

Union Calendar No. 271

103D CONGRESS
2D SESSION

H. R. 1015

[Report No. 103-486]

A BILL

To amend the Fair Credit Reporting Act to assure the completeness and accuracy of consumer information maintained by credit reporting agencies, to better inform consumers of their rights under the Act, and to improve enforcement, and for other purposes.

APRIL 28, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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To amend the Fair Credit Reporting Act to assure the completeness and accuracy of consumer information maintained by credit reporting agencies, to better inform consumers of their rights under the Act, and to improve enforcement, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 18, 1993

Mr. TORRES (for himself and Mr. GONZALEZ, Mr. KENNEDY, Mr. SCHUMER, Mr. GUTIERREZ, Mr. RUSH, Ms. ROYBAL-ALLARD, Mr. BARRETT of Wisconsin, Ms. FURSE, Ms. VELÁZQUEZ, Mr. WYNN, Mr. WATT, Mr. HINCHEY, Mr. FLAKE, Ms. WATERS, and Mrs. MALONEY) introduced the following bill; which was referred to the Committee on Banking, Finance and Urban Affairs

NOVEMBER 18, 1993

Additional sponsors: Mrs. JOHNSON of Connecticut, Mr. FIELDS of Louisiana, Mr. BILBRAY, Mr. MAZZOLI, Mr. BARLOW, Mr. SMITH of New Jersey, Mr. FRANK of Massachusetts, Mr. RICHARDSON, Mr. SHAYS, Ms. PELOSI, Mr. FILNER, Mr. KLECZKA, and Mr. ENGEL

APRIL 28, 1994

Additional sponsors: Mr. ROMERO-BARCELÓ, Mr. GILMAN, Mr. BLUTE, Mr. STARK, and Mrs. MORELLA

APRIL 28, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on February 18, 1993]

A BILL

To amend the Fair Credit Reporting Act to assure the completeness and accuracy of consumer information maintained by credit reporting agencies, to better inform consumers of their rights under the Act, and to improve enforcement, 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 ***TITLE I—AMENDMENTS TO FAIR***
 4 ***CREDIT REPORTING ACT***

5 ***SEC. 101. SHORT TITLE.***

6 *This title may be cited as the “Consumer Reporting*
 7 *Reform Act of 1994”.*

8 ***SEC. 102. DEFINITIONS.***

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

12 *“(k) The term ‘adverse action’—*

13 *“(1) has the meaning given to such term in sec-*
 14 *tion 701(d)(6) of the Equal Credit Opportunity Act;*
 15 *and*

16 *“(2) includes—*

17 *“(A) any denial of, increase in any charge*
 18 *for, or reduction in the amount of, insurance for*
 19 *personal, family, or household purposes made in*
 20 *connection with the underwriting of insurance;*

1 “(B) any denial of employment or any
2 other decision for employment purposes which
3 adversely affects any current or prospective em-
4 ployee; and

5 “(C) any action taken or determination
6 made—

7 “(i) in connection with an application
8 which was made by, or a transaction which
9 was initiated by, any consumer; and

10 “(ii) which is adverse to the interest of
11 the consumer.”.

12 (b) *FIRM OFFER OF CREDIT*.—Section 603 of the Fair
13 Credit Reporting Act (15 U.S.C. 1681a) is further amended
14 by adding after subsection (k) (as added by subsection (a)
15 of this section) the following:

16 “(l) The term ‘firm offer of credit’—

17 “(1) means any offer of credit to a consumer
18 that, except as provided in paragraph (2), will be
19 honored if the consumer is determined, based on in-
20 formation in a consumer report on the consumer, to
21 meet the specific criteria used to select the consumer
22 for the offer; and

23 “(2) includes an offer of credit described in
24 paragraph (1) for which extension of credit may be

1 *conditioned solely on any combination of the follow-*
2 *ing:*

3 “(A) *The consumer being determined, based*
4 *on information in the consumer’s application for*
5 *the credit, to meet specific income criteria or em-*
6 *ployment criteria (or both) that are estab-*
7 *lished—*

8 “(i) *before selection of the consumer for*
9 *the offer; and*

10 “(ii) *for the purpose of determining*
11 *whether to extend credit pursuant to the*
12 *offer.*

13 “(B) *Verification—*

14 “(i) *that the consumer continues to*
15 *meet the specific criteria used to select the*
16 *consumer for the offer, by using information*
17 *in a consumer report on the consumer, in-*
18 *formation in the consumer’s application for*
19 *the credit, or other information bearing on*
20 *the creditworthiness of the consumer; or*

21 “(ii) *of the information in the consum-*
22 *er’s application for the credit, to determine*
23 *that the consumer meets the specific income*
24 *criteria or employment criteria (or both).*

1 “(C) *The consumer furnishing any collat-*
2 *eral that is a requirement for the extension of the*
3 *credit that was—*

4 “(i) *established before selection of the*
5 *consumer for the offer of credit; and*

6 “(ii) *described to the consumer in the*
7 *offer of credit.*”.

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

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

17 “(1) *reviewing the account; or*

18 “(2) *collecting the account.*”.

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

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

1 (e) *EXCLUSIONS FROM DEFINITION OF CONSUMER RE-*
2 *PORT.*—Section 603(d) of the Fair Credit Reporting Act (15
3 *U.S.C. 1681a(d)*) is amended in the second sentence in
4 *clause (A)*—

5 (1) by inserting “(i)” after “(A)”;

6 (2) by inserting before the semicolon at the end
7 *the following: “; (ii) any communication of that in-*
8 *formation among persons related by common owner-*
9 *ship or affiliated by corporate control, or (iii) any*
10 *communication of information from a credit applica-*
11 *tion by a consumer among persons related by common*
12 *ownership or affiliated by corporate control if it is*
13 *clearly and conspicuously disclosed (I) with the appli-*
14 *cation that the information may be communicated*
15 *among such persons and the consumer consents, or*
16 *(II) with respect to existing customers, at any time*
17 *prior to the time that the information is initially*
18 *communicated, that such information may be commu-*
19 *nicated among such persons and the consumer is*
20 *given the opportunity, prior to the time that the in-*
21 *formation is initially communicated, to direct in*
22 *writing that such information not be communicated*
23 *among such persons”;*

24 (3) in clause (B) by striking “or” after the semi-
25 *colon at the end;*

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

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

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

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

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

1 “(o) *COMMUNICATIONS BY EMPLOYMENT AGENCIES*
2 *EXCLUDED FROM DEFINITION OF CONSUMER REPORT.*—

3 *A communication is described in this subsection if it is a*
4 *communication—*

5 “(1) *that, but for the 3rd sentence of subsection*
6 *(d), would be an investigative consumer report;*

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

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

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

13 “(3) *that is made by a person that regularly per-*
14 *forms such procurement;*

15 “(4) *that is not used by any person for any pur-*
16 *pose other than a purpose described in paragraph (2)*
17 *(A) or (B);*

18 “(5) *with respect to which—*

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

21 “(i) *consents orally or in writing to*
22 *the nature and scope of the communication,*
23 *before the collection of any information for*
24 *the purpose of making the communication;*

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

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

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

18 “(C) the person that makes the communica-
19 tion—

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

1 *time of the request, except that the sources*
2 *of information that is acquired solely for*
3 *use in making the communication and ac-*
4 *tually used for no other purpose need not be*
5 *disclosed other than under appropriate dis-*
6 *covery procedures in the court in which an*
7 *action is brought; and*

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

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

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

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

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

21 (a) *FURNISHING CONSUMER REPORTS FOR BUSINESS*
22 *TRANSACTIONS.*—Section 604 of the Fair Credit Reporting
23 *Act (15 U.S.C. 1681b) is amended—*

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

1 (2) in subsection (a)(3) (as designated by para-
2 graph (1) of this subsection) by amending subpara-
3 graph (E) to read as follows:

4 “(E) otherwise has a legitimate business need for
5 the information in connection with a business trans-
6 action that is initiated by the consumer.”.

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

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

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

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

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

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

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

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

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

12 “(A) *a clear and conspicuous disclosure has*
13 *been made in writing to the consumer at any*
14 *time before the report is procured or caused to be*
15 *procured, in a document that consists solely of*
16 *the disclosure, that a consumer report may be ob-*
17 *tained for employment purposes; and*

18 “(B) *the consumer has authorized in writ-*
19 *ing the procurement of the report by that person.*

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

25 “(A) *a copy of the report;*

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

5 “(C) a reasonable period (not required to
6 exceed 5 business days following receipt of the re-
7 port by the consumer) to respond to any infor-
8 mation in the report that is disputed by the
9 consumer, and notice in writing of the oppor-
10 tunity for the consumer to respond in that pe-
11 riod.

12 “(4) *LIMITATION ON PURPOSES.*—Subject to
13 paragraph (1), a consumer reporting agency may fur-
14 nish a consumer report, and a person may use a
15 consumer report, for employment purposes only under
16 the following circumstances:

17 “(A) The employment requires or is ex-
18 pected to require a security clearance issued by
19 an agency of the United States as a condition for
20 employment.

21 “(B) The employment requires or is ex-
22 pected to require an employee to be covered by a
23 fidelity bond.

24 “(C) The employment requires or is ex-
25 pected to require an employee, on a regular basis

1 *and as part of the normal duties of employ-*
2 *ment—*

3 *“(i) to handle or otherwise have access*
4 *to substantial amounts of cash or other*
5 *things of value of the employer: or*

6 *“(ii) to engage in any conduct or ac-*
7 *tivity with respect to which the employee*
8 *has a fiduciary duty.”.*

9 **SEC. 104. AMENDMENTS RELATING TO USE OF CONSUMER**
10 **REPORTS FOR PRESCREENING; PROHIBITION**
11 **ON UNAUTHORIZED OR UNCERTIFIED USE OF**
12 **INFORMATION.**

13 *(a) IN GENERAL.—Section 604 of the Fair Credit Re-*
14 *porting Act (15 U.S.C. 1681b), as amended by section 103,*
15 *is further amended—*

16 *(1) in subsection (a) by striking “A consumer re-*
17 *porting agency” and inserting “Subject to subsection*
18 *(c), any consumer reporting agency”;* and

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

21 **“(c) FURNISHING REPORTS IN CONNECTION WITH**
22 **CREDIT TRANSACTIONS NOT INITIATED BY THE**
23 **CONSUMER.—**

24 **“(1) IN GENERAL.—A consumer reporting agen-**
25 **cy may furnish a consumer report relating to any**

1 consumer pursuant to subsection (a)(3)(A) in connec-
2 tion with any credit transaction which is not initi-
3 ated by the consumer only if—

4 “(A) the consumer authorizes the agency to
5 provide such report to such person; or

6 “(B)(i) the transaction consists of a firm
7 offer of credit;

8 “(ii) the consumer reporting agency has
9 complied with subsection (d); and

10 “(iii) the consumer has not elected in ac-
11 cordance with subsection (d)(1) to have the con-
12 sumer’s name and address excluded from lists of
13 names provided by the agency pursuant to this
14 paragraph.

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

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

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

23 “(C) information pertaining to a consumer
24 that is not identified or identifiable with the
25 consumer.

1 “(3) *INFORMATION REGARDING INQUIRIES.*—*Ex-*
2 *cept as provided in section 609(a)(5), a consumer re-*
3 *porting agency shall not furnish to any person a*
4 *record of inquiries in connection with credit trans-*
5 *actions which are not initiated by a consumer.*

6 “(d) *ELECTION OF CONSUMER TO BE EXCLUDED*
7 *FROM LISTS.*—

8 “(1) *IN GENERAL.*—*A consumer may elect to*
9 *have his or her name and address excluded from any*
10 *list provided by a consumer reporting agency in con-*
11 *nection with a credit transaction which is not initi-*
12 *ated by the consumer, by—*

13 “(A) *notifying the agency, through the noti-*
14 *fication system maintained by the agency under*
15 *paragraph (3), that the consumer does not con-*
16 *sent to any use of consumer reports relating to*
17 *the consumer in connection with any credit*
18 *transaction which is not initiated by the*
19 *consumer; and*

20 “(B) *returning to the agency a signed writ-*
21 *ten notice of the election, if provided by the agen-*
22 *cy in accordance with paragraph (2).*

23 “(2) *PROVISION OF WRITTEN NOTICE TO*
24 *CONSUMER.*—*A consumer reporting agency shall pro-*
25 *vide to a consumer a written notice for purposes of*

1 *paragraph (1)(B), by not later than 5 business days*
2 *after being notified of the election of the consumer in*
3 *accordance with paragraph (1)(A).*

4 *“(3) NOTIFICATION SYSTEM.—Each consumer re-*
5 *porting agency which furnishes a consumer report in*
6 *connection with any credit transaction which is not*
7 *initiated by a consumer, shall—*

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

17 *“(B) publish by not later than 12 months*
18 *after the date of the enactment of the Consumer*
19 *Reporting Reform Act of 1994, and at least an-*
20 *nually thereafter, in a publication of general cir-*
21 *culatation in the area served by the agency—*

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

1 “(ii) the address and toll-free telephone
2 number for consumers to use to notify the
3 agency of the consumer’s election under sub-
4 paragraph (A).

5 *Establishment and maintenance of a notification sys-*
6 *tem (including a toll-free telephone number) and pub-*
7 *lication by a consumer reporting agency on its own*
8 *behalf and on behalf of any of its affiliates in accord-*
9 *ance with this paragraph is deemed to be compliance*
10 *with this paragraph by each of those affiliates.*

11 “(4) AGENCIES WHICH OPERATE NATIONWIDE.—
12 *Each consumer reporting agency which compiles and*
13 *maintains files on consumers on a nationwide basis*
14 *shall establish and maintain a notification system for*
15 *purposes of paragraph (3) jointly with other such*
16 *consumer reporting agencies.*

17 “(5) EFFECTIVENESS OF ELECTION.—*An election*
18 *of a consumer under paragraph (1)—*

19 “(A) *shall be effective with respect to a*
20 *consumer reporting agency beginning on the*
21 *later of—*

22 “(i) *the date on which the consumer*
23 *notifies the agency in accordance with*
24 *paragraph (1)(A); or*

1 “(ii) the date on which the consumer
2 returns to the agency a signed written
3 notification of the election in accordance
4 with paragraph (1)(B), if provided by the
5 agency;

6 “(B) shall not be effective after the date on
7 which the consumer notifies the agency (through
8 the system established by the agency under para-
9 graph (3)) that the election is no longer effective;
10 and

11 “(C) shall be effective with respect to each
12 affiliate of the agency.”.

13 (b) *FURNISHING CONSUMER REPORTS FOR CERTAIN*
14 *DIRECT MARKETING TRANSACTIONS PROHIBITED.*—Sec-
15 *tion 604 of the Fair Credit Reporting Act (15 U.S.C.*
16 *1681b) is further amended by adding after subsection (d)*
17 *(as added by subsection (a) of this section) the following*
18 *new subsection:*

19 “(e) *FURNISHING CONSUMER REPORTS FOR CERTAIN*
20 *DIRECT MARKETING TRANSACTIONS PROHIBITED.*—A
21 *consumer reporting agency may not furnish a consumer re-*
22 *port for use for a direct marketing transaction which is*
23 *not initiated by the consumer to whom the report relates.”.*

24 (c) *USE OF INFORMATION OBTAINED FROM RE-*
25 *PORTS.*—Section 604 of the Fair Credit Reporting Act (15

1 *U.S.C. 1681b) is further amended by adding after sub-*
2 *section (e) (as added by subsection (b) of this section) the*
3 *following new subsection:*

4 “(f) *CERTAIN USE OR OBTAINING OF INFORMATION*
5 *PROHIBITED.—A person shall not use or obtain informa-*
6 *tion from a consumer report for any purpose unless—*

7 “(1) *it is obtained for a purpose for which the*
8 *consumer report is authorized to be furnished under*
9 *subsection (a); and*

10 “(2) *the purpose is certified in accordance with*
11 *section 607 by a prospective user of the report.”.*

12 “(d) *FIRST NOTIFICATIONS BY CONSUMERS.—A*
13 *consumer may notify a consumer reporting agency through*
14 *a notification system established and maintained by the*
15 *agency under section 604(d) of the Fair Credit Reporting*
16 *Act, as amended by subsection (a), on or after the date*
17 *which is 455 days after the date of the enactment of this*
18 *Act.*

19 ***SEC. 105. CONSUMER CONSENT REQUIRED TO FURNISH***
20 ***CONSUMER REPORT CONTAINING MEDICAL***
21 ***INFORMATION.***

22 *Section 604 of the Fair Credit Reporting Act (15*
23 *U.S.C. 1681b), as amended by sections 103 and 104, is fur-*
24 *ther amended by adding at the end the following:*

1 *ral to a 3d party, whichever is earlier), charged to profit*
2 *and loss, or subjected to any similar action, upon the expi-*
3 *ration of the 180-day period beginning on the date of the*
4 *commencement of the delinquency which immediately pre-*
5 *ceded the collection activity, charge to profit and loss, or*
6 *similar action.*

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

11 *(c) ADDITIONAL INFORMATION ON BANKRUPTCY FIL-*
12 *INGS REQUIRED.—Section 605 of the Fair Credit Reporting*
13 *Act (15 U.S.C. 1681c) is further amended by adding after*
14 *subsection (b) (as added by subsection (b) of this section)*
15 *the following new subsection:*

16 *“(c) INFORMATION REQUIRED TO BE DISCLOSED.—*
17 *Any consumer reporting agency which furnishes a consumer*
18 *report which contains information regarding any case in-*
19 *volving the consumer which arises under title 11, United*
20 *States Code, shall include in the report an identification*
21 *of the chapter of such title 11 under which such case arises*
22 *if provided by the source of the information. If any case*
23 *arising or filed under title 11, United States Code, is with-*
24 *drawn by the consumer prior to a final judgment, the*
25 *consumer reporting agency shall include in the report that*

1 *such case or filing was withdrawn upon receipt of docu-*
2 *mentation certifying such withdrawal.”.*

3 *(d) INDICATION OF CLOSURE OF ACCOUNT; INDICA-*
4 *TION OF DISPUTE BY CONSUMER.—Section 605 of the Fair*
5 *Credit Reporting Act (15 U.S.C. 1681c) is further amended*
6 *by adding after subsection (c) (as added by subsection (c)*
7 *of this section) the following new subsections:*

8 *“(d) INDICATION OF CLOSURE OF ACCOUNT BY*
9 *CONSUMER.—If a consumer reporting agency is notified*
10 *pursuant to section 623(a)(4) that a credit account of a*
11 *consumer was voluntarily closed by the consumer, the agen-*
12 *cy shall indicate that fact in any consumer report that in-*
13 *cludes information related to the account.*

14 *“(e) INDICATION OF DISPUTE BY CONSUMER.—If a*
15 *consumer reporting agency is notified pursuant to section*
16 *623(a)(3) that information regarding a consumer that was*
17 *furnished to the agency is disputed by the consumer, the*
18 *agency shall indicate that fact in each consumer report that*
19 *includes the disputed information.”.*

20 *(e) PROHIBITION ON MAINTAINING OR FURNISHING*
21 *CERTAIN ACCOUNT INFORMATION.—*

22 *(1) IN GENERAL.—Section 605 of the Fair Credit*
23 *Reporting Act (15 U.S.C. 1681c) is further amended*
24 *by adding at the end the following new subsection:*

25 *“(f) CERTAIN ACCOUNT INFORMATION.—*

1 “(1) *EXCLUSION FROM CONSUMER REPORT.*—A
2 *consumer reporting agency shall not maintain in the*
3 *file of a consumer, or furnish a consumer report on*
4 *a consumer which contains, any information regard-*
5 *ing a failure of the consumer to make any payment*
6 *on an account of the consumer that became due in a*
7 *period during which the consumer was receiving as-*
8 *stance pursuant to a declaration of an emergency by*
9 *the President under The Robert T. Stafford Disaster*
10 *Relief and Emergency Assistance Act, or unemploy-*
11 *ment compensation under the laws of any State (or*
12 *but for the exhaustion of benefits would be entitled to*
13 *receive such compensation), if—*

14 “(A) *the consumer requests in writing that*
15 *the consumer reporting agency exclude the infor-*
16 *mation from either the file or such reports;*

17 “(B) *the consumer provides to the agency*
18 *appropriate documentation which demonstrates*
19 *that the consumer was receiving such assistance*
20 *or was receiving (or would so be entitled to re-*
21 *ceive) such compensation during that period;*
22 *and*

23 “(C) *the account is maintained in a current*
24 *status during the 1-year period ending on the*
25 *date of the submittal of the request.*

1 *taken, or is contemplated, by the user based in whole or*
2 *in part on the report.”.*

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

8 **“(d) NOTICE TO USERS AND FURNISHERS OF INFOR-**
9 *MATION.—*

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

12 **“(A) who regularly and in the ordinary**
13 *course of business furnishes information to the*
14 *agency with respect to any consumer; or*

15 **“(B) to whom a consumer report is pro-**
16 *vided by the agency;*

17 *a notice of such person’s responsibilities under this*
18 *title.*

19 **“(2) CONTENT OF NOTICE.—***The Federal Trade*
20 *Commission shall prescribe the content of notices*
21 *under paragraph (1).”.*

22 **(c) RECORD OF IDENTITY OF USERS AND PURPOSES**
23 *CERTIFIED BY USERS OF REPORTS.—Section 607 of the*
24 *Fair Credit Reporting Act (15 U.S.C. 1681e) is further*

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

3 “(e) *PROCUREMENT OF CONSUMER REPORT FOR RE-*
4 *SALE.*—

5 “(1) *DISCLOSURE.*—A person may not procure a
6 consumer report for purposes of reselling the report
7 (or any information in the report) unless the person
8 discloses to the consumer reporting agency which
9 originally furnishes the report—

10 “(A) the identity of the ultimate end-user of
11 the report (or information), and

12 “(B) each permissible purpose under section
13 604 for which the report is furnished to the ulti-
14 mate end-user of the report (or information).

15 “(2) *RESPONSIBILITIES OF PROCURERS FOR RE-*
16 *SALE.*—A person which procures a consumer report
17 for purposes of reselling the report (or any informa-
18 tion in the report) shall—

19 “(A) establish and comply with reasonable
20 procedures designed to ensure that the report (or
21 information) is resold by the person only for a
22 purpose for which the report may be furnished
23 under section 604, including by requiring that
24 each person to which the report (or information)
25 is resold—

1 “(i) identifies each prospective user of
2 the resold report (or information);

3 “(ii) certifies each purpose for which
4 the report (or information) will be used;
5 and

6 “(iii) certifies that the report (or infor-
7 mation) will be used for no other purpose;
8 and

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

12 **SEC. 108. AMENDMENTS RELATING TO CONSUMER DISCLO-**
13 **SURES.**

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

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

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

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

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

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

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

10 “(i) the name of the person or, if applicable,
11 the trade name (written in full) under which
12 such person conducts business; and

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

15 (c) DISCLOSURE OF PERMISSIBLE PURPOSES.—Sec-
16 tion 609(a) of the Fair Credit Reporting Act (15 U.S.C.
17 1681g(a)) is further amended by adding at the end the fol-
18 lowing:

19 “(4) The permissible purpose for which each per-
20 son identified under paragraph (3) procured a
21 consumer report.”.

22 (d) INFORMATION REGARDING INQUIRIES.—Section
23 609(a) of the Fair Credit Reporting Act (15 U.S.C.
24 1681g(a)) is amended by adding after paragraph (4) (as
25 added by subsection (c) of this section) the following:

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

6 (e) *DISCLOSING THE FACTS REGARDING CHECKS*
7 *UPON WHICH ADVERSE CHARACTERIZATION IS BASED.*—
8 Section 609(a) of the Fair Credit Reporting Act (15 U.S.C.
9 1681g(a)) is amended by adding after paragraph (5) (as
10 added by subsection (d) of this section) the following:

11 “(6) The dates, original payees, and amounts of
12 any checks upon which is based any adverse charac-
13 terization of the consumer included in the file at the
14 time of the disclosure.”.

15 (f) *SUMMARY OF RIGHTS REQUIRED TO BE INCLUDED*
16 *WITH DISCLOSURE.*—

17 (1) *IN GENERAL.*—Section 609 of the Fair Credit
18 Reporting Act (15 U.S.C. 1681g) is amended by add-
19 ing at the end the following new subsection:

20 “(c) *SUMMARY OF RIGHTS REQUIRED TO BE IN-*
21 *CLUDED WITH DISCLOSURE.*—

22 “(1) *SUMMARY OF RIGHTS.*—A consumer report-
23 ing agency shall provide to a consumer, with each
24 written disclosure by the agency to the consumer
25 under this section—

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

3 “(B) in the case of a consumer reporting
4 agency that compiles and maintains files on con-
5 sumers on a nationwide basis, the toll-free tele-
6 phone number established by the agency pursu-
7 ant to section 607(f).

8 “(2) *SPECIFIC ITEMS REQUIRED TO BE IN-*
9 *CLUDED.*—The summary of rights required under
10 paragraph (1) shall include—

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

13 “(B) an explanation of how the consumer
14 may exercise the rights of the consumer under
15 this title;

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

22 “(D) a statement that a consumer reporting
23 agency is not required to remove accurate derog-
24 atory information from a consumer’s file, unless

1 *the information is outdated under section 605 or*
2 *cannot be verified.*

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

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

17 (g) *FORM OF DISCLOSURES.*—

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

21 “(a) *IN GENERAL.*—

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

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

5 “(b) *OTHER FORMS OF DISCLOSURE.*—

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

9 “(A) *other than in writing; and*

10 “(B) *in such form as may be—*

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

13 “(ii) *available from the agency.*

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

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

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

24 “(C) *by electronic means, if available from*
25 *the agency; or*

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

3 (2) *SIMPLIFIED DISCLOSURE.*—Section 610 of
4 the Fair Credit Reporting Act (15 U.S.C. 1681h) is
5 amended by adding at the end the following:

6 “(f) *SIMPLIFIED DISCLOSURE.*—The Federal Trade
7 Commission shall prescribe the form in which a consumer
8 reporting agency shall make the disclosures required under
9 section 609(a), for the purpose of maximizing the com-
10 prehensibility and standardization of such disclosures.”.

11 (3) *CONFORMING AMENDMENTS.*—

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

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

21 (C) The table of sections at the beginning of
22 the Fair Credit Reporting Act (15 U.S.C. 1681a
23 et seq.) is amended in the item relating to sec-
24 tion 610 by inserting “and form” after “Condi-
25 tions”.

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

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

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

9 “(1) *REINVESTIGATION REQUIRED.*—

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

22 “(B) *EXTENSION OF PERIOD TO*
23 *REINVESTIGATE.*—Except as provided in sub-
24 paragraph (C), the 30-day period described in
25 subparagraph (A) may be extended if—

1 “(i) the consumer reporting agency re-
2 ceives information from the consumer with-
3 in that 30-day period that is relevant to the
4 reinvestigation; and

5 “(ii) the consumer reporting agency
6 has provided clear and conspicuous notice
7 to the consumer, in a disclosure under sec-
8 tion 609(c), of the circumstances that may
9 cause such an extension.

10 The period, as extended, shall end not later than
11 15 days after the last date the agency receives
12 such information.

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

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

22 “(A) IN GENERAL.—Before the end of the 5-
23 day period beginning on the date a consumer re-
24 porting agency receives notice of a dispute from
25 any consumer in accordance with paragraph (1),

1 *the agency shall provide notification of the dis-*
2 *pute to any person that provided any item of in-*
3 *formation in dispute, at the address and in the*
4 *manner established with the person. The notice*
5 *shall include disclosure of the date on which the*
6 *consumer reporting agency received notice of the*
7 *dispute from the consumer and all relevant in-*
8 *formation regarding the dispute that the agency*
9 *has received from the consumer.*

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

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

21 *“(A) IN GENERAL.—Notwithstanding para-*
22 *graph (1), a consumer reporting agency may ter-*
23 *minate a reinvestigation of information disputed*
24 *by a consumer under that paragraph if the agen-*
25 *cy reasonably determines that the dispute by the*

1 *consumer is frivolous or irrelevant, including by*
2 *reason of a failure by a consumer to provide suf-*
3 *ficient information to investigate the disputed*
4 *information.*

5 “(B) *NOTICE OF DETERMINATION.*—Upon
6 *making any determination in accordance with*
7 *subparagraph (A) that a dispute is frivolous or*
8 *irrelevant, a consumer reporting agency shall no-*
9 *tify the consumer within 5 days of such deter-*
10 *mination, by mail or, if authorized by the*
11 *consumer for that purpose, by any other means*
12 *available to the agency.*

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

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

17 “(ii) *identification of any information*
18 *required to investigate the disputed infor-*
19 *mation.*

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

1 *scribed in paragraph (1)(A) with respect to such dis-*
2 *puted information.*

3 “(5) *TREATMENT OF INACCURATE OR UNVERIFI-*
4 *ABLE INFORMATION.—*

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

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

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

1 *nishes the information certifies that the in-*
2 *formation is complete and accurate.*

3 *“(ii) NOTICE TO CONSUMER.—If any*
4 *information which has been deleted from a*
5 *consumer’s file pursuant to subparagraph*
6 *(A) is reinserted in the file, the consumer*
7 *reporting agency shall promptly notify the*
8 *consumer of the reinsertion in writing or, if*
9 *authorized by the consumer for that pur-*
10 *pose, by any other means available to the*
11 *agency.*

12 *“(iii) ADDITIONAL INFORMATION.—As*
13 *part of or in addition to the notice under*
14 *clause (ii), a consumer reporting agency*
15 *shall provide to a consumer in writing*
16 *within the 5-day period beginning on the*
17 *date of the reinsertion—*

18 *“(I) a statement that the disputed*
19 *information has been reinserted;*

20 *“(II) a notice to the consumer*
21 *that if requested by the consumer the*
22 *agency shall provide to the consumer,*
23 *within 15 days after the date of the re-*
24 *quest, the name, business address, and*
25 *telephone number of any furnisher of*

1 *information contacted, or of any fur-*
2 *nisher of information which contacted*
3 *the consumer reporting agency, in con-*
4 *nection with the reinsertion of such in-*
5 *formation;*

6 *“(III) the toll-free telephone num-*
7 *ber of the consumer reporting agency if*
8 *the agency is required to maintain*
9 *such a number under section 607(f), or*
10 *a telephone number that the consumer*
11 *can use to contact the agency with re-*
12 *spect to obtaining the information de-*
13 *scribed in subclause (II); and*

14 *“(IV) a notice that the consumer*
15 *has the right to add a statement to the*
16 *consumer’s file disputing the accuracy*
17 *or completeness of the disputed infor-*
18 *mation.*

19 *“(C) PROCEDURES TO PREVENT REAPPEAR-*
20 *ANCE.—A consumer reporting agency shall*
21 *maintain reasonable procedures designed to pre-*
22 *vent the reappearance in a consumer’s file, and*
23 *in consumer reports on the consumer, of infor-*
24 *mation that is deleted pursuant to this para-*

1 *graph (other than information that is reinserted*
2 *in accordance with subparagraph (B)(i)).*

3 “(D) *FREE CONSUMER REPORT DURING 12-*
4 *MONTH PERIOD AFTER DELETION OF INFORMA-*
5 *TION.—Upon the request of a consumer, a*
6 *consumer reporting agency shall make all disclo-*
7 *tures pursuant to section 609 without charge to*
8 *that consumer at least once during the 12-month*
9 *period after the consumer receives a notification*
10 *under paragraph (6) or paragraph (8) of the de-*
11 *letion of information that is found to be inac-*
12 *curate or cannot be verified.*

13 “(E) *Any nationwide consumer reporting*
14 *agency that maintains files on a consumer on a*
15 *nationwide basis that is subject to this section,*
16 *shall report the results of a reinvestigation that*
17 *finds incomplete or inaccurate information in a*
18 *consumer’s file to all other such agencies.*

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

21 “(A) *IN GENERAL.—A consumer reporting*
22 *agency shall provide written notice to a*
23 *consumer of the results of a reinvestigation under*
24 *this subsection within 5 days after the comple-*
25 *tion of the reinvestigation, by mail or, if author-*

1 *ized by the consumer for that purpose, by other*
2 *means available to the agency.*

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

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

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

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

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

1 “(v) a notice that the consumer has the
2 right to add a statement to the consumer’s
3 file disputing the accuracy or completeness
4 of the information; and

5 “(vi) a notice that the consumer has
6 the right to request under subsection (d)
7 that the consumer reporting agency furnish
8 notifications under that subsection.

9 “(7) *DESCRIPTION OF REINVESTIGATION PROCEDURE.*—A consumer reporting agency shall provide to
10 a consumer a description referred to in paragraph
11 (6)(B)(iv) by not later than 15 days after receiving
12 a request from the consumer for that description.
13

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

1 “(A) provides prompt notice of the deletion
2 to the consumer by telephone;

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

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

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

20 **SEC. 110. AMENDMENT RELATING TO CHARGES FOR DIS-**
21 **CLOSURE.**

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

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

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

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

8 “(A) *shall not exceed \$8; and*

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

11 “(2) *for furnishing a notification, statement,*
12 *summary, or codification to any person designated by*
13 *the consumer pursuant to section 611(d), which—*

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

17 “(B) *shall be indicated to the consumer*
18 *prior to furnishing such information.*

19 “(b) *FREE CONSUMER REPORT AFTER ADVERSE NO-*
20 *TICE TO CONSUMER.*—*Each consumer reporting agency*
21 *that maintains a file on a consumer shall make all disclo-*
22 *tures pursuant to section 609 without charge to the*
23 *consumer if, within 60 days after receipt by such consumer*
24 *of a notification pursuant to section 615 or of a notification*
25 *from a debt collection agency affiliated with that consumer*
26 *reporting agency stating that the consumer’s credit rating*

1 *may be or has been adversely affected, the consumer makes*
2 *a request under section 609.*

3 “(c) *FREE CONSUMER REPORT ANNUALLY UPON RE-*
4 *QUEST OF CONSUMER.*—*Upon the request of a consumer,*
5 *a consumer reporting agency shall make all disclosures pur-*
6 *suant to section 609 without charge to that consumer at*
7 *least once each calendar year.*

8 “(d) *CHARGE FOR CERTAIN NOTICES PROHIBITED.*—
9 *A consumer reporting agency shall not impose any charge*
10 *for—*

11 “(1) *providing any notice to a consumer re-*
12 *quired under section 611; or*

13 “(2) *notifying a person pursuant to section*
14 *611(d) of the deletion of information which is found*
15 *to be inaccurate or which can no longer be verified,*
16 *if the consumer designates that person to the agency*
17 *before the end of the 30-day period beginning on the*
18 *date of the notification of the consumer under section*
19 *611(a)(6) or 611(a)(8).*

20 “(e) *REFUND OF CHARGE IN CASE OF DISPUTE.*—*A*
21 *consumer reporting agency shall refund to a consumer any*
22 *charge assessed to the consumer for providing a consumer*
23 *report in the 60-day period ending on the date on which*
24 *the consumer notifies the agency in accordance with section*
25 *611(a)(1), if after a reinvestigation under that section any*

1 *information in the file of the consumer is found to be incom-*
2 *plete or inaccurate.”.*

3 **SEC. 111. AMENDMENTS RELATING TO DUTIES OF USERS**
4 **OF CONSUMER REPORTS.**

5 (a) *DUTIES OF USERS TAKING ADVERSE ACTIONS.—*
6 *Section 615(a) of the Fair Credit Reporting Act (15 U.S.C.*
7 *1681m(a)) is amended to read as follows:*

8 “(a) *DUTIES OF USERS TAKING ADVERSE ACTIONS ON*
9 *THE BASIS OF INFORMATION CONTAINED IN CONSUMER*
10 *REPORTS.—If any person takes any adverse action with re-*
11 *spect to any consumer in connection with any transaction*
12 *initiated by the consumer or any employment determina-*
13 *tion, which is based in whole or in part on any information*
14 *contained in a consumer report, the person shall—*

15 “(1) *provide written notice of the adverse action*
16 *to the consumer;*

17 “(2) *provide to the consumer in writing, the*
18 *name, address, and telephone number of the consumer*
19 *reporting agency (including any toll-free telephone*
20 *number established by the agency pursuant to section*
21 *607(f)) which furnished the report to the person; and*

22 “(3) *provide to the consumer a written notice of*
23 *the consumer’s right—*

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

1 *the consumer reporting agency referred to in*
2 *paragraph (2) and from any other consumer re-*
3 *porting agency that maintains a file on the*
4 *consumer and maintains files on consumers on*
5 *a nationwide basis, which notice shall include an*
6 *indication of the 60-day period under that sec-*
7 *tion for obtaining such a copy; and*

8 *“(B) to dispute, under section 611, with a*
9 *consumer reporting agency the accuracy or com-*
10 *pleteness of any information in a consumer re-*
11 *port furnished by the agency.”.*

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

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

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

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

4 “(B) the consumer received the offer of cred-
5 it because the consumer satisfied the criteria for
6 creditworthiness under which the consumer was
7 selected for the offer;

8 “(C) if applicable, the credit may not be ex-
9 tended 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 income or employment criteria or
13 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 transaction
18 which is not initiated by the consumer; and

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

23 “(2) DISCLOSURE OF ADDRESS AND TELEPHONE
24 NUMBER.—A statement under paragraph (1) shall in-
25 clude the address and toll-free telephone number of the

1 *appropriate notification system established under sec-*
2 *tion 604(d).*

3 *“(3) MAINTAINING CRITERIA ON FILE.—A person*
4 *who makes an offer of credit to a consumer under a*
5 *credit transaction described in paragraph (1) shall*
6 *maintain on file the criteria used to select the*
7 *consumer to receive the offer, all income and employ-*
8 *ment criteria that are the basis for determining*
9 *whether or not to extend credit pursuant to the offer,*
10 *and any requirement for the furnishing of collateral*
11 *as a condition of the extension of credit, until the end*
12 *of the 3-year period beginning on the date on which*
13 *the offer is made to the consumer.*

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

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

20 *“(B) the person who procured the report*
21 *clearly and conspicuously disclosed to the*
22 *consumer to whom the report relates, before the*
23 *report is provided to the person using the report,*
24 *that the report might be provided to and used by*
25 *other persons who are affiliated in the manner*

1 described in subparagraph (A) to the person who
2 procured the report; and

3 “(C) the provision and use of the report
4 is—

5 “(i) consented to by the consumer in
6 writing, or

7 “(ii) with respect to existing customers,
8 the consumer has been afforded the oppor-
9 tunity to direct in writing that the report
10 may not be provided to or used by persons
11 who are affiliated in the manner described
12 in subparagraph (A) and has not done so.”.

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

14 (a) *CIVIL LIABILITY FOR WILLFUL NONCOMPLIANCE,*
15 *GENERALLY.*—Section 616 of the Fair Credit Reporting Act
16 (15 U.S.C. 1681n) is amended by striking “Any consumer
17 reporting agency or user of information which” and insert-
18 ing “(a) *IN GENERAL.*—Any person who”.

19 (b) *MINIMUM CIVIL LIABILITY FOR WILLFUL NON-*
20 *COMPLIANCE.*—Section 616(1) of the Fair Credit Reporting
21 Act (15 U.S.C. 1681n(1)) is amended to read as follows:

22 “(1)(A) any actual damages sustained by the
23 consumer as a result of the failure; or

24 “(B) in the case of liability of a natural person
25 for obtaining a consumer report under false pretenses

1 or knowingly without a permissible purpose, such
2 damages or \$1,000, whichever is greater;”.

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

8 (d) *ATTORNEY’S FEES.*—

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

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

19 (2) *NEGLIGENT NONCOMPLIANCE.*—Section 617
20 *of the Fair Credit Reporting Act (15 U.S.C. 1681o)*
21 *is amended by adding at the end the following:*

22 “(b) *ATTORNEY’S FEES.*—On a finding by the court
23 *that an unsuccessful pleading, motion, or other paper filed*
24 *in connection with an action under this section was filed*
25 *in bad faith or for purposes of harassment, the court shall*

1 *award to the prevailing party attorney's fees reasonable in*
2 *relation to the work expended in responding to the pleading,*
3 *motion, or other paper."*

4 **SEC. 113. AMENDMENTS RELATING TO RESPONSIBILITIES**
5 **OF PERSONS WHO FURNISH INFORMATION**
6 **TO CONSUMER REPORTING AGENCIES.**

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

11 **"§ 623. Responsibilities of furnishers of information to**
12 **consumer reporting agencies**

13 *"(a) DUTY OF FURNISHERS OF INFORMATION TO PRO-*
14 *VIDE COMPLETE AND ACCURATE INFORMATION.—*

15 *"(1) PROHIBITIONS.—*

16 *"(A) IN GENERAL.—A person shall not fur-*
17 *nish any information to any consumer reporting*
18 *agency if the person knows or should have known*
19 *the information is incomplete or inaccurate.*

20 *"(B) ROUTINE FURNISHERS.—A person*
21 *who regularly and in the ordinary course of*
22 *business furnishes information to one or more*
23 *consumer reporting agencies about the person's*
24 *transactions or experiences with any consumer,*
25 *shall not furnish such information except in*

1 *compliance with reasonable procedures which are*
2 *designed to avoid violations of this section and*
3 *to assure the accuracy of the information.*

4 “(2) *DUTY TO CORRECT AND UPDATE INFORMA-*
5 *TION.—A person who—*

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

11 “(B) *has furnished to a consumer reporting*
12 *agency information that the person determines is*
13 *not complete or accurate;*

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

22 “(3) *DUTY TO PROVIDE NOTICE OF DISPUTE.—*
23 *If the completeness or accuracy of any information*
24 *furnished by any person to any consumer reporting*
25 *agency is disputed to such person by a consumer, the*

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

4 “(4) *DUTY TO PROVIDE NOTICE OF CLOSED AC-*
5 *COUNTS.—A person who regularly and in the ordi-*
6 *nary course of business furnishes information to a*
7 *consumer reporting agency regarding a consumer who*
8 *has a credit account with that person shall notify the*
9 *agency of the voluntary closure of the account by the*
10 *consumer, in information regularly furnished for the*
11 *period in which the account is closed.*

12 “(5) *DUTY TO PROVIDE NOTICE OF DELINQUENCY*
13 *OF ACCOUNTS.—A person who furnishes information*
14 *to a consumer reporting agency regarding a delin-*
15 *quent account being placed for collection, charged to*
16 *profit or loss, or subjected to any similar action shall,*
17 *by not later than 90 days after furnishing the infor-*
18 *mation, notify the agency of the month and year of*
19 *the commencement of the delinquency which imme-*
20 *diately preceded the action.*

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

23 “(1) *IN GENERAL.—After receiving notice pursu-*
24 *ant to section 611(a)(2) of a dispute with regard to*
25 *the completeness or accuracy of any information pro-*

1 *vided by a person to a consumer reporting agency, the*
2 *person shall—*

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

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

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

10 *“(D) if the investigation finds that the in-*
11 *formation is incomplete or inaccurate, report*
12 *those results to all other consumer reporting*
13 *agencies to which the person furnished the infor-*
14 *mation.*

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

23 *“(c) LIMITATION ON LIABILITY.—Sections 616 and*
24 *617 do not apply to any failure to comply with subsection*
25 *(a)(1), except as provided in section 621(c)(1)(B).”.*

1 (b) *CLERICAL AMENDMENT.*—The table of sections at
 2 the beginning of the Fair Credit Reporting Act (15 U.S.C.
 3 1681a et seq.) is amended by striking the item relating to
 4 section 623 and inserting the following:

“623. Responsibilities of furnishers of information to consumer reporting agencies.
 “624. Relation to State laws.”.

5 **SEC. 114. INVESTIGATIVE CONSUMER REPORTS.**

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

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

10 (2) by striking subsection (a)(2) and inserting
 11 the following:

12 “(2) the person certifies to the consumer report-
 13 ing agency that—

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

16 “(B) the person will comply with subsection
 17 (b).”;

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

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

21 “(d) *PROHIBITIONS.*—

22 “(1) *CERTIFICATION.*—A consumer reporting
 23 agency shall not prepare or furnish an investigative
 24 consumer report unless the agency has received a cer-

1 *tification under subsection (a)(2) from the person who*
2 *requested the report.*

3 *“(2) INQUIRIES.—A consumer reporting agency*
4 *shall not make an inquiry for the purpose of prepar-*
5 *ing a consumer report on a consumer if the making*
6 *of the inquiry by an employer or prospective em-*
7 *ployer of the consumer would violate any applicable*
8 *Federal or State equal employment opportunity law*
9 *or regulation.*

10 *“(3) PUBLIC RECORD INFORMATION.—A*
11 *consumer reporting agency shall not furnish an inves-*
12 *tigative consumer report which includes information*
13 *which is a matter of public record unless the agency*
14 *has verified the accuracy of the information within*
15 *the 30-day period ending on the date the report is*
16 *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 inter-*
21 *est of the consumer and that is obtained through a*
22 *personal interview with a neighbor, friend, or associ-*
23 *ate 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 pro-
2 cedures to obtain confirmation of the informa-
3 tion, from an additional source that has inde-
4 pendent and direct knowledge of the information;
5 or

6 “(B) the person interviewed is the best pos-
7 sible 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 (15
13 *U.S.C. 1681q)* is amended by striking “fined not more than
14 \$5,000 or imprisoned not more than one year, or both” and
15 inserting “fined under title 18, United States Code, impris-
16 oned for not more than 2 years, or both”.

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

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

2 (a) *AVAILABLE ENFORCEMENT POWERS.*—The 2d sen-
3 tence of section 621(a) of the Fair Credit Reporting Act
4 (15 U.S.C. 1681s(a)) is amended—

5 (1) by striking “Act and shall be subject to en-
6 forcement by the Federal Trade Commission under
7 section 5(b) thereof with respect to any consumer re-
8 porting agency or person subject to enforcement by the
9 Federal Trade Commission pursuant to this sub-
10 section, irrespective” and inserting “Act. All functions
11 and powers of the Federal Trade Commission under
12 the Federal Trade Commission Act shall be available
13 to the Commission to enforce compliance with this
14 title by any person subject to enforcement by the Fed-
15 eral Trade Commission pursuant to this subsection
16 and not subject to enforcement pursuant to section 8
17 of the Federal Deposit Insurance Act, irrespective”;
18 and

19 (2) by inserting “, including the power to enforce
20 the provisions of this title in the same manner as if
21 the violation had been a violation of any Federal
22 Trade Commission trade regulation rule” before the
23 period.

24 (b) *AGENCIES RESPONSIBLE FOR ENFORCEMENT.*—
25 Section 621 of the Fair Credit Reporting Act (15 U.S.C.
26 1681s) is amended—

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

4 (2) in subsection (b), by striking the matter pre-
5 ceding paragraph (1) and inserting the following:

6 “(b) ENFORCEMENT BY OTHER AGENCIES.—Compli-
7 ance with the requirements imposed under this title with
8 respect to consumer reporting agencies, persons who use
9 consumer reports from such agencies, and persons who
10 furnish information to such agencies shall be enforced
11 under—”.

12 **SEC. 117. STATE ENFORCEMENT OF FAIR CREDIT REPORT-**
13 **ING ACT.**

14 Section 621 of the Fair Credit Reporting Act (15
15 U.S.C. 1681s) is amended by redesignating subsection (c)
16 as subsection (d) and inserting after subsection (b) the fol-
17 lowing new subsection:

18 “(c) STATE ACTION FOR VIOLATIONS.—

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

1 “(A) may bring an action to enjoin such
2 violation in any appropriate United States dis-
3 trict court or in any other court of competent ju-
4 risdiction;

5 “(B) may bring an action on behalf of its
6 residents to recover—

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

10 “(ii) in the case of a violation of sec-
11 tion 623(a)(1), damages for which the per-
12 son would, but for section 623(c), be liable
13 to such residents as a result of the violation;
14 or

15 “(iii) damages of not more than \$1,000
16 for each willful or negligent violation; and

17 “(C) in the case of any successful action
18 under subparagraph (A) or (B), shall be award-
19 ed the costs of the action and reasonable attorney
20 fees as determined by the court.

21 “(2) RIGHTS OF COMMISSION.—The State shall
22 serve prior written notice of any such action upon the
23 Federal Trade Commission or the appropriate Fed-
24 eral regulator determined under subsection (b) and
25 provide the Commission or appropriate Federal regu-

1 *lator with a copy of its complaint, except in any case*
2 *where such prior notice is not feasible, in which case*
3 *the State shall serve such notice immediately upon in-*
4 *stituting such action. The Commission or appropriate*
5 *Federal regulator shall have the right (A) to intervene*
6 *in the action, (B) upon so intervening, to be heard on*
7 *all matters arising therein, and (C) to file petitions*
8 *for appeal.*

9 “(3) *INVESTIGATORY POWERS.*—*For purposes of*
10 *bringing any action under this subsection, nothing in*
11 *this subsection shall prevent the chief law enforcement*
12 *officer, or an official or agency designated by a State,*
13 *from exercising the powers conferred on the chief law*
14 *enforcement officer or such official by the laws of such*
15 *State to conduct investigations or to administer oaths*
16 *or affirmations or to compel the attendance of wit-*
17 *nesses or the production of documentary and other*
18 *evidence.*

19 “(4) *LIMITATION.*—*Whenever the Federal Trade*
20 *Commission or the appropriate Federal regulator has*
21 *instituted a civil action for violation of this title, no*
22 *State may, during the pendency of such action, bring*
23 *an action under this section against any defendant*
24 *named in the complaint of the Commission or the ap-*

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

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

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

8 “(e) *INTERPRETIVE AUTHORITY.—The Federal Reserve*
9 *Board may issue interpretations of any provision of this*
10 *title as it may apply to any persons identified under sub-*
11 *section (b) (1), (2), and (3), or to the holding companies*
12 *and affiliates of such persons, in consultation with Federal*
13 *agencies identified in subsection (b) (1), (2), and (3).”.*

14 **SEC. 119. ESTABLISHMENT OF TOLL-FREE TELEPHONE**
15 **NUMBER.**

16 *Section 607 of the Fair Credit Reporting Act (15*
17 *U.S.C. 1681e) is amended by adding after subsection (e)*
18 *(as added by section 107(c) of this Act) the following new*
19 *subsection:*

20 “(f) *ESTABLISHMENT OF TOLL-FREE TELEPHONE*
21 *NUMBER.—Each consumer reporting agency that compiles*
22 *and maintains files on consumers on a nationwide basis*
23 *shall establish (and thereafter maintain) a toll-free tele-*
24 *phone number for the purpose of making agency personnel*

1 *accessible to consumers for communicating with the agen-*
2 *cy.”.*

3 **SEC. 120. PREEMPTION OF STATE LAW.**

4 *Section 624 of the Fair Credit Reporting Act, as reded-*
5 *ignated by section 113(a) of this Act, is further amended—*

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

9 *(2) by adding at the end the following:*

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

12 *“(1) with respect to any subject matter regulated*
13 *under—*

14 *“(A) section 604(d), relating to the*
15 *prescreening of consumer reports;*

16 *“(B) section 611, relating to the time by*
17 *which a consumer reporting agency must take*
18 *any action, including the provision of notifica-*
19 *tion to a consumer or other person, in any pro-*
20 *cedure related to the disputed accuracy of infor-*
21 *mation in a consumer’s file;*

22 *“(C) section 615(a), relating to the duties of*
23 *a person who takes any adverse action with re-*
24 *spect to a consumer on the basis of information*
25 *contained in a consumer report;*

1 “(D) section 615(d), relating to the duties of
2 persons who use a consumer report of a
3 consumer in connection with any credit trans-
4 action which is not initiated by the consumer
5 and which consists of a firm offer of credit; or

6 “(E) section 605, relating to obsolete infor-
7 mation;

8 “(2) with respect to the exchange of information
9 among persons affiliated by common ownership or
10 common corporate control; or

11 “(3) with respect to the form and content of any
12 disclosure required to be made under section 609(c);
13 except that this subsection does not affect the applicability
14 of any State law in effect on the date of the enactment of
15 the Consumer Reporting Reform Act of 1994, or any settle-
16 ment, agreement, or consent judgment between any State
17 attorney general and any consumer reporting agency in ef-
18 fect on the date of enactment of the Consumer Reporting
19 Reform Act of 1994.”.

20 **SEC. 121. ACTION BY FTC.**

21 (a) *MODIFICATION OF REQUIREMENTS BY FTC AU-*
22 *THORIZED.—*

23 (1) *IN GENERAL.—*Section 621 of the Fair Credit
24 Reporting Act (15 U.S.C. 1681s), is further amended

1 *by adding after subsection (e) (as added by section*
2 *118 of this Act) the following:*

3 “(f) *MODIFICATION OF REQUIREMENTS BY FTC AU-*
4 *THORIZED.—If it considers such action necessary for the*
5 *protection of consumers, the Federal Trade Commission*
6 *may, after consultation with each Federal agency referred*
7 *to in section 621(b) and with appropriate State regulatory*
8 *and law enforcement agencies, promulgate regulations in*
9 *accordance with section 553 of title 5, United States Code,*
10 *to impose requirements—*

11 “(1) *that are more stringent than those imposed*
12 *under—*

13 “(A) *section 611, relating to the time by*
14 *which a consumer reporting agency must take*
15 *any action, including the provision of notifica-*
16 *tion to a consumer or other person, in any pro-*
17 *cedure related to the disputed accuracy of infor-*
18 *mation in a consumer’s file;*

19 “(B) *section 615(a), relating to the duties of*
20 *a person who takes any adverse action with re-*
21 *spect to a consumer on the basis of information*
22 *contained in a consumer report; or*

23 “(C) *section 615(d), relating to the duties of*
24 *persons who use a consumer report on a*
25 *consumer in connection with any credit trans-*

1 *action which is not initiated by the consumer*
2 *and that consists of a firm offer of credit; and*
3 “(2) *with respect to the form and content of any*
4 *disclosure required to be made under section 609(c).”.*

5 (2) *CLERICAL AMENDMENTS.—*

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

9 **“§ 621. Administrative enforcement and authorities;**
10 **State actions”.**

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

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

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

21 **SEC. 122. EFFECTIVE DATES OF AMENDMENTS.**

22 (a) *IN GENERAL.—Except as provided in subsection*
23 *(b), the amendments made by this title shall be effective*
24 *after the 455-day period beginning on the date of the enact-*
25 *ment of this Act.*

1 (b) *EXCEPTIONS.*—

2 (1) *NOTIFICATION SYSTEM.*—Section 604(d)(3) of
3 the Fair Credit Reporting Act, as amended by section
4 104(a), shall be effective after the 365-day period be-
5 ginning on the date of the enactment of this Act.

6 (2) *FTC AUTHORITY.*—Subsection (a) shall not
7 affect the authority of the Federal Trade Commission
8 to prescribe matters under the amendments made by
9 this title.

10 **SEC. 123. FURNISHING CONSUMER REPORTS TO FEDERAL**
11 **BUREAU OF INVESTIGATION FOR COUNTER-**
12 **INTELLIGENCE PURPOSES.**

13 (a) *PERMISSIBLE PURPOSE.*—Section 604 of the Fair
14 Credit Reporting Act (15 U.S.C. 1681b) is amended in sub-
15 section (a) (as designated by section 103(a)(1) of this Act)
16 by adding at the end the following:

17 “(4) To the Federal Bureau of Investigation in re-
18 sponse to a court order issued under section 625.”.

19 (b) *REQUIREMENTS FOR FEDERAL BUREAU OF INVES-*
20 *TIGATION TO OBTAIN AND USE CONSUMER REPORTS.*—

21 (1) *IN GENERAL.*—The Fair Credit Reporting
22 Act (15 U.S.C. 1601 et seq.) is amended by adding
23 at the end the following new section:

1 **“§ 625. Requirements for Federal Bureau of Investiga-**
2 **tion to obtain and use consumer reports**

3 “(a) *COURT ORDER.*—If requested in writing by the
4 Director of the Federal Bureau of Investigation or a des-
5 ignee of the Director, a court may issue an order *ex parte*
6 directing a consumer reporting agency to furnish a
7 consumer report to the Federal Bureau of Investigation,
8 upon a showing *in camera* that—

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

12 “(2) there are specific and articulable facts giv-
13 ing reason to believe that the consumer 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 Surveil-
19 lance Act of 1978 (50 U.S.C. 1801(c))) or clan-
20 destine intelligence activities that involve or may
21 involve a violation of criminal statutes of the
22 United States.

23 “(b) *USE OF CONSUMER REPORTS PROCURED BY*
24 *FEDERAL BUREAU OF INVESTIGATION.*—

1 “(1) *LIMITATION ON USE AND FURNISHING OF*
2 *CONSUMER REPORTS BY FBI.—The Federal Bureau of*
3 *Investigation—*

4 “(A) *shall not use a consumer report pro-*
5 *cured under section 604(a)(4) for any purpose*
6 *other than the investigation for which the*
7 *consumer report was procured; and*

8 “(B) *shall not furnish the consumer report*
9 *or any information obtained from the consumer*
10 *report to any other person, except to an officer*
11 *or employee of the Department of Justice as nec-*
12 *essary for approval or conduct of the investiga-*
13 *tion.*

14 “(2) *LIMITATION ON FURTHER DISSEMINATION*
15 *BY DEPARTMENT OF JUSTICE.—An officer or employee*
16 *of the Department of Justice shall not provide a*
17 *consumer report or information obtained from a*
18 *consumer report to any person except for purposes of*
19 *the investigation for which the consumer report was*
20 *procured under section 604(a)(4).*

21 “(3) *NOTIFICATION REGARDING COMPLETION OF*
22 *INVESTIGATION.—The Federal Bureau of Investiga-*
23 *tion, within 6 months after the completion of an in-*
24 *vestigation for which a consumer report is procured*
25 *under section 604(a)(4), shall notify the consumer re-*

1 *porting agency that furnished the report that the in-*
2 *vestigation is completed.*

3 *“(4) FURNISHING INFORMATION PURSUANT TO*
4 *SUBPOENA, COURT ORDER, OR ENFORCEMENT PRO-*
5 *CEEDING NOT PROHIBITED.—Nothing in paragraph*
6 *(1) or (2) shall be construed to prohibit the furnishing*
7 *of information pursuant to a subpoena or court order,*
8 *or in connection with a court proceeding to enforce*
9 *this title.*

10 *“(c) PROHIBITIONS ON DISCLOSURE.—*

11 *“(1) COURT OFFICER OR EMPLOYEE.—An officer*
12 *or employee of a court shall not disclose to any person*
13 *that the Federal Bureau of Investigation has sought*
14 *or obtained a consumer report under section*
15 *604(a)(4), except to the court or another officer or em-*
16 *ployee of the court in connection with the issuance of*
17 *an order under subsection (a) with respect to the re-*
18 *port.*

19 *“(2) CONSUMER REPORTING AGENCY OFFICER OR*
20 *EMPLOYEE.—An officer or employee of a consumer re-*
21 *porting agency shall not disclose to any person that*
22 *the Federal Bureau of Investigation has sought or ob-*
23 *tained a consumer report under section 604(a)(4), ex-*
24 *cept—*

1 “(A) for the purpose of furnishing the report
2 to the Federal Bureau of Investigation; or

3 “(B) to the court or an officer or employee
4 of the court in connection with the issuance of an
5 order under subsection (a) with respect to the re-
6 port.

7 “(3) *PENALTY.*—A person that knowingly and
8 willfully violates paragraph (1) or (2) shall be fined
9 under title 18, United States Code, or imprisoned not
10 more than 2 years, or both.

11 “(d) *DISCLOSURE TO CONSUMER.*—

12 “(1) *NOTICE OF COMPLETION OF INVESTIGATION*
13 *REQUIRED.*—Notwithstanding section 609(a)(3) and
14 subject to paragraph (2), a consumer reporting agen-
15 cy shall not disclose under that section the identity of
16 the Federal Bureau of Investigation or that the agen-
17 cy has furnished a consumer report to the Federal
18 Bureau of Investigation, unless the consumer report-
19 ing agency has received from the Federal Bureau of
20 Investigation a notice under subsection (b)(3) of the
21 completion of the investigation with respect to which
22 the report was furnished.

23 “(2) *DISCLOSURES REQUIRED.*—A consumer re-
24 porting agency shall include with a disclosure to a
25 consumer under section 609(a) information in its files

1 on the consumer regarding the furnishing of a
2 consumer report to, or the making of any inquiry by,
3 the Federal Bureau of Investigation with respect to
4 an investigation for which the consumer reporting
5 agency received from the Federal Bureau of Investiga-
6 tion a notice of completion of the investigation in the
7 year preceding the request from the consumer for the
8 disclosure.

9 “(e) *CIVIL LIABILITY FOR VIOLATIONS.*—For each vio-
10 lation of subsection (b) (1) or (2) with respect to a consumer
11 report on a consumer, the Federal Bureau of Investigation
12 or the Department of Justice, respectively, is liable to the
13 consumer for an amount equal to the sum of—

14 “(1) the greater of—

15 “(A) actual damages sustained by the
16 consumer as a result of the violation and such
17 amount of punitive damages as the court may
18 allow; or

19 “(B) \$500; plus

20 “(2) in a successful action to enforce any liabil-
21 ity under this section, the costs of the action and rea-
22 sonable attorneys’ fees as determined by the court.

23 “(f) *INJUNCTIVE RELIEF.*—Any person may bring an
24 action to enjoin a violation of this section.

1 “(g) *EXCLUSIVE REMEDIES.*—No action for relief for
2 a violation of subsection (b) (1) or (2) may be brought ex-
3 cept under subsection (e) or (f).

4 “(h) *SEMIANNUAL REPORTS.*—The Attorney General
5 shall, on a semiannual basis, fully inform the Permanent
6 Select Committee on Intelligence and the Committee on
7 Banking, Finance and Urban Affairs of the House of Rep-
8 resentatives and the Select Committee on Intelligence and
9 the Committee on Banking, Housing, and Urban Affairs
10 of the Senate concerning all requests made by the Director
11 of the Federal Bureau of Investigation or a designee of the
12 Director for a court to issue an order under this section
13 directing a consumer reporting agency to furnish a
14 consumer report to the Federal Bureau of Investigation.”.

15 (2) *CLERICAL AMENDMENT.*—The table of sec-
16 tions at the beginning of the Fair Credit Reporting
17 Act (15 U.S.C. 1681a et seq.), as amended by section
18 113(b) of this Act, is further amended by adding at
19 the end the following:

“625. Requirements for Federal Bureau of Investigation to obtain and use
consumer reports.”.

20 (c) *REPEAL OF PROVISIONS.*—

21 (1) *REPEAL.*—The following provisions of the
22 Fair Credit Reporting Act, as amended by this sec-
23 tion, are repealed:

24 (A) Section 604(a)(4).

1 (B) Section 625.

2 (C) In the table of contents at the beginning
3 of the Fair Credit Reporting Act, the item relat-
4 ing to section 625.

5 (2) *EFFECTIVE DATE.*—Paragraph (1) shall take
6 effect on the date that is 5 years after the date of the
7 enactment of this Act.

8 **TITLE II—CREDIT REPAIR**
9 **ORGANIZATIONS**

10 **SEC. 201. REGULATION OF CREDIT REPAIR ORGANIZA-**
11 **TIONS.**

12 Title IV of the Consumer Credit Protection Act is
13 amended to read as follows:

14 **“TITLE IV—CREDIT REPAIR**
15 **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.

16 **“SEC. 401. SHORT TITLE.**

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

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

2 “(a) *FINDINGS.*—*The Congress makes the following*
3 *findings:*

4 “(1) *Consumers have a vital interest in establish-*
5 *ing and maintaining their creditworthiness and cred-*
6 *it standing in order to obtain and use credit. As a*
7 *result, consumers who have experienced credit prob-*
8 *lems may seek assistance from credit repair organiza-*
9 *tions which offer to improve the credit standing of*
10 *such consumers.*

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

17 “(b) *PURPOSES.*—*The purposes of this title are as fol-*
18 *lows:*

19 “(1) *To ensure that prospective buyers of the*
20 *services of credit repair organizations are provided*
21 *with the information necessary to make an informed*
22 *decision regarding the purchase of such services.*

23 “(2) *To protect the public from unfair or decep-*
24 *tive advertising and business practices by credit re-*
25 *pair organizations.*

1 **“SEC. 403. DEFINITIONS.**

2 *“For purposes of this title—*

3 *“(1) CONSUMER.—The term ‘consumer’ means*
4 *an individual.*

5 *“(2) CONSUMER CREDIT TRANSACTION.—The*
6 *term ‘consumer credit transaction’ means any trans-*
7 *action in which credit is offered or extended to an in-*
8 *dividual for personal, family, or household purposes.*

9 *“(3) CREDIT REPAIR ORGANIZATION.—The term*
10 *‘credit repair organization’—*

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

18 *“(i) improving any consumer’s credit*
19 *record, credit history, or credit rating; or*

20 *“(ii) providing advice or assistance to*
21 *any consumer with regard to any activity*
22 *or service described in clause (i); and*

23 *“(B) does not include—*

24 *“(i) any nonprofit organization which*
25 *is exempt from taxation under section*

1 501(c)(3) of the Internal Revenue Code of
2 1986; or

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

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

12 **“SEC. 404. PROHIBITED PRACTICES.**

13 “(a) IN GENERAL.—No person may—

14 “(1) make any statement, or counsel or advise
15 any consumer to make any statement, which is un-
16 true or misleading (or which, upon the exercise of rea-
17 sonable care, should be known by the credit repair or-
18 ganization, officer, employee, agent, or other person to
19 be untrue or misleading) with respect to any consum-
20 er’s creditworthiness, credit standing, or credit capac-
21 ity to—

22 “(A) any consumer reporting agency (as de-
23 fined in section 603(f) of this Act); or

24 “(B) any person—

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

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

6 “(2) make any statement, or counsel or advise
7 any consumer to make any statement, the intended ef-
8 fect of which is to alter the consumer’s identification
9 to prevent the display of the consumer’s credit record,
10 history, or rating for the purpose of concealing ad-
11 verse information that is accurate and not obsolete
12 to—

13 “(A) any consumer reporting agency;

14 “(B) any person—

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

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

20 “(3) make or use any untrue or misleading rep-
21 resentation of the services of the credit repair organi-
22 zation; or

23 “(4) engage, directly or indirectly, in any act,
24 practice, or course of business that constitutes or re-
25 sults in the commission of, or an attempt to commit,

1 *a fraud or deception on any person in connection*
2 *with the offer or sale of the services of the credit re-*
3 *pair organization.*

4 “(b) *PAYMENT IN ADVANCE.*—No credit repair organi-
5 zation may charge or receive any money or other valuable
6 consideration for the performance of any service which the
7 credit repair organization has agreed to perform for any
8 consumer before such service is fully performed.

9 “**SEC. 405. DISCLOSURES.**

10 “(a) *DISCLOSURE REQUIRED.*—Any credit repair or-
11 ganization shall provide any consumer with the following
12 written statement before any contract or agreement between
13 the consumer and the credit repair organization is executed:

14 “**“Consumer Credit File Rights**
15 **Under State and Federal Law**

16 “‘You have a right to dispute inaccurate information
17 in your credit report by contacting the credit bureau di-
18 rectly. However, neither you nor any “credit repair” com-
19 pany or credit repair organization has the right to have
20 accurate, current, and verifiable information removed from
21 your credit report. The credit bureau must remove accurate,
22 negative information from your report only if it is over 7
23 years old. Bankruptcy information can be reported for 10
24 years.

1 *“You have a right to obtain a copy of your credit*
2 *report from a credit bureau. You may be charged a reason-*
3 *able fee. There is no fee, however, if you have been turned*
4 *down for credit, employment, insurance, or a rental dwell-*
5 *ing because of information in your credit report within the*
6 *preceding 60 days. The credit bureau must provide someone*
7 *to help you interpret the information in your credit file.*
8 *A copy of your credit report is available to you at no charge*
9 *once a year upon request.*

10 *“You have a right to sue a credit repair organization*
11 *that violates the Credit Repair Organization Act. This law*
12 *prohibits deceptive practices by credit repair organizations.*

13 *“You have the right to cancel your contract with any*
14 *credit repair organization for any reason within 3 business*
15 *days from the date you signed it.*

16 *“Credit bureaus are required to follow reasonable pro-*
17 *cedures to ensure that the information they report is accu-*
18 *rate. However, mistakes may occur.*

19 *“You may, on your own, notify a credit bureau in*
20 *writing that you dispute the accuracy of information in*
21 *your credit file. The credit bureau must then reinvestigate*
22 *and modify or remove inaccurate or incomplete informa-*
23 *tion. The credit bureau may not charge any fee for this*
24 *service. Any pertinent information and copies of all docu-*

1 ments you have concerning an error should be given to the
2 credit bureau.

3 “‘If the credit bureau’s reinvestigation does not resolve
4 the dispute to your satisfaction, you may send a brief state-
5 ment to the credit bureau, to be kept in your file, explaining
6 why you think the record is inaccurate. The credit bureau
7 must include a summary of your statement about disputed
8 information with any report it issues about you.

9 “‘The Federal Trade Commission regulates credit bu-
10 reaus and credit repair organizations. For more informa-
11 tion contact:

12 *The Public Reference Branch*

13 *Federal Trade Commission*

14 *Washington, D.C. 20580’.*

15 “(b) *SEPARATE STATEMENT REQUIREMENT.*—The
16 written statement required under this section shall be pro-
17 vided as a document which is separate from any written
18 contract or other agreement between the credit repair orga-
19 nization and the consumer or any other written material
20 provided to the consumer.

21 “(c) *RETENTION OF COMPLIANCE RECORDS.*—

22 “(1) *IN GENERAL.*—The credit repair organiza-
23 tion shall maintain a copy of the statement signed by
24 the consumer acknowledging receipt of the statement.

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

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

6 “(a) *WRITTEN CONTRACTS REQUIRED.*—*No services*
7 *may be provided by any credit repair organization for any*
8 *consumer—*

9 “(1) *unless a written and dated contract (for the*
10 *purchase of such services) which meets the require-*
11 *ments of subsection (b) has been signed by the*
12 *consumer; or*

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

15 “(b) *TERMS AND CONDITIONS OF CONTRACT.*—*No con-*
16 *tract referred to in subsection (a) meets the requirements*
17 *of this subsection unless such contract includes the following*
18 *information (in writing):*

19 “(1) *The terms and conditions of payment, in-*
20 *cluding the total amount of all payments to be made*
21 *by the consumer to the credit repair organization or*
22 *to any other person.*

23 “(2) *A full and detailed description of the serv-*
24 *ices to be performed by the credit repair organization*
25 *for the consumer, including—*

1 “(A) all guarantees of performance; and

2 “(B) an estimate of—

3 “(i) the date by which the performance
4 of the services (to be performed by the credit
5 repair organization or any other person)
6 will be complete; or

7 “(ii) the length of the period necessary
8 to perform such services.

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

11 “(4) A conspicuous statement in bold face type,
12 in immediate proximity to the space reserved for the
13 consumer’s signature on the contract, which reads as
14 follows: ‘You may cancel this contract without pen-
15 alty or obligation at any time before midnight of the
16 3rd business day after the date on which you signed
17 the contract. See the attached notice of cancellation
18 form for an explanation of this right.’

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

20 “(a) *IN GENERAL.*—Any consumer may cancel any
21 contract with any credit repair organization without pen-
22 alty or obligation by notifying the credit repair organiza-
23 tion of the consumer’s intention to do so at any time before
24 midnight of the 3rd business day which begins after the date
25 on which the contract or agreement between the consumer

1 *and the credit repair organization is executed or would, but*
2 *for this subsection, become enforceable against the parties.*

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

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

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

16 *“‘I hereby cancel this transaction,*
17 *[date]*
18 *[purchaser’s signature].’.*

19 “(c) *CONSUMER COPY OF CONTRACT REQUIRED.—Any*
20 *consumer who enters into any contract with any credit re-*
21 *pair organization shall be given, by the organization—*

22 *“(1) a copy of the completed contract and the*
23 *disclosure statement required under section 405; and*

24 *“(2) a copy of any other document the credit re-*
25 *pair organization requires the consumer to sign,*

1 *at the time the contract or the other document is signed.*

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

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

6 *“(1) shall be treated as void; and*

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

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

13 *“(c) CONTRACTS NOT IN COMPLIANCE.—Any contract*
14 *for services which does not comply with the applicable pro-*
15 *visions of this title—*

16 *“(1) shall be treated as void; and*

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

19 ***“SEC. 409. CIVIL LIABILITY.***

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

25 *“(1) ACTUAL DAMAGES.—The greater of—*

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

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

6 “(2) *PUNITIVE DAMAGES.—*

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

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

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

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

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

23 “(b) *FACTORS TO BE CONSIDERED IN AWARDING PU-*
24 *NITIVE DAMAGES.—In determining the amount of any li-*
25 *ability of any credit repair organization under subsection*

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

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

5 “(2) the nature of the noncompliance;

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

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

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

11 “(a) *IN GENERAL.*—Compliance with the requirements
12 imposed under this title with respect to credit repair orga-
13 nizations shall be enforced under the Federal Trade Com-
14 mission Act by the Federal Trade Commission.

15 “(b) *VIOLATIONS OF THIS TITLE TREATED AS VIOLA-*
16 *TIONS OF FEDERAL TRADE COMMISSION ACT.*—

17 “(1) *IN GENERAL.*—For the purpose of the exer-
18 cise by the Federal Trade Commission of the Commis-
19 sion’s functions and powers under the Federal Trade
20 Commission Act, any violation of any requirement or
21 prohibition imposed under this title with respect to
22 credit repair organizations shall constitute an unfair
23 or deceptive act or practice in commerce in violation
24 of section 5(a) of the Federal Trade Commission Act.

1 “(2) *ENFORCEMENT AUTHORITY UNDER OTHER*
2 *LAW.—All functions and powers of the Federal Trade*
3 *Commission under the Federal Trade Commission Act*
4 *shall be available to the Commission to enforce com-*
5 *pliance with this title by any person subject to en-*
6 *forcement by the Federal Trade Commission pursuant*
7 *to this subsection, including the power to enforce the*
8 *provisions of this title in the same manner as if the*
9 *violation had been a violation of any Federal Trade*
10 *Commission trade regulation rule, without regard to*
11 *whether the credit repair organization—*

12 “(A) *is engaged in commerce; or*

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

15 “(c) *STATE ACTION FOR VIOLATIONS.—*

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

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

24 “(B) *may bring an action on behalf of its*
25 *residents to recover damages for which the person*

1 *is liable to such residents under section 409 as*
2 *a result of the violation; and*

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

7 *“(2) RIGHTS OF COMMISSION.—*

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

16 *“(B) INTERVENTION.—The Commission*
17 *shall have the right—*

18 *“(i) to intervene in any action referred*
19 *to in subparagraph (A);*

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

22 *“(iii) to file petitions for appeal.*

23 *“(3) INVESTIGATORY POWERS.—For purposes of*
24 *bringing any action under this subsection, nothing in*
25 *this subsection shall prevent the chief law enforcement*

1 *officer, or an official or agency designated by a State,*
2 *from exercising the powers conferred on the chief law*
3 *enforcement officer or such official by the laws of such*
4 *State to conduct investigations or to administer oaths*
5 *or affirmations or to compel the attendance of wit-*
6 *nesses or the production of documentary and other*
7 *evidence.*

8 “(4) *LIMITATION.*—*Whenever the Federal Trade*
9 *Commission has instituted a civil action for violation*
10 *of this title, no State may, during the pendency of*
11 *such action, bring an action under this section*
12 *against any defendant named in the complaint of the*
13 *Commission for any violation of this title that is al-*
14 *leged in that complaint.*

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

16 “*Any action to enforce any liability under this title*
17 *may be brought before the later of—*

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

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

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

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

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

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

13 **“SEC. 413. EFFECTIVE DATE.**

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

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