADVERSE
18 NOTICE TO CONSUMER.—Each consumer reporting agen-
19 cy that maintains a file on a consumer shall make all dis-
20 closures pursuant to section 609 without charge to the
21 consumer if, not later than 60 days after receipt by such
22 consumer of a notification pursuant to section 615, or of
23 a notification from a debt collection agency affiliated with
24 that consumer reporting agency stating that the consum-

1 er's credit rating may be or has been adversely affected,
2 the consumer makes a request under section 609.

3 “(c) FREE CONSUMER REPORT UNDER CERTAIN
4 OTHER CIRCUMSTANCES.—Upon the request of the
5 consumer, a consumer reporting agency shall make all dis-
6 closures pursuant to section 609 once during any 12-
7 month period without charge to that consumer if the
8 consumer certifies in writing that the consumer—

9 “(1) is unemployed and intends to apply for
10 employment in the 60-day period beginning on the
11 date on which the certification is made;

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

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

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

22 **SEC. 111. DUTIES OF USERS OF CONSUMER REPORTS.**

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

1 “(a) DUTIES OF USERS TAKING ADVERSE ACTIONS
2 ON THE BASIS OF INFORMATION CONTAINED IN
3 CONSUMER REPORTS.—If any person takes any adverse
4 action with respect to any consumer that is based in whole
5 or in part on any information contained in a consumer
6 report, the person shall—

7 “(1) provide written or electronic notice of the
8 adverse action to the consumer;

9 “(2) provide to the consumer in writing or elec-
10 tronically—

11 “(A) the name, address, and telephone
12 number of the consumer reporting agency (in-
13 cluding a toll-free telephone number established
14 by the agency if the agency compiles and main-
15 tains files on consumers on a nationwide basis)
16 that furnished the report to the person; and

17 “(B) a statement that the consumer re-
18 porting agency did not make the decision to
19 take the adverse action and is unable to provide
20 the consumer the specific reasons why the ad-
21 verse action was taken; and

22 “(3) provide to the consumer a written or elec-
23 tronic notice of the consumer’s right—

24 “(A) to obtain, under section 612, a free
25 copy of a consumer report on the consumer

1 from the consumer reporting agency referred to
2 in paragraph (2), which notice shall include an
3 indication of the 60-day period under that sec-
4 tion for obtaining such a copy; and

5 “(B) to dispute, under section 611, with a
6 consumer reporting agency the accuracy or
7 completeness of any information in a consumer
8 report furnished by the agency.”.

9 (b) DUTIES OF USERS MAKING CERTAIN CREDIT SO-
10 LICITATIONS.—Section 615 of the Fair Credit Reporting
11 Act (15 U.S.C. 1681m) is amended by adding at the end
12 the following:

13 “(d) DUTIES OF USERS MAKING WRITTEN CREDIT
14 SOLICITATIONS ON THE BASIS OF INFORMATION CON-
15 TAINED IN CONSUMER FILES.—

16 “(1) IN GENERAL.—Any person who uses a
17 consumer report on any consumer in connection with
18 any credit or insurance transaction that is not initi-
19 ated by the consumer, that is provided to that per-
20 son under section 604(c)(1)(B), shall provide with
21 each written solicitation made to the consumer re-
22 garding the transaction a clear and conspicuous
23 statement that—

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

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

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

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

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

24 “(2) DISCLOSURE OF ADDRESS AND TELE-
25 PHONE NUMBER.—A statement under paragraph (1)

1 shall include the address and toll-free telephone
2 number of the appropriate notification system estab-
3 lished under section 604(e).

4 “(3) MAINTAINING CRITERIA ON FILE.—A per-
5 son who makes an offer of credit to a consumer
6 under a credit or insurance transaction described in
7 paragraph (1) shall maintain on file the criteria used
8 to select the consumer to receive the offer, all cri-
9 teria bearing on creditworthiness that are the basis
10 for determining whether or not to extend credit pur-
11 suant to the offer, and any requirement for the fur-
12 nishing of collateral as a condition of the extension
13 of credit, until the expiration of the 3-year period
14 beginning on the date on which the offer is made to
15 the consumer.

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

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

22 “(B) the person who procured the report
23 clearly and conspicuously disclosed to the
24 consumer to whom the report relates, before the
25 report is provided to the person using the re-

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

5 “(C) the consumer has been afforded the
6 opportunity to direct in writing that the report
7 may not be communicated among persons who
8 are affiliated in the manner described in sub-
9 paragraph (A) and has not done so.

10 “(5) AUTHORITY OF FEDERAL AGENCIES RE-
11 GARDING UNFAIR OR DECEPTIVE ACTS OR PRAC-
12 TICES NOT AFFECTED.—This section is not intended
13 to affect the authority of any Federal agency to en-
14 force a prohibition against unfair or deceptive acts
15 or practices, including the making of false or mis-
16 leading statements in connection with a credit or in-
17 surance transaction that is not initiated by the
18 consumer.”.

19 (c) DUTIES OF USERS MAKING OTHER SOLICITA-
20 TIONS.—Section 615 of the Fair Credit Reporting Act (15
21 U.S.C. 1681m) is amended by adding at the end the fol-
22 lowing:

23 “(e) DUTIES OF USERS MAKING OTHER WRITTEN
24 SOLICITATIONS ON THE BASIS OF INFORMATION CON-
25 TAINED IN CONSUMER FILES.—

1 “(1) IN GENERAL.—A person who, in connec-
2 tion with any direct marketing transaction that is
3 not initiated by a consumer, uses a consumer report
4 on that consumer that is provided to that person
5 under section 604(a)(3)(E)(i)(II), shall provide with
6 the initial written solicitation made to the consumer
7 regarding the transaction a clear and conspicuous
8 statement that—

9 “(A) information contained in the consum-
10 er’s consumer report was used in connection
11 with the transaction;

12 “(B) the consumer has a right to prohibit
13 information contained in the consumer’s file
14 with any consumer reporting agency from being
15 used in connection with any direct marketing
16 transaction that is not initiated by the
17 consumer; and

18 “(C) the consumer may exercise the right
19 referred to in subparagraph (B) by notifying a
20 notification system established under section
21 604(e).

22 “(2) DISCLOSURE OF ADDRESS AND TELE-
23 PHONE NUMBER.—A statement under paragraph (1)
24 shall include the address and toll-free telephone

1 number of the appropriate notification system estab-
2 lished under section 604(e).

3 “(3) AUTHORITY OF FEDERAL AGENCIES RE-
4 GARDING UNFAIR OR DECEPTIVE ACTS OR PRAC-
5 TICES NOT AFFECTED.—This section is not intended
6 to affect the authority of any Federal agency to en-
7 force a prohibition against unfair or deceptive acts
8 or practices, including the making of false or mis-
9 leading statements in connection with a direct mar-
10 keting transaction that is not initiated by the
11 consumer.”.

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

16 **SEC. 112. CIVIL LIABILITY.**

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

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

1 “(1)(A) any actual damages sustained by the
2 consumer as a result of the failure or damages of
3 not less than \$100 and not more than \$1,000; or

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

9 (c) CIVIL LIABILITY FOR KNOWING NONCOMPLI-
10 ANCE.—Section 616 of the Fair Credit Reporting Act (15
11 U.S.C. 1681n) is amended by adding at the end the follow-
12 ing:

13 “(c) CIVIL LIABILITY FOR KNOWING NONCOMPLI-
14 ANCE.—Any person who obtains a consumer report from
15 a consumer reporting agency under false pretenses or
16 knowingly without a permissible purpose shall be liable to
17 the consumer reporting agency for actual damages sus-
18 tained by the consumer reporting agency or \$1,000,
19 whichever is greater.”.

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

25 (e) ATTORNEY’S FEES.—

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

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

11 (2) NEGLIGENT NONCOMPLIANCE.—Section
12 617 of the Fair Credit Reporting Act (15 U.S.C.
13 1681o) is amended by adding at the end the follow-
14 ing:

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

1 **SEC. 113. RESPONSIBILITIES OF PERSONS WHO FURNISH**
2 **INFORMATION TO CONSUMER REPORTING**
3 **AGENCIES.**

4 (a) IN GENERAL.—The Fair Credit Reporting Act
5 (15 U.S.C. 1681 et seq.) is amended—

6 (1) by redesignating section 623 as section 624;

7 and

8 (2) by inserting after section 622 the following:

9 **“SEC. 623. RESPONSIBILITIES OF FURNISHERS OF INFOR-**
10 **MATION TO CONSUMER REPORTING AGEN-**
11 **CIES.**

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 relating to a consumer to any
16 consumer reporting agency if the person has been
17 notified by the consumer, in a reasonable manner
18 specified by the person for such notices, that the in-
19 formation is incomplete or inaccurate.

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

22 **“(A)** regularly and in the ordinary course
23 of business furnishes information to one or
24 more consumer reporting agencies about the
25 person’s transactions or experiences with any
26 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, not later than 90 days after furnishing
9 the information, notify the agency of the month and
10 year of the commencement of the delinquency that
11 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, prior to the
11 expiration of the period under section 611(a)(1)
12 within which the consumer reporting agency is re-
13 quired to complete actions required by that section
14 regarding 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) shall 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) CONFORMING AMENDMENT.—The table of sec-
23 tions at the beginning of the Fair Credit Reporting Act
24 (15 U.S.C. 1681a et seq.) is amended by striking the item
25 relating 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
15 second place such term 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 that includes informa-
11 tion that is a matter of public record and that 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 during the 30-day period ending on the date on
16 which the 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 “(A) the agency has followed reasonable
2 procedures to obtain confirmation of the infor-
3 mation, from an additional source that has
4 independent and direct knowledge of the infor-
5 mation; or

6 “(B) the person interviewed is the best
7 possible source of the information.”.

8 **SEC. 115. INCREASED CRIMINAL PENALTIES FOR OBTAIN-**
9 **ING INFORMATION UNDER FALSE PRE-**
10 **TENSES.**

11 (a) OBTAINING INFORMATION UNDER FALSE PRE-
12 TENSES.—Section 619 of the Fair Credit Reporting Act
13 (15 U.S.C. 1681q) is amended by striking “fined not more
14 than \$5,000 or imprisoned not more than one year, or
15 both” and inserting “fined under title 18, United States
16 Code, imprisoned for not more than 2 years, or both”.

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

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 amended
20 by inserting before the third period the following: “,
21 including the power to enforce the provisions of this
22 title in the same manner as if the violation had been
23 a violation of any Federal Trade Commission trade
24 regulation rule”; and

25 (3) as amended by paragraph (1), is amended
26 by adding after the third period the following: “Not-

1 withstanding the preceding sentence, a court may
2 not impose any civil penalty on a person for a viola-
3 tion of section 623(a)(1) unless the person has been
4 enjoined from committing the violation, or ordered
5 not to commit the violation, in an action or proceed-
6 ing brought by or on behalf of the Federal Trade
7 Commission and has violated the injunction or order,
8 and the court may not impose any civil penalty for
9 any violation occurring before the date of the viola-
10 tion 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 that are subject to subsection (d) or (e) of section 615
25 shall be enforced 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—

5 (1) by redesignating subsection (c) as sub-
6 section (d); and

7 (2) by inserting after subsection (b) the follow-
8 ing:

9 “(c) STATE ACTION FOR VIOLATIONS.—

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

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

20 “(B) subject to paragraph (5), may bring
21 an action on behalf of the residents of the State
22 to recover—

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

1 “(ii) in the case of a violation of sec-
2 tion 623(a), damages for which the person
3 would, but for section 623(c), be liable to
4 such residents as a result of the violation;
5 or

6 “(iii) damages of not more than
7 \$1,000 for each willful or negligent viola-
8 tion; and

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

13 “(2) RIGHTS OF FEDERAL REGULATORS.—The
14 State shall serve prior written notice of any action
15 under paragraph (1) upon the Federal Trade Com-
16 mission or the appropriate Federal regulator deter-
17 mined under subsection (b) and provide the Commis-
18 sion or appropriate Federal regulator with a copy of
19 its complaint, except in any case in which such prior
20 notice is not feasible, in which case the State shall
21 serve such notice immediately upon instituting such
22 action. The Federal Trade Commission or appro-
23 priate Federal regulator shall have the right—

24 “(A) to intervene in the action;

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

3 “(C) to remove the action to the appro-
4 priate United States district court; and

5 “(D) to file petitions for appeal.

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

16 “(4) LIMITATION ON STATE ACTION WHILE
17 FEDERAL ACTION PENDING.—If the Federal Trade
18 Commission or the appropriate Federal regulator
19 has instituted a civil action or an administrative ac-
20 tion under section 8 of the Federal Deposit Insur-
21 ance Act for a violation of this title, no State may,
22 during the pendency of such action, bring an action
23 under this section against any defendant named in
24 the complaint of the Commission or the appropriate

1 Federal regulator for any violation of this title that
2 is alleged in that complaint.

3 “(5) LIMITATIONS ON STATE ACTIONS FOR VIO-
4 LATION OF SECTION 623(a)(1).—

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

9 “(i) the person has been enjoined
10 from committing the violation, in an action
11 brought by the State under paragraph
12 (1)(A); and

13 “(ii) the person has violated the in-
14 junction.

15 “(B) LIMITATION ON DAMAGES RECOVER-
16 ABLE.—In an action against a person under
17 paragraph (1)(B) for a violation of section
18 623(a)(1), a State may not recover any dam-
19 ages incurred before the date of the violation of
20 an injunction on which the action is based.”.

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

22 Section 621 of the Fair Credit Reporting Act (15
23 U.S.C. 1681s) is amended by adding after subsection (d)
24 (as redesignated by section 117) the following:

1 “(e) INTERPRETIVE AUTHORITY.—The Board of
 2 Governors of the Federal Reserve System may issue inter-
 3 pretations of any provision of this title as such provision
 4 may apply to any persons identified under paragraph (1),
 5 (2), and (3) of subsection (b), or to the holding companies
 6 and affiliates of such persons, in consultation with Federal
 7 agencies identified in paragraphs (1), (2), and (3) of sub-
 8 section (b).”.

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

10 Section 624 of the Fair Credit Reporting Act (as re-
 11 designated by section 113(a)) is amended—

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

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

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

18 “(1) with respect to any subject matter regu-
 19 lated under—

20 “(A) subsection (c) or (e) of section 604,
 21 relating to the prescreening of consumer re-
 22 ports;

23 “(B) section 611, relating to the time by
 24 which a consumer reporting agency must take
 25 any action, including the provision of notifica-

1 tion to a consumer or other person, in any pro-
2 cedure related to the disputed accuracy of infor-
3 mation in a consumer's file, except that this
4 subparagraph does not apply to any State law
5 in effect on the date of enactment of the
6 Consumer Reporting Reform Act of 1995;

7 “(C) section 615(a), relating to the duties
8 of a person who takes any adverse action with
9 respect to a consumer on the basis of informa-
10 tion contained in a consumer report;

11 “(D) section 615(d), relating to the duties
12 of persons who use a consumer report of a
13 consumer in connection with any credit or in-
14 surance transaction that is not initiated by the
15 consumer and that consists of a firm offer of
16 credit or insurance;

17 “(E) section 615(e), relating to the duties
18 of persons who use a consumer report of a
19 consumer in connection with any direct market-
20 ing transaction that is not initiated by the
21 consumer;

22 “(F) section 605, relating to information
23 contained in consumer reports, except that this
24 subparagraph does not apply to any State law

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

3 “(G) section 623(b)(2), relating to the
4 time by which a person must take any action
5 required under section 623(b)(1) with respect
6 to an investigation of information furnished by
7 the person to a consumer reporting agency, ex-
8 cept that this subparagraph does not apply to
9 any State law in effect on the date of enact-
10 ment of the Consumer Reporting Reform Act of
11 1995;

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

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

18 “(c) DEFINITION OF FIRM OFFER OF CREDIT OR IN-
19 SURANCE.—Notwithstanding any definition of the term
20 ‘firm offer of credit or insurance’ (or any equivalent term)
21 under the laws of any State, the definition of that term
22 contained in section 603(l) shall be construed to apply in
23 the enforcement and interpretation of the laws of any
24 State governing consumer reports.

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

1 “(1) do not affect any settlement, agreement, or
2 consent judgment between any State Attorney Gen-
3 eral and any consumer reporting agency in effect on
4 the date of enactment of the Consumer Reporting
5 Reform Act of 1995; and

6 “(2) do not apply to any provision of State law
7 (including any provision of a State constitution)
8 that—

9 “(A) is enacted after January 1, 2004;

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

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

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

15 (a) MODIFICATION OF REQUIREMENTS BY FTC AND
16 FEDERAL RESERVE BOARD AUTHORIZED.—

17 (1) IN GENERAL.—Section 621 of the Fair
18 Credit Reporting Act (15 U.S.C. 1681s) is amended
19 by adding after subsection (e) (as added by section
20 118) the following:

21 “(f) MODIFICATION OF REQUIREMENTS BY FTC AU-
22 THORIZED.—

23 “(1) IN GENERAL.—If the Federal Trade Com-
24 mission considers such action necessary for the pro-
25 tection of consumers, the Commission may, after

1 consultation with appropriate State regulatory and
2 law enforcement agencies, promulgate regulations in
3 accordance with section 553 of title 5, United States
4 Code, to impose, with respect to consumer reporting
5 agencies and all other persons subject to this title
6 other than any person described in paragraph (1),
7 (2), or (3) of subsection (b), requirements—

8 “(A) that are more stringent than those
9 imposed under—

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

17 “(ii) section 615(a), relating to the
18 duties of a person who takes any adverse
19 action with respect to a consumer on the
20 basis of information contained in a
21 consumer report;

22 “(iii) section 615(d), relating to the
23 duties of persons who use a consumer re-
24 port on a consumer in connection with any
25 credit or insurance transaction that is not

1 initiated by the consumer and that consists
2 of a firm offer of credit or insurance; or

3 “(iv) section 623(b)(2), relating to the
4 time by which a person must take any ac-
5 tion required under section 623(b)(1) with
6 respect to an investigation of information
7 furnished by the person to a consumer re-
8 porting agency; and

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

12 “(2) FEDERAL RESERVE BOARD AUTHORITY.—

13 If the Board of Governors of the Federal Reserve
14 System determines such action to be necessary for
15 the protection of consumers, the Board may pre-
16 scribe regulations imposing on persons described in
17 paragraph (1), (2), or (3) of subsection (b) or on the
18 holding companies and affiliates of such persons,
19 any requirement described in paragraph (1) of this
20 subsection.”.

21 (2) CONFORMING AMENDMENTS.—

22 (A) The section heading and section des-
23 ignation for section 621 of the Fair Credit Re-
24 porting Act (15 U.S.C. 1681s) are amended to
25 read as follows:

1 **“SEC. 621. ADMINISTRATIVE ENFORCEMENT AND AUTHORI-**
2 **TIES; STATE ACTIONS.”.**

3 (B) The table of sections at the beginning
4 of the Fair Credit Reporting Act is amended by
5 striking the item relating to section 621 and in-
6 serting the following:

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

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

13 **SEC. 121. AMENDMENT TO FAIR DEBT COLLECTION PRAC-**
14 **TICES ACT.**

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

19 “(11) The failure to disclose clearly, in any
20 written communication made to collect a debt or to
21 obtain information about a consumer, that the debt
22 collector is attempting to collect a debt and that any
23 information obtained will be used for that purpose,
24 except that this paragraph does not apply to a com-
25 munication—

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

3 “(B) made solely to acknowledge receipt of
4 monies or payments;

5 “(C) that consists solely of information re-
6 quested by the consumer or the consumer’s at-
7 torney; or

8 “(D) that is a formal pleading made in
9 connection with a legal action.”.

10 **SEC. 122. FURNISHING CONSUMER REPORTS FOR CERTAIN**
11 **PURPOSES RELATING TO CHILD SUPPORT.**

12 Section 604(a) of the Fair Credit Reporting Act (15
13 U.S.C. 1681b) is amended (as so designated by section
14 103) by adding at the end the following:

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

23 “(A) the consumer report is needed to es-
24 tablish an individual’s capacity to make child

1 support payments, or to determine the appro-
2 priate level of such payments;

3 “(B) the person has provided not less than
4 10 days prior written notice to the consumer
5 whose report is requested, by certified or reg-
6 istered mail to the last known address of the
7 consumer, that the report will be requested; and

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

15 **SEC. 123. DISCLOSURE OF INFORMATION AND CONSUMER**
16 **REPORTS TO FBI FOR COUNTERINTEL-**
17 **LIGENCE PURPOSES.**

18 (a) IN GENERAL.—The Fair Credit Reporting Act
19 (15 U.S.C. 1681 et seq.) is amended by adding after sec-
20 tion 624 (as redesignated by section 113(a)) the following:

21 **“SEC. 625. DISCLOSURES TO FBI FOR COUNTERINTEL-**
22 **LIGENCE PURPOSES.**

23 “(a) IDENTITY OF FINANCIAL INSTITUTIONS.—Not-
24 withstanding section 604 or any other provision of this
25 title, a consumer reporting agency shall furnish to the

1 Federal Bureau of Investigation the names and addresses
2 of all financial institutions (as that term is defined in sec-
3 tion 1101 of the Right to Financial Privacy Act of 1978)
4 at which a consumer maintains or has maintained an ac-
5 count, to the extent that information is in the files of the
6 agency, when presented with a written request for that
7 information, signed by the Director of the Federal Bureau
8 of Investigation, or the Director's designee, that certifies
9 compliance with this section. The Director or the Direc-
10 tor's designee may make such a certification only if the
11 Director or the Director's designee has determined in writ-
12 ing that—

13 “(1) such information is necessary for the con-
14 duct of an authorized foreign counterintelligence in-
15 vestigation; and

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

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

24 “(B) is an agent of a foreign power and is
25 engaging or has engaged in international terror-

1 ism (as that term is defined in section 101(c)
2 of the Foreign Intelligence Surveillance Act of
3 1978) or clandestine intelligence activities that
4 involve or may involve a violation of criminal
5 statutes of the United States.

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

18 “(1) such information is necessary to the con-
19 duct of an authorized counterintelligence investiga-
20 tion; and

21 “(2) there is information giving reason to be-
22 lieve that the consumer has been, or is about to be,
23 in contact with a foreign power or an agent of a for-
24 eign power (as defined in section 101 of the Foreign
25 Intelligence Surveillance Act of 1978).

1 “(c) COURT ORDER FOR DISCLOSURE OF CONSUMER
2 REPORTS.—Notwithstanding section 604 or any other
3 provision of this title, if requested in writing by the Direc-
4 tor of the Federal Bureau of Investigation, or a designee
5 of the Director, a court may issue an order ex parte direct-
6 ing a consumer reporting agency to furnish a consumer
7 report to the Federal Bureau of Investigation, upon a
8 showing in camera that—

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

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

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

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

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

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

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

1 “(f) LIMIT ON DISSEMINATION.—The Federal Bu-
2 reau of Investigation may not disseminate information ob-
3 tained pursuant to this section outside of the Federal Bu-
4 reau of Investigation, except to the Department of Justice
5 as may be necessary for the approval or conduct of a for-
6 eign counterintelligence investigation, or, if the informa-
7 tion concerns a person subject to the Uniform Code of
8 Military Justice, to appropriate investigative authorities
9 within the military department concerned as may be nec-
10 essary for the conduct of a joint foreign counterintel-
11 ligence investigation.

12 “(g) RULES OF CONSTRUCTION.—Nothing in this
13 section shall be construed to prohibit information from
14 being furnished by the Federal Bureau of Investigation
15 pursuant to a subpoena or court order, or in connection
16 with a judicial or administrative proceeding to enforce this
17 Act. Nothing in this section shall be construed to authorize
18 or permit the withholding of information from the Con-
19 gress.

20 “(h) REPORTS TO CONGRESS.—On a semiannual
21 basis, the Attorney General of the United States shall fully
22 inform—

23 “(1) the Permanent Select Committee on Intel-
24 ligence and the Committee on Banking and Finan-
25 cial Services of the House of Representatives; and

1 “(2) the Select Committee on Intelligence and
2 the Committee on Banking, Housing, and Urban Af-
3 fairs of the Senate;

4 concerning all requests made pursuant to subsections (a),
5 (b), and (c).

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

12 “(1) \$100, without regard to the volume of
13 consumer reports, records, or information involved;

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

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

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

23 “(j) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a
24 court determines that any agency or department of the
25 United States has violated any provision of this section

1 and the court finds that the circumstances surrounding
2 the violation raise questions of whether or not an officer
3 or employee of the agency or department acted willfully
4 or intentionally with respect to the violation, the agency
5 or department shall promptly initiate a proceeding to de-
6 termine whether or not disciplinary action is warranted
7 against the officer or employee that was responsible for
8 the violation.

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

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

23 “(m) INJUNCTIVE RELIEF.—In addition to any other
24 remedy contained in this section, injunctive relief shall be
25 available to require compliance with the procedures of this

1 section. In the event of any successful action under this
2 subsection, costs together with reasonable attorney fees,
3 as determined by the court, may be recovered.”.

4 (b) CONFORMING AMENDMENT.—The table of sec-
5 tions at the beginning of the Fair Credit Reporting Act
6 (15 U.S.C. 1681a et seq.) (as amended by section 114(b))
7 is amended by adding after the item relating to section
8 624 the following:

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

9 (c) REPEAL.—

10 (1) IN GENERAL.—Section 625 of the Fair
11 Credit Reporting Act (as added by this section) is
12 repealed.

13 (2) CONFORMING AMENDMENT.—The table of
14 sections at the beginning of the Fair Credit Report-
15 ing Act (15 U.S.C. 1681a et seq.) (as amended by
16 this Act) is amended by striking the item relating to
17 section 625.

18 **SEC. 124. EFFECTIVE DATES.**

19 (a) IN GENERAL.—Except as provided in subsections
20 (b) and (c), the amendments made by this title shall take
21 effect 365 days after the date of enactment of this Act.

22 (b) EXCEPTIONS.—

23 (1) The amendment made by section 121 shall
24 take effect 90 days after the date of enactment of
25 this Act.

1 amended by inserting “or institutions” after “newly char-
2 tered institutions”.

3 **TITLE II—CREDIT REPAIR**
4 **ORGANIZATIONS**

5 **SEC. 201. REGULATION OF CREDIT REPAIR ORGANIZA-**
6 **TIONS.**

7 Title IV of the Consumer Credit Protection Act is
8 amended to read as follows:

9 **“TITLE IV—CREDIT REPAIR**
10 **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.

11 **“SEC. 401. SHORT TITLE.**

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

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

15 “(a) FINDINGS.—The Congress makes the following
16 findings:

17 “(1) Consumers have a vital interest in estab-
18 lishing and maintaining their creditworthiness and

1 credit standing in order to obtain and use credit. As
2 a result, consumers who have experienced credit
3 problems may seek assistance from credit repair or-
4 ganizations which offer to improve the credit stand-
5 ing of such consumers.

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

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

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

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

21 **“SEC. 403. DEFINITIONS.**

22 “For purposes of this title, the following definitions
23 shall apply:

24 “(1) CONSUMER.—The term ‘consumer’ means
25 an individual.

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

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

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

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

17 “(ii) providing advice or assistance to
18 any consumer with regard to any activity
19 or service described in clause (i); and

20 “(B) does not include—

21 “(i) any nonprofit organization that is
22 exempt from taxation under section
23 501(c)(3) of the Internal Revenue Code of
24 1986;

1 “(ii) any attorney-at-law who is a
2 member of the bar of the highest court of
3 any State or otherwise licensed under the
4 laws of any State, with respect to services
5 rendered that are within the scope of regu-
6 lations applicable to members of such bar
7 or such licensees; or

8 “(iii) any creditor (as defined in sec-
9 tion 103 of the Truth in Lending Act),
10 with respect to any consumer, to the extent
11 the creditor is assisting the consumer to
12 restructure any debt owed by the consumer
13 to the creditor.

14 “(4) CREDIT.—The term ‘credit’ has the same
15 meaning as in section 103(e).

16 **“SEC. 404. PROHIBITED PRACTICES.**

17 “(a) IN GENERAL.—No person may—

18 “(1) make any statement, or counsel or advise
19 any consumer to make any statement, that is untrue
20 or misleading (or that, upon the exercise of reason-
21 able care, should be known by the credit repair orga-
22 nization, officer, employee, agent, or other person to
23 be untrue or misleading) with respect to any con-
24 sumer’s creditworthiness, credit standing, or credit
25 capacity to—

1 “(A) any consumer reporting agency (as
2 such term is defined in section 603(f)); or

3 “(B) any person—

4 “(i) who has extended credit to the
5 consumer; or

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

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

16 “(A) any consumer reporting agency; or

17 “(B) any person—

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

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

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

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

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

12 **“SEC. 405. DISCLOSURES.**

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

18 **““Consumer Credit File Rights**
19 **Under State and Federal Law**

20 “‘You have a right to dispute inaccurate information
21 in your credit report by contacting the credit bureau di-
22 rectly. However, neither you nor any “credit repair” com-
23 pany or credit repair organization has the right to have
24 accurate, current, and verifiable information removed
25 from your credit report. The credit bureau must remove

1 accurate, negative information from your report only if the
2 information is over 7 years old. Bankruptcy information
3 can be reported for 10 years.

4 “‘You have a right to obtain a copy of your credit
5 report from a credit bureau. You may be charged a rea-
6 sonable fee. There is no fee, however, if you have been
7 turned down for credit, employment, insurance, or a rental
8 dwelling because of information in your credit report dur-
9 ing the preceding 60-day period. The credit bureau must
10 provide someone to help you interpret the information in
11 your credit file. You are entitled to receive a free copy
12 of your credit report if you are unemployed and intend
13 to apply for employment in the next 60 days, if you are
14 a recipient of public welfare assistance, or if you have rea-
15 son to believe that there is inaccurate information in your
16 credit report due to fraud.

17 “‘You have a right to sue a credit repair organization
18 that violates the Credit Repair Organization Act. This law
19 prohibits deceptive practices by credit repair organiza-
20 tions.

21 “‘You have the right to cancel your contract with any
22 credit repair organization for any reason within 3 business
23 days from the date on which you signed the contract.

1 “Credit bureaus are required to follow reasonable
2 procedures to ensure that the information they report is
3 accurate. However, mistakes may occur.

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

12 ““If the credit bureau’s reinvestigation does not re-
13 solve the dispute to your satisfaction, you may send a brief
14 statement to the credit bureau, to be kept in your file,
15 explaining why you think the record is inaccurate. The
16 credit bureau must include a summary of your statement
17 about disputed information with any report the credit bu-
18 reau issues about you.

19 ““The Federal Trade Commission regulates credit
20 bureaus and credit repair organizations. For more infor-
21 mation contact:

1 The Public Reference Branch
2 Federal Trade Commission
3 Washington, D.C. 20580’.

4 “(b) SEPARATE STATEMENT REQUIREMENT.—The
5 written statement required under this section shall be pro-
6 vided as a document that is separate from any written
7 contract or other agreement between the credit repair or-
8 ganization and the consumer or any other written material
9 provided to the consumer.

10 “(c) RETENTION OF COMPLIANCE RECORDS.—

11 “(1) IN GENERAL.—The credit repair organiza-
12 tion shall maintain a copy of the statement signed
13 by the consumer acknowledging receipt of the state-
14 ment.

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

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

20 “(a) WRITTEN CONTRACTS REQUIRED.—No services
21 may be provided by any credit repair organization for any
22 consumer—

23 “(1) unless a written and dated contract (for
24 the purchase of such services) that meets the re-

1 requirements of subsection (b) has been signed by the
2 consumer; or

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

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

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

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

17 “(A) all guarantees of performance; and

18 “(B) an estimate of—

19 “(i) the date by which the perform-
20 ance of the services (to be performed by
21 the credit repair organization or any other
22 person) will be complete; or

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

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

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

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

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

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

1 “‘You may cancel this contract, without any
2 penalty or obligation, at any time before midnight of
3 the third day that begins after the date on which the
4 contract is signed by you.

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

10 “‘I hereby cancel this transaction,
11 [date]
12 [purchaser’s signature].’.

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

16 “‘(1) a copy of the completed contract and the
17 disclosure statement required under section 405; and

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

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

22 “(a) CONSUMER WAIVERS INVALID.—Any waiver by
23 any consumer of any protection provided by or any right
24 of the consumer under this title—

25 “‘(1) shall be treated as void; and

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

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

7 “(c) CONTRACTS NOT IN COMPLIANCE.—Any con-
8 tract for services that does not comply with the applicable
9 provisions of this title—

10 “(1) shall be treated as void; and

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

13 **“SEC. 409. CIVIL LIABILITY.**

14 “(a) LIABILITY ESTABLISHED.—Any person who
15 fails to comply with any provision of this title with respect
16 to any other person shall be liable to such person in an
17 amount equal to the sum of the amounts determined
18 under each of the following paragraphs:

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

20 “(A) the amount of any actual damage
21 sustained by such person as a result of such
22 failure; or

23 “(B) any amount paid by the person to the
24 credit repair organization.

25 “(2) PUNITIVE DAMAGES.—

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

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

6 “(i) the aggregate of the amount that
7 the court may allow for each named plain-
8 tiff; and

9 “(ii) the aggregate of the amount that
10 the court may allow for each other class
11 member, without regard to any minimum
12 individual recovery.

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

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

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

24 “(2) the nature of the noncompliance;

1 “(3) the extent to which such noncompliance
2 was intentional; and

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

5 **“SEC. 410. ADMINISTRATIVE ENFORCEMENT.**

6 “(a) IN GENERAL.—Compliance with the require-
7 ments imposed under this title with respect to credit repair
8 organizations shall be enforced under the Federal Trade
9 Commission Act by the Federal Trade Commission.

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

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

21 “(2) ENFORCEMENT AUTHORITY UNDER OTHER
22 LAW.—All functions and powers of the Federal
23 Trade Commission under the Federal Trade Com-
24 mission Act shall be available to the Commission to
25 enforce compliance with this title by any person sub-

1 ject to enforcement by the Federal Trade Commis-
2 sion pursuant to this subsection, including the power
3 to enforce the provisions of this title in the same
4 manner as if the violation had been a violation of
5 any Federal Trade Commission trade regulation
6 rule, without regard to whether the credit repair or-
7 ganization—

8 “(A) is engaged in commerce; or

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

11 “(c) STATE ACTION FOR VIOLATIONS.—

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

18 “(A) may bring an action to enjoin such
19 violation;

20 “(B) may bring an action on behalf of the
21 residents of the State to recover damages for
22 which the person is liable to such residents
23 under section 409 as a result of the violation;
24 and

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

5 “(2) RIGHTS OF COMMISSION.—

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

14 “(B) INTERVENTION.—The Commission
15 shall have the right—

16 “(i) to intervene in any action re-
17 ferred to in subparagraph (A);

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

20 “(iii) to file petitions for appeal.

21 “(3) INVESTIGATORY POWERS.—For purposes
22 of bringing any action under this subsection, nothing
23 in this subsection shall prevent the chief law enforce-
24 ment officer, or an official or agency designated by
25 a State, from exercising the powers conferred on the

1 chief law enforcement officer or such official by the
2 laws of such State to conduct investigations or to
3 administer oaths or affirmations or to compel the at-
4 tendance of witnesses or the production of documen-
5 tary and other evidence.

6 “(4) LIMITATION.—If the Federal Trade Com-
7 mission has instituted a civil action for violation of
8 this title, no State may, during the pendency of such
9 action, bring an action under this section against
10 any defendant named in the complaint of the Com-
11 mission for any violation of this title that is alleged
12 in that complaint.

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

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

16 “(1) the end of the 2-year period beginning on
17 the date of the occurrence of the violation involved;
18 or

19 “(2) in any case in which any credit repair or-
20 ganization has materially and willfully misrepre-
21 sented any information that—

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

1 “(B) is material to the establishment of
2 the credit repair organization’s liability to the
3 consumer under this title,
4 the end of the 2-year period beginning on the date
5 of the discovery by the consumer of the misrepresen-
6 tation.

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

8 “‘This title shall not annul, alter, affect, or exempt
9 any person subject to the provisions of this title from com-
10 plying with any law of any State except to the extent that
11 such law is inconsistent with any provision of this title,
12 and then only to the extent of the inconsistency.

13 **“SEC. 413. EFFECTIVE DATE.**

14 “‘This title shall apply after the expiration of the 6-
15 month period beginning on the date of enactment of the
16 Credit Repair Organizations Act, except with respect to
17 contracts entered into by a credit repair organization be-
18 fore the end of such period.’”.

19 **TITLE III—TRUTH IN LENDING**
20 **ACT**

21 **SEC. 301. TREATMENT OF DELIVERY FEES AND INTANGI-**
22 **BLES TAXES.**

23 (a) IN GENERAL.—Section 106(a) of the Truth in
24 Lending Act (15 U.S.C. 1605) is amended by adding at
25 the end the following:

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

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

8 (c) FEES FOR DELIVERY CHARGES.—Section 106(e)
9 of the Truth in Lending Act (15 U.S.C. 1605(e)) is
10 amended by adding at the end the following:

11 “(7) FEES FOR DELIVERY CHARGES.—Fees for
12 delivery charges imposed by third parties (including
13 settlement agents, attorneys, and escrow and title
14 companies) if the creditor does not retain the
15 charges and the fees do not exceed \$20 per delivery,
16 or \$50 per consumer transaction.”.

17 (d) APPLICABILITY.—The amendments made by this
18 section shall apply to any consumer credit transaction con-
19 summated on or after February 1, 1996.

20 **SEC. 302. LIMITATIONS ON LIABILITY.**

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

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

2 “(a) IN GENERAL.—For any transaction con-
3 summated prior to February 1, 1996, a creditor or as-
4 signee shall have no civil or criminal liability under this
5 title, nor shall a consumer have extended rescission rights
6 under section 125, due to a creditor’s improper disclosure
7 of—

8 “(1) delivery charges actually and reasonably
9 imposed by the creditor, or any delivery charges im-
10 posed by third parties (including settlement agents,
11 attorneys, and escrow and title companies), if the
12 creditor does not retain the charges; or

13 “(2) taxes levied on security instruments or
14 documents evidencing indebtedness.

15 “(b) APPLICABILITY.—Subsection (a) does not apply
16 to—

17 “(1) any individual action or counterclaim
18 brought under this title filed prior to October 1,
19 1995, that alleged (prior to such date) improper dis-
20 closure of delivery charges or taxes;

21 “(2) any class action brought under this title in
22 which a class was certified prior to October 1, 1995,
23 that alleged (prior to such date) improper disclosure
24 of delivery charges or taxes;

25 “(3) the named individual plaintiffs in any class
26 action filed under this title prior to October 1, 1995,

1 that alleged (prior to such date) improper disclosure
 2 of delivery charges or taxes; or

3 “(4) any consumer credit transaction in which
 4 a notice of rescission was sent to the creditor prior
 5 to October 1, 1995.”.

6 (b) AMENDMENT TO THE TABLE OF SECTIONS.—The
 7 table of sections for chapter 2 of the Truth in Lending
 8 Act (15 U.S.C. 1631 et seq.) is amended by inserting after
 9 the item relating to section 138 the following:

“139. Certain limitations on liability.”.

○

S 709 IS—2

S 709 IS—3

S 709 IS—4

S 709 IS—5

S 709 IS—6

S 709 IS—7

S 709 IS—8