

108TH CONGRESS
1ST SESSION

H. R. 2796

To amend the Fair Credit Reporting Act to prohibit the use of consumer credit history for any insurance purpose and to require the disclosure of consumer reports and the credit scoring procedure in order to prevent inaccuracies and mistakes in consumer credit reports, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 18, 2003

Mr. THOMPSON of Mississippi introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Fair Credit Reporting Act to prohibit the use of consumer credit history for any insurance purpose and to require the disclosure of consumer reports and the credit scoring procedure in order to prevent inaccuracies and mistakes in consumer credit reports, 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. SHORT TITLE.**

4 This Act may be cited as the “Consumer Credit Pro-
5 tection Act Amendments of 2003”.

1 **SEC. 2. FINDINGS.**

2 Section 602(a) Fair Credit Reporting Act (15 U.S.C.
3 1681) is amended—

4 (1) by redesignating paragraph (4) as para-
5 graph (6);

6 (2) by striking paragraphs (2) and (3) and in-
7 serting the following new paragraphs:

8 “(2) Consumer credit reporting agencies have
9 assumed a dominant role in evaluating consumer
10 credit and other information on consumers.

11 “(3) Credit reports may report on as factors to
12 establish a consumer’s eligibility for credit, insur-
13 ance, and even employment.

14 “(4) The automated calculation of credit scores
15 has become the primary way of quickly evaluating all
16 of the subjective factors taken into account in deter-
17 mining a consumer’s creditworthiness, credit stand-
18 ing, credit capacity, debts, character, general reputa-
19 tion, or mode of living.

20 “(5) When a credit reporting agency undertakes
21 a business that has the potential to profoundly affect
22 a consumer’s life, it is incumbent that these agencies
23 ensure that the information provided is accurate.”;
24 and

1 (3) by inserting after paragraph (6) (as so re-
2 designated by paragraph 1 of this section) the fol-
3 lowing new paragraph:

4 “(7) Due to the inequality of the rates of prop-
5 erty and casualty insurance, many State insurance
6 commissioners have concurred that prohibiting the
7 use of credit history and credit scores for personal
8 lines of insurance and improving the disclosure of
9 credit information will provide greater protection for
10 the consumer.”.

11 **SEC. 3. DEFINITIONS.**

12 (a) NEW DEFINITIONS.—Section 603 of the Fair
13 Credit Reporting Act (15 U.S.C. 1681a) is amended by
14 adding at the end the following new subsection:

15 “(q) CREDIT SCORE, RISK PREDICTOR, AND RISK
16 SCORE.—The terms ‘credit score’, ‘risk predictor’, and
17 ‘risk score’ mean the numerical value or categorization de-
18 rived from a statistical tool or modeling system used to
19 predict the likelihood of certain credit behaviors, including
20 default.”.

21 (b) AMENDMENTS TO EXISTING DEFINITIONS.—Sub-
22 section (m) of section 603 of the Fair Credit Reporting
23 Act (15 U.S.C. 1681a(m)) is amended to read as follows:

24 “(m) CREDIT TRANSACTION THAT IS NOT INITI-
25 ATED BY THE CONSUMER.—The term ‘credit transaction

1 that is not initiated by the consumer' does not include the
2 use of a consumer report by a person with whom the con-
3 sumer has a credit account for purposes of—

4 “(1) reviewing the account; or

5 “(2) collecting the account.”.

6 **SEC. 4. IMPERMISSIBLE USES OF CREDIT SCORES IN CON-**
7 **SUMER INSURANCE DETERMINATIONS; COM-**
8 **PLIANCE WITH EQUAL CREDIT OPPORTUNITY**
9 **ACT.**

10 (a) IN GENERAL.—Section 604 of the Fair Credit
11 Reporting Act (15 U.S.C. 1681b) is amended by adding
12 at the end the following new subsections:

13 “(h) IMPERMISSIBLE USES OF CONSUMER CREDIT
14 SCORES IN CONSUMER INSURANCE DETERMINATIONS.—

15 With respect to all personal lines of insurance, including
16 any auto, homeowners, dwelling fire, life, disability, and
17 health insurance or annuity, intended for consumer, fam-
18 ily, or household use, an insurance provider may not take
19 any of the following actions on the basis, in whole or in
20 part, of the consumer report obtained from a consumer
21 reporting agency), or a credit score, of any consumer, in-
22 cluding an applicant for such insurance:

23 “(1) Refuse to underwrite or renew any such
24 insurance.

25 “(2) Cancel an existing policy of insurance.

1 “(3) Increase the premium for any such insur-
2 ance, either while the policy is in effect or at the
3 time of renewal, or fail to offer or provide any dis-
4 count otherwise available.

5 “(4) Rate the risk of the occurrence of the
6 event covered by such insurance.

7 “(5) Assign the insured or applicant to a rating
8 tier.

9 “(6) Place insurance for an insured consumer
10 or applicant with an affiliated company.

11 “(7) Require a particular payment plan under
12 circumstances where any additional payment plans
13 are available for such insurance.

14 “(i) COMPLIANCE WITH EQUAL CREDIT OPPOR-
15 TUNITY ACT.—Any credit scoring system used to generate
16 any risk or credit score shall comply with the Equal Credit
17 Opportunity Act.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

19 (1) Section 604(a)(3) of the Fair Credit Re-
20 porting Act (15 U.S.C. 1681b) is amended—

21 (A) by striking subparagraph (C);

22 (B) by redesignating subparagraphs (D),

23 (E), and (F) as subparagraphs (C), (D), and

24 (E), respectively; and

1 (C) in subparagraph (D) (as so redesignated,
2 by striking “or current insurer,”).

3 (2) Section 604(c) of the Fair Credit Reporting
4 Act (15 U.S.C. 1681b(c)) is amended—

5 (A) in paragraphs (1) and (3) by striking
6 “or insurance” each place such term appears;
7 and

8 (B) in paragraph (1), by striking “sub-
9 paragraph (A) or (C) of subsection (a)(3)” and
10 inserting “subsection (a)(3)(A)”.

11 (3) Paragraphs (1) and (5) of section 604(e) of
12 the Fair Credit Reporting Act (15 U.S.C. 1681b(e))
13 are each amended by striking “or insurance” each
14 place such term appears.

15 (4) Section 604(g) of the Fair Credit Reporting
16 Act (15 U.S.C. 1681b(g)) is amended by striking
17 “or insurance”.

18 (c) CLERICAL AMENDMENTS.—The heading for sec-
19 tion 604(c) of the Fair Credit Reporting Act (15 U.S.C.
20 1681b(c)) is amended by striking “OR INSURANCE”.

21 (d) COMPLIANCE STUDY.—The Federal Trade Com-
22 mission shall conduct a study of the compliance of insur-
23 ance providers with the amendment made by this section
24 and shall submit a report containing the findings and con-
25 clusions of the Commission to the Congress before the end

1 of the 1-year period beginning on the date of the enact-
2 ment of this Act.

3 **SEC. 5. AMENDMENTS TO THE DISCLOSURE OF CREDIT**
4 **SCORES AND CREDIT REPORTS TO CON-**
5 **SUMERS.**

6 (a) IN GENERAL.—Section 609(a) of the Fair Credit
7 Reporting Act (15 U.S.C. 1681g(a)) is amended by strik-
8 ing all of the provisions of such subsection that precede
9 paragraph (2) and inserting the following:

10 “(a) INFORMATION ON FILE; SOURCES; REPORT RE-
11 CIPIENTS.—Every consumer reporting agency shall, upon
12 request, and subject to section 610(a)(1), clearly and ac-
13 curately disclose to the consumer the following:

14 “(1) INFORMATION.—All information in the
15 consumer’s file at the time of the request including
16 credit consumer reports, any information concerning
17 credit scores and credit consumer reports, and any
18 other risk scores or predictors relating to the con-
19 sumer including any credit scores used, and a clear
20 and concise summary of how the scores and predic-
21 tors are derived, including—

22 “(A) The factors taken into account in de-
23 riving a score or predictor;

24 “(B) How such factors are applied to the
25 consumer;

1 “(C) The relative weight given to each fac-
2 tor;

3 “(D) The manner and extent to which
4 such factors raise or lower the score or pre-
5 dictor;

6 “(E) The names of all persons that pro-
7 vided the credit score or credit file upon which
8 the credit score was created; and

9 “(F) A statement indicating that the infor-
10 mation and credit scoring model may be dif-
11 ferent from the credit score that may be used
12 by the lender.”.

13 (b) ANNUAL DISCLOSURE OF RIGHTS REQUIRED.—
14 Section 609 of the Fair Credit Reporting Act (15 U.S.C.
15 1681g) is amended by adding at the end the following new
16 subsection:

17 “(d) ANNUAL DISCLOSURE OF RIGHTS REQUIRED.—

18 “(1) IN GENERAL.—A credit reporting agency
19 shall annually provide a consumer with the written
20 summary of rights required under section 609(c), by
21 letter sent by first-class mail, whenever one of the
22 following events occurs within any 12-month period:

23 “(A) The credit reporting agency has re-
24 ceived 3 credit inquiries pertaining to the con-
25 sumer.

1 “(B) The credit reporting agency has re-
2 ceived a report that would add negative infor-
3 mation to the consumer’s file.

4 “(2) FORMAT OF LETTER.—Any letter mailed
5 to a consumer pursuant to this subsection may be a
6 form letter, except that each letter shall include a
7 notice or separate form the consumer may complete
8 and return to the consumer reporting agency to re-
9 quest a copy of the credit consumer report.

10 “(3) ADDITIONAL CONTACT INFORMATION
11 UNDER CERTAIN CIRCUMSTANCES.—In the case of
12 any consumer reporting agency which compiles and
13 maintains files on consumers on a nationwide basis,
14 the letter or notice shall include a toll-free telephone
15 number and worldwide web address established by
16 the agency for the consumer to request a free report
17 under the terms of section 612(c).”.

18 “(c) FREE DISCLOSURES UNDER CERTAIN CIR-
19 CUMSTANCES.—Section 612(c) of the Fair Credit Report-
20 ing Act (15 U.S.C. 1681j(c)) is amended to read as fol-
21 lows:

22 “(c) FREE DISCLOSURE OF CONSUMER REPORTS.—
23 In addition to the disclosures required under subsection
24 (b) or the law of any State, upon the request of a con-
25 sumer, a consumer reporting agency shall make all disclo-

1 sures pursuant to section 609 without charge to that con-
2 sumer under the following circumstances:

3 “(1) Annually, upon the written, oral, or elec-
4 tronic request of the consumer.

5 “(2) Up to 3 additional times a year, if a con-
6 sumer certifies in writing that the consumer—

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

10 “(B) is a recipient of public welfare assist-
11 ance; or

12 “(C) has reason to believe that the file on
13 the consumer at the agency contains inaccurate
14 information due to fraud or identity theft.”.

15 (d) DUTIES OF USERS TAKING ADVERSE ACTIONS
16 ON THE BASIS OF INFORMATION CONTAINED IN CON-
17 SUMER REPORTS.—Section 615(a) of the Fair Credit Re-
18 porting Act (15 U.S.C. 1681m(a)) is amended to read as
19 follows:

20 “(a) DUTIES OF USERS TAKING ADVERSE ACTIONS
21 ON THE BASIS OF INFORMATION CONTAINED IN CON-
22 SUMER REPORTS.—

23 “(1) IN GENERAL.—If any person takes any ad-
24 verse action with respect to any consumer that is

1 based in whole or in part on any information con-
2 tained in a consumer report, the person shall—

3 “(A) provide oral, written, or electronic no-
4 tice of the adverse action to the consumer; and

5 “(B) provide a copy of the consumer’s
6 complete report that the consumer reporting
7 agency provided to the user, including any in-
8 formation concerning credit scores and credit
9 consumer reports, and any other risk scores or
10 predictors relating to the consumer including
11 any credit scores used; and

12 “(2) SUMMARY OF RIGHTS.—A user who pro-
13 vides a notice and a copy of a consumer report and
14 credit score to a consumer under paragraph (1) shall
15 also provide to the consumer—

16 “(A) a written summary of all of the rights
17 that the consumer has under this title;

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

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

1 assist the consumer in selecting the appropriate
2 agency; and

3 “(D) a statement that the consumer may
4 have additional rights under State law and that
5 the consumer may wish to contact a State or
6 local consumer protection agency or State attor-
7 ney general to learn of those rights.

8 “(3) FORM OF SUMMARY OF RIGHTS.—

9 “(A) IN GENERAL.—The user shall provide
10 a description in writing of the rights of the con-
11 sumer under paragraph (2) using the form and
12 content prescribed by the Federal Trade Com-
13 mission (after consultation with each Federal
14 agency referred to in section 621(b).

15 “(B) COMPLIANCE WITH SUBSTANTIALLY
16 SIMILAR FORMAT.—Any user shall be deemed to
17 be in compliance with this subsection if the user
18 provides disclosures under paragraph (2) that
19 are substantially similar to the model disclosure
20 adopted by the Federal Trade Commission
21 under this paragraph.

22 “(C) EFFECTIVE DATE OF SUMMARY OF
23 RIGHTS DISCLOSURES.—No disclosures shall be
24 required under paragraph (2) before the date
25 on which the Federal Trade Commission pre-

1 scribes the form and content of such disclosures
2 under subparagraph (A).”.

3 **SEC. 6. EFFECTIVE DATE.**

4 The amendments made by this Act shall take effect
5 at the end of the 90-day period beginning on the date of
6 the enactment of this Act.

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