

107TH CONGRESS  
2D SESSION

# H. R. 5474

To amend the Gramm-Leach-Bliley Act to further protect customers of financial institutions whose identities are stolen from the financial institution, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 2002

Mr. KLECZKA (for himself and Mr. RYAN of Wisconsin) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Gramm-Leach-Bliley Act to further protect customers of financial institutions whose identities are stolen from the financial institution, 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 “Identity Theft Con-  
5       sumer Notification Act”.

1 **SEC. 2. FINANCIAL INSTITUTION'S OBLIGATION TO**  
2 **PROMPTLY NOTIFY AND ASSIST CUSTOMERS**  
3 **WHOSE PERSONAL INFORMATION IS COM-**  
4 **PROMISED.**

5 (a) PROMPT NOTICE AND ASSISTANCE.—Section  
6 503(b) of the Gramm-Leach-Bliley Act (15 U.S.C.  
7 6803(b)) is amended—

8 (1) by striking “and” at the end of paragraph  
9 (3);

10 (2) by striking the period at the end of para-  
11 graph (4) and inserting “; and”; and

12 (3) by inserting after paragraph (4) the fol-  
13 lowing new paragraph:

14 “(5) a statement that, upon discovering that  
15 the confidentiality or security of any nonpublic per-  
16 sonal information maintained by the financial insti-  
17 tution with respect to consumer has been com-  
18 promised in any way by an employee of the financial  
19 institution, or through any unauthorized entry into  
20 the records of the financial institution, the financial  
21 institution is obligated—

22 “(A) to promptly notify the consumer of  
23 the compromise of the security or confiden-  
24 tiality of such information, and any misuse of  
25 such information, that the financial institution

1 discovers or reasonably should discover has oc-  
2 curred;

3 “(B) to provide assistance to the consumer  
4 to remedy any such compromise, including the  
5 duty of the financial institution under the Fair  
6 Credit Reporting Act to correct and update in-  
7 formation contained in a consumer report relat-  
8 ing to such consumer;

9 “(C) to reimburse the consumer for any  
10 losses the consumer incurred as a result of the  
11 compromise of the security or confidentiality of  
12 such information, and any misuse of such infor-  
13 mation, including any fees for obtaining, inves-  
14 tigating, and correcting a consumer report of  
15 such consumer at any consumer reporting agen-  
16 cy; and

17 “(D) to provide information concerning the  
18 manner in which the consumer can obtain such  
19 assistance.”.

20 (b) WAIVER OF DISCLOSURE AT REQUEST OF LAW  
21 ENFORCEMENT AGENCY FOR LIMITED TIME.—Section  
22 503 of the Gramm-Leach-Bliley Act (15 U.S.C. 6803) is  
23 amended by adding at the end the following new sub-  
24 section:

1       “(c) WAIVER OF DISCLOSURE AT REQUEST OF LAW  
2 ENFORCEMENT AGENCY FOR LIMITED TIME.—A finan-  
3 cial institution may delay notifying a consumer that the  
4 confidentiality or security of any nonpublic personal infor-  
5 mation of the consumer maintained by the financial insti-  
6 tution has been compromised at the request of a law en-  
7 forcement agency investigating such violation for such lim-  
8 ited period of time as the law enforcement agency deter-  
9 mines is essential for carrying out the investigation.”.

10       (c) PENALTIES FOR FAILURE TO NOTIFY CUS-  
11 TOMERS OF IDENTITY THEFT.—Section 503 of the  
12 Gramm-Leach-Bliley Act (15 U.S.C. 6803) is amended by  
13 inserting after subsection (c) (as added by subsection (b)  
14 of this section) the following new subsection:

15       “(d) PENALTIES FOR FAILURE TO NOTIFY AND AS-  
16 SIST CUSTOMERS AFTER IDENTITY THEFT.—The failure  
17 of any financial institution to promptly notify any con-  
18 sumer that the confidentiality or security of any nonpublic  
19 personal information of the consumer maintained by the  
20 financial institution has been compromised in any way by  
21 an employee of the financial institution or through any  
22 unauthorized entry into the records of the financial insti-  
23 tution, to provide assistance to such consumer, or to reim-  
24 burse the consumer for any loss or fee described sub-  
25 section (b)(5)(C) shall be treated as a violation of—

1 “(1) this title for purposes of enforcement ac-  
2 tions required under section 505; and

3 “(2) the requirements of section 623(a)(2) of  
4 the Fair Credit Reporting Act to correct and update  
5 information concerning the consumer in a consumer  
6 report at a consumer reporting agency.”.

7 **SEC. 3. ADDITIONAL PROTECTION FOR VICTIMS OF IDEN-**  
8 **TITY THEFT.**

9 Section 618 of the Fair Credit Reporting Act (15  
10 U.S.C. 1681p) is amended to read as follows:

11 **“SEC. 618. JURISDICTION OF COURTS; LIMITATIONS OF AC-**  
12 **TIONS.**

13 “(a) IN GENERAL.—An action to enforce any liability  
14 created under this title may be brought in any appropriate  
15 United States district court, without regard to the amount  
16 in controversy, or in any other court of competent jurisdic-  
17 tion, not later than 2 years after the date on which the  
18 violation is discovered or should have been discovered by  
19 the exercise of reasonable diligence.

20 “(b) WILLFUL MISREPRESENTATION.—The limita-  
21 tions period prescribed in subsection (a) shall be tolled  
22 during any period during which a defendant has materially  
23 and willfully misrepresented any information required  
24 under this title to be disclosed to an individual, and the  
25 information so misrepresented is material to the establish-

1 ment of the liability of the defendant to that individual  
2 under this title.”.

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