

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1478

To protect the privacy of the individual with respect to the Social Security number and other personal information, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 4, 2001

Mr. KLECZKA introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To protect the privacy of the individual with respect to the Social Security number and other personal information, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Personal Information  
5       Privacy Act of 2001”.

1 **SEC. 2. CONFIDENTIAL TREATMENT OF CREDIT HEADER**  
2 **INFORMATION.**

3 Section 603(d) of the Fair Credit Reporting Act (15  
4 U.S.C. 1681a(d)) is amended by inserting after the first  
5 sentence the following: “The term also includes any other  
6 identifying information of the consumer, except the name,  
7 address, and telephone number of the consumer if listed  
8 in a residential telephone directory available in the locality  
9 of the consumer.”.

10 **SEC. 3. PROTECTING PRIVACY BY PROHIBITING USE OF**  
11 **THE SOCIAL SECURITY NUMBER FOR COM-**  
12 **MERCIAL PURPOSES WITHOUT CONSENT.**

13 (a) IN GENERAL.—Part A of title XI of the Social  
14 Security Act (42 U.S.C. 1301 et seq.) is amended by add-  
15 ing at the end the following:

16 “PROHIBITION OF CERTAIN MISUSES OF THE SOCIAL  
17 SECURITY ACCOUNT NUMBER

18 “SEC. 1148. (a) PROHIBITION OF COMMERCIAL AC-  
19 QUISSION OR DISTRIBUTION.—No person may buy, sell,  
20 offer for sale, take or give in exchange, or pledge or give  
21 in pledge any information for the purpose, in whole or in  
22 part, of conveying by means of such information any indi-  
23 vidual’s social security account number, or any derivative  
24 of such number, without the written consent of such indi-  
25 vidual.

1       “(b) PROHIBITION OF USE AS PERSONAL IDENTIFI-  
2       FICATION NUMBER.—No person may utilize any individ-  
3       ual’s social security account number, or any derivative of  
4       such number, for purposes of identification of such indi-  
5       vidual without the written consent of such individual.

6       “(c) PREREQUISITES FOR CONSENT.—In order for  
7       consent to exist under subsection (a) or (b), the person  
8       engaged in, or seeking to engage in, an activity described  
9       in such subsection shall—

10               “(1) inform the individual of all the purposes  
11               for which the number will be utilized and the per-  
12               sons to whom the number will be known; and

13               “(2) obtain affirmatively expressed consent in  
14               writing.

15       “(d) EXCEPTIONS.—Nothing in this section shall be  
16       construed to prohibit any use of social security account  
17       numbers permitted or required under section 205(c)(2) of  
18       this Act, section 7(a)(2) of the Privacy Act of 1974 (5  
19       U.S.C. 552a note; 88 Stat. 1909), or section 6109(d) of  
20       the Internal Revenue Code of 1986.

21       “(e) CIVIL ACTION IN UNITED STATES DISTRICT  
22       COURT; DAMAGES; ATTORNEYS FEES AND COSTS; NON-  
23       EXCLUSIVE NATURE OF REMEDY.—

24               “(1) IN GENERAL.—Any individual aggrieved  
25       by any act of any person in violation of this section

1 may bring a civil action in a United States district  
2 court to recover—

3 “(A) such preliminary and equitable relief  
4 as the court determines to be appropriate; and

5 “(B) the greater of—

6 “(i) actual damages; and

7 “(ii) liquidated damages of \$25,000  
8 or, in the case of a violation that was will-  
9 ful and resulted in profit or monetary gain,  
10 \$50,000.

11 “(2) ATTORNEY’S FEES AND COSTS.—In the  
12 case of a civil action brought under paragraph (1)  
13 in which the aggrieved individual has substantially  
14 prevailed, the court may assess against the respond-  
15 ent a reasonable attorney’s fee and other litigation  
16 costs and expenses (including expert fees) reasonably  
17 incurred.

18 “(3) STATUTE OF LIMITATIONS.—No action  
19 may be commenced under this subsection more than  
20 3 years after the date on which the violation was or  
21 should reasonably have been discovered by the ag-  
22 grieved individual.

23 “(4) NONEXCLUSIVE REMEDY.—The remedy  
24 provided under this subsection shall be in addition to  
25 any other lawful remedy available to the individual.

1 “(f) CIVIL MONEY PENALTIES.—

2 “(1) IN GENERAL.—Any person who the Com-  
3 missioner of Social Security determines has violated  
4 this section shall be subject, in addition to any other  
5 penalties that may be prescribed by law, to—

6 “(A) a civil money penalty of not more  
7 than \$25,000 for each such violation, and

8 “(B) a civil money penalty of not more  
9 than \$500,000, if violations have occurred with  
10 such frequency as to constitute a general busi-  
11 ness practice.

12 “(2) DETERMINATION OF VIOLATIONS.—Any  
13 violation committed contemporaneously with respect  
14 to the social security account numbers of 2 or more  
15 individuals by means of mail, telecommunication, or  
16 otherwise shall be treated as a separate violation  
17 with respect to each such individual.

18 “(3) ENFORCEMENT PROCEDURES.—The provi-  
19 sions of section 1128A (other than subsections (a),  
20 (b), (f), (h), (i), (j), and (m), and the first sentence  
21 of subsection (c)) and the provisions of subsections  
22 (d) and (e) of section 205 shall apply to civil money  
23 penalties under this subsection in the same manner  
24 as such provisions apply to a penalty or proceeding  
25 under section 1128A(a), except that, for purposes of

1 this paragraph, any reference in section 1128A to  
2 the Secretary shall be deemed a reference to the  
3 Commissioner of Social Security.

4 “(4) COORDINATION WITH CRIMINAL ENFORCE-  
5 MENT.—The Commissioner of Social Security shall  
6 take such actions as are necessary and appropriate  
7 to assure proper coordination of the enforcement of  
8 the provisions of this section with criminal enforce-  
9 ment under section 1028 of title 18, United States  
10 Code (relating to fraud and related activity in con-  
11 nection with identification documents). The Commis-  
12 sioner shall enter into cooperative arrangements with  
13 the Federal Trade Commission under section 5 of  
14 the Identity Theft and Assumption Deterrence Act  
15 of 1998 for purposes of achieving such coordination.

16 “(g) REGULATION BY STATES.—Nothing in this sec-  
17 tion shall be construed to prohibit any State authority  
18 from enacting or enforcing laws consistent with this sec-  
19 tion for the protection of privacy.”.

20 (b) EFFECTIVE DATE.—The amendment made by  
21 subsection (a) applies with respect to violations occurring  
22 on and after the date which is 2 years after the date of  
23 enactment of this Act.

24 (c) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—Any  
25 person who refuses to do business with an individual be-

1 cause the individual will not consent to that person receiv-  
2 ing the social security number of such individual shall be  
3 considered to have committed an unfair or deceptive act  
4 or practice in violation of section 5 of the Federal Trade  
5 Commission Act (15 U.S.C. 45). Action may be taken  
6 under such section 5 against such a person.

7 **SEC. 4. REPEAL OF CERTAIN PROVISIONS RELATING TO**  
8 **DISTRIBUTION OF CONSUMER REPORTS IN**  
9 **CONNECTION WITH CERTAIN TRANSACTIONS**  
10 **NOT INITIATED BY THE CONSUMER.**

11 (a) IN GENERAL.—Paragraph (1) of section 604(c)  
12 of the Fair Credit Reporting Act (15 U.S.C. 1681b(c))  
13 is amended by striking “any credit or insurance trans-  
14 action that is not initiated by the consumer only if—” and  
15 all that follows through the end of such paragraph and  
16 inserting “any credit or insurance transaction that is not  
17 initiated by the consumer only if the consumer provides  
18 express written authorization, in accordance with para-  
19 graph (2), to the agency to provide such report in connec-  
20 tion with any such transaction.”

21 (b) FULL DISCLOSURE REQUIRED.—Paragraph (2)  
22 of section 604(c) of the Fair Credit Reporting Act (15  
23 U.S.C. 1681b(c)) is amended to read as follows:

24 “(2) FULL DISCLOSURE REQUIRED.—

1           “(A) IN GENERAL.—No authorization re-  
2           ferred to in paragraph (1) with respect to any  
3           consumer shall be effective unless the consumer  
4           receives a notice before such authorization is  
5           provided which fully and fairly discloses, in ac-  
6           cordance with regulations which the Federal  
7           Trade Commission and the Board of Governors  
8           of the Federal Reserve System shall jointly pre-  
9           scribe, what specifically is being authorized by  
10          the consumer and the potential positive and  
11          negative effects the provision of such authoriza-  
12          tion will have on the consumer.

13          “(B) FORM OF NOTICE.—The regulations  
14          prescribed pursuant to subparagraph (A) shall  
15          require that the notice required under such  
16          subparagraph—

17                 “(i) be prominently displayed on a  
18                 document which is separate from any other  
19                 document; or

20                 “(ii) if the notice appears on a docu-  
21                 ment with other information, be placed in  
22                 a clear and conspicuous location on such  
23                 document and appear in type face which is  
24                 more conspicuous than the type face used

1                   for any other information on such docu-  
2                   ment.”.

3           (c) TECHNICAL AND CONFORMING AMENDMENT.—  
4 Subsection (e) of section 604 of the Fair Credit Reporting  
5 Act (15 U.S.C. 1681b) is amended to read as follows:

6           “(e) [Repealed]”.

7 **SEC. 5. SALE OR TRANSFER OF TRANSACTION OR EXPERI-**  
8                   **ENCE INFORMATION PROHIBITED.**

9           (a) IN GENERAL.—The Fair Credit Reporting Act  
10 (15 U.S.C. 1681 et seq.) is amended by adding at the end  
11 the following new section:

12 **“§ 626. Transaction or experience information**

13           “(a) IN GENERAL.—No person doing business with  
14 a consumer may sell, transfer, or otherwise provide to any  
15 other person, for the purpose of marketing such informa-  
16 tion to any other person, any transaction or experience  
17 information without the consumer’s express written con-  
18 sent.

19           “(b) TRANSACTION OR EXPERIENCE INFORMATION  
20 DEFINED.—For purposes of this section, the term ‘trans-  
21 action or experience information’ means any information  
22 identifying the content or subject of 1 or more trans-  
23 actions between the consumer and a person doing business  
24 with a consumer, including any component part of any  
25 transaction, any brand name involved, or any quantity or

1 category of merchandise involved in any part of the trans-  
2 action.

3 “(c) EXCEPTIONS.—Subsection (a) shall not apply  
4 with respect to the following:

5 “(1) Communication of transaction or experi-  
6 ence information solely among persons related by  
7 common ownership or affiliated by corporate control.

8 “(2) Information provided pursuant to the  
9 order of a court having jurisdiction to issue such  
10 order or pursuant to a subpoena issued in connec-  
11 tion with proceedings before a Federal grand jury.

12 “(3) Information provided in connection with  
13 the licensing or registration by a government agency  
14 or department, or any transfer of such license or  
15 registration, of any personal property bought, sold,  
16 or transferred by the consumer.

17 “(4) Information required to be provided in  
18 connection with any transaction in real estate.

19 “(5) Information required to be provided in  
20 connection with perfecting a security interest in per-  
21 sonal property.

22 “(6) Information relating to the amount of any  
23 transaction or any credit extended in connection  
24 with a transaction with a consumer.”.

1           (b) TECHNICAL AND CONFORMING AMENDMENT.—  
2 Section 603(d)(2)(A) is amended by striking “(A) any—  
3 ” and inserting “(A) subject to section 626, any—”.

4           (c) CLERICAL AMENDMENT.—The table of sections  
5 for the Fair Credit Reporting Act is amended by adding  
6 at the end the following new item:

“626. Transaction or experience information.”.

