

107TH CONGRESS
1ST SESSION

S. 1242

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

IN THE SENATE OF THE UNITED STATES

JULY 25, 2001

Mr. SCHUMER (for himself and Mr. ALLARD) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Consumer Credit Score
5 Disclosure Act of 2001”.

6 **SEC. 2. DEFINITIONS.**

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

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

2 In this title—

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

6 “(A) the term ‘credit score’—

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

12 “(ii) does not include—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(B) if the user of the credit score information obtained such information from a third party that developed such information, (other than a consumer reporting agency or the user itself) only—

“(i) a copy of the information described in section 609(a)(6) provided to the user by the person or entity that developed the credit score; and

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

“(2) RULE OF CONSTRUCTION.—This subsection may not be construed to require the user of a credit score described in paragraph (1)—

“(A) to explain to the consumer the information provided pursuant to section 609(a)(6), unless that information was developed by the user;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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