

108TH CONGRESS
1ST SESSION

S. 1370

To amend the Fair Credit Reporting Act to provide for disclosure of credit-scoring information by creditors and consumer reporting agencies.

IN THE SENATE OF THE UNITED STATES

JULY 8, 2003

Mr. SCHUMER (for himself and Mr. ALLARD) 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 to provide for disclosure of credit-scoring information by creditors and consumer reporting agencies.

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 Score
5 Disclosure Act of 2003”.

6 **SEC. 2. DEFINITIONS.**

7 Section 603 of the Fair Credit Reporting Act (15
8 U.S.C. 1681a) is amended by adding at the end the fol-
9 lowing:

★(Star Print)

1 “(q) DEFINITIONS RELATING TO CREDIT SCORES.—

2 In this title—

3 “(1) when used in connection with an applica-
4 tion for an extension of credit for a consumer pur-
5 pose that is to be secured by a dwelling—

6 “(A) the term ‘credit score’—

7 “(i) means a numerical value or cat-
8 egorization derived from a statistical tool
9 or modeling system used to predict the
10 likelihood of certain credit behaviors, in-
11 cluding default; and

12 “(ii) does not include—

13 “(I) any mortgage score or rating
14 of an automated underwriting system
15 that considers 1 or more factors in
16 addition to credit information, includ-
17 ing the loan-to-value ratio, the
18 amount of down payment, or the fi-
19 nancial assets of a consumer; or

20 “(II) other elements of the un-
21 derwriting process or underwriting de-
22 cision; and

23 “(B) the term ‘key factors’ means all rel-
24 evant elements or reasons affecting the credit
25 score for a consumer, listed in the order of their

1 importance, based on their respective effects on
2 the credit score; and

3 “(2) the terms ‘creditor’ and ‘dwelling’ have the
4 same meanings as in section 103 of the Truth in
5 Lending Act.”.

6 **SEC. 3. DUTIES OF CONSUMER REPORTING AGENCIES TO**
7 **DISCLOSE CREDIT SCORES.**

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

11 “(6) In connection with an application for an
12 extension of credit for a consumer purpose that is to
13 be secured by a dwelling—

14 “(A) the current, or most recent, credit
15 score of the consumer that was previously cal-
16 culated by the agency;

17 “(B) the range of possible credit scores
18 under the model used;

19 “(C) the key factors, if any, not to exceed
20 4, that adversely affected the credit score of the
21 consumer in the model used;

22 “(D) the date on which the credit score
23 was created; and

24 “(E) the name of the person or entity that
25 provided the credit score or the credit file on

1 the basis of which the credit score was cre-
2 ated.”.

3 (b) LIMITATIONS ON REQUIRED PROVISION OF
4 CREDIT SCORE.—Section 609 of the Fair Credit Report-
5 ing Act (15 U.S.C. 1681g) is amended by adding at the
6 end the following:

7 “(d) LIMITATIONS ON REQUIRED PROVISION OF
8 CREDIT SCORE.—

9 “(1) IN GENERAL.—Subsection (a)(6) may not
10 be construed—

11 “(A) to compel a consumer reporting agen-
12 cy to develop or disclose a credit score if the
13 agency does not, in the ordinary course of its
14 business—

15 “(i) distribute scores that are used in
16 connection with extensions of credit se-
17 cured by residential real property; or

18 “(ii) develop credit scores that assist
19 creditors in understanding the general
20 credit behavior of the consumer and pre-
21 dicting future credit behavior;

22 “(B) to require a consumer reporting
23 agency that distributes credit scores developed
24 by another person or entity to provide a further
25 explanation of those scores, or to process a dis-

1 pute arising pursuant to section 611(a), except
2 that the consumer reporting agency shall be re-
3 quired to provide to the consumer the name and
4 information for contacting the person or entity
5 that developed the score;

6 “(C) to require a consumer reporting agen-
7 cy to maintain credit scores in its files; or

8 “(D) to compel disclosure of a credit score,
9 except upon specific request of the consumer,
10 except that if a consumer requests the credit
11 file and not the credit score, then the consumer
12 shall be provided with the credit file and a
13 statement that the consumer may request and
14 obtain a credit score.

15 “(2) PROVISION OF SCORING MODEL.—In com-
16 plying with subsection (a)(6) and this subsection, a
17 consumer reporting agency shall supply to the con-
18 sumer—

19 “(A) a credit score that is derived from a
20 credit scoring model that is widely distributed
21 to users of credit scores by that consumer re-
22 porting agency in connection with any extension
23 of credit secured by a dwelling; or

24 “(B) a credit score that assists the con-
25 sumer in understanding the credit scoring as-

1 assessment of the credit behavior of the consumer
2 and predictions about future credit behavior.”.

3 (c) CONFORMING AMENDMENT.—Section 609(a)(1)
4 of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)(1))
5 is amended by inserting before the period “, other than
6 as provided in paragraph (6)”.

7 **SEC. 4. DUTIES OF USERS OF CREDIT SCORES.**

8 (a) IN GENERAL.—Section 615 of the Fair Credit
9 Reporting Act (15 U.S.C. 1681m) is amended—

10 (1) by striking “(e)” at the end; and

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

12 “(e) DUTIES OF USERS OF CREDIT SCORES.—

13 “(1) DISCLOSURES.—Any person that makes or
14 arranges extensions of credit for consumer purposes
15 that are to be secured by a dwelling and that uses
16 credit scores for that purpose, shall be required to
17 provide to the consumer to whom the credit score re-
18 lates, as soon as is reasonably practicable after such
19 use—

20 “(A) a copy of the information described in
21 section 609(a)(6) that was obtained from a con-
22 sumer reporting agency or that was developed
23 and used by that user of the credit score infor-
24 mation; or

1 “(B) if the user of the credit score infor-
2 mation obtained such information from a third
3 party that developed such information, (other
4 than a consumer reporting agency or the user
5 itself) only—

6 “(i) a copy of the information de-
7 scribed in section 609(a)(6) provided to
8 the user by the person or entity that devel-
9 oped the credit score; and

10 “(ii) a notice that generally describes
11 credit scores, their use, and the sources
12 and kinds of data used to generate credit
13 scores.

14 “(2) RULE OF CONSTRUCTION.—This sub-
15 section may not be construed to require the user of
16 a credit score described in paragraph (1)—

17 “(A) to explain to the consumer the infor-
18 mation provided pursuant to section 609(a)(6),
19 unless that information was developed by the
20 user;

21 “(B) to disclose any information other
22 than a credit score or the key factors required
23 to be disclosed under section 609(a)(6)(C);

1 “(C) to disclose any credit score or related
2 information obtained by the user after a trans-
3 action occurs; or

4 “(D) to provide more than 1 disclosure
5 under this subsection to any 1 consumer per
6 credit transaction.

7 “(3) LIMITATION.—Except as otherwise pro-
8 vided in this subsection, the obligation of a user of
9 a credit score under this subsection shall be limited
10 solely to providing a copy of the information that
11 was received from the consumer reporting agency or
12 other person. A user of a credit score has no liability
13 under this subsection for the content of credit score
14 information received from a consumer reporting
15 agency or for the omission of any information within
16 the report provided by the consumer reporting agen-
17 cy.”.

18 (b) CONFORMING AMENDMENT.—Section 615 of the
19 Fair Credit Reporting Act (15 U.S.C. 1681m) is amended
20 in the section heading, by adding at the end “**and credit**
21 **scores**”.

22 **SEC. 5. CONTRACTUAL LIABILITY.**

23 Section 616 of the Fair Credit Reporting Act (15
24 U.S.C. 1681n) is amended by adding at the end the fol-
25 lowing:

1 “(d) USE OF CREDIT SCORES.—Any provision of any
2 contract that prohibits the disclosure of a credit score by
3 a consumer reporting agency or a person who makes or
4 arranges extensions of credit to the consumer to whom
5 the credit score relates is void. A user of a credit score
6 shall not have liability under any such contractual provi-
7 sion for disclosure of a credit score.”.

8 **SEC. 6. RELATION TO STATE LAWS.**

9 Section 624(b)(1) of the Fair Credit Reporting Act
10 (15 U.S.C. 1681t(b)(1)) is amended—

11 (1) in subparagraph (E), by striking “or” at
12 the end; and

13 (2) by adding at the end the following new sub-
14 paragraphs:

15 “(G) section 609(a)(6), relating to the dis-
16 closure of credit scores by consumer reporting
17 agencies; or

18 “(H) section 615(e), relating to the duties
19 of users of credit scores to disclose credit score
20 information to consumers;”.

21 **SEC. 7. EFFECTIVE DATE.**

22 This Act and the amendments made by this Act shall
23 become effective 180 days after the date of enactment of
24 this Act.

○