

108TH CONGRESS
1ST SESSION

S. 223

To prevent identity theft, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 28, 2003

Mrs. FEINSTEIN (for herself, Mr. GRASSLEY, Mr. CORZINE, and Mr. GREGG)
introduced the following bill; which was read twice and referred to the
Committee on Banking, Housing, and Urban Affairs

A BILL

To prevent identity theft, 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 Preven-
5 tion Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the crime of identity theft has become one
9 of the major law enforcement challenges of the new
10 economy, as vast quantities of sensitive, personal in-

1 formation are now vulnerable to criminal intercep-
2 tion and misuse;

3 (2) in November 2002, Americans were alerted
4 to the dangers of identity theft when Federal pros-
5 ecutors announced that 3 individuals had allegedly
6 sold the credit and personal information of 30,000
7 people, the largest single identity theft case in
8 United States history;

9 (3) hundreds of thousands of Americans are
10 victims of identity theft each year, resulting in an
11 annual cost to industry of more than
12 \$3,500,000,000.

13 (4) several indicators reveal that despite in-
14 creased public awareness of the crime, the number
15 of incidents of identity theft continues to rise;

16 (5) in December 2001, the Federal Trade Com-
17 mission received an average of more than 3,000
18 identity theft calls per week, a 700 percent increase
19 since the Identity Theft Data Clearinghouse began
20 operation in November 1999;

21 (6) allegations of social security number fraud
22 increased by 500 percent between 1998 and 2001,
23 from 11,000 to 65,000;

1 (7) a national credit reporting agency reported
 2 that consumer requests for fraud alerts increased by
 3 53 percent during fiscal year 2001;

4 (8) identity theft violates the privacy of Amer-
 5 ican citizens and ruins their good names;

6 (9) victims of identity theft may suffer re-
 7 stricted access to credit and diminished employment
 8 opportunities, and may spend years repairing the
 9 damage to credit histories caused by identity theft;

10 (10) businesses and government agencies that
 11 handle sensitive personal information of consumers
 12 have a responsibility to protect this information from
 13 identity thieves; and

14 (11) the private sector can better protect con-
 15 sumers by implementing effective fraud alerts, af-
 16 fording greater consumer access to credit reports,
 17 truncating of credit card numbers, and establishing
 18 other prevention measures.

19 **SEC. 3. IDENTITY THEFT PREVENTION.**

20 (a) CHANGES OF ADDRESS.—

21 (1) DUTY OF ISSUERS OF CREDIT.—Section
 22 132 of the Truth in Lending Act (15 U.S.C. 1642)
 23 is amended—

24 (A) by inserting “(a) IN GENERAL.—” be-
 25 fore “No credit”; and

1 (B) by adding at the end the following:

2 “(b) CONFIRMATION OF CHANGES OF ADDRESS.—If
3 a card issuer receives a request for an additional credit
4 card with respect to an existing credit account not later
5 than 30 days after receiving notification of a change of
6 address for that account, the card issuer shall—

7 “(1) not later than 5 days after sending the ad-
8 ditional card to the new address, notify the card-
9 holder of the request at both the new address and
10 the former address; and

11 “(2) provide to the cardholder a means of
12 promptly reporting incorrect changes.”.

13 (2) ENFORCEMENT.—

14 (A) FEDERAL TRADE COMMISSION.—Ex-
15 cept as provided in subparagraph (B), compli-
16 ance with section 132(b) of the Truth in Lend-
17 ing Act (as added by this subsection) shall be
18 enforced by the Federal Trade Commission in
19 the same manner and with the same power and
20 authority as the Commission has under the
21 Fair Debt Collection Practices Act to enforce
22 compliance with that Act.

23 (B) OTHER AGENCIES IN CERTAIN
24 CASES.—

1 (i) IN GENERAL.—Compliance with
2 section 132(b) of the Truth in Lending Act
3 shall be enforced under—

4 (I) section 8 of the Federal De-
5 posit Insurance Act, in the case of a
6 card issuer that is—

7 (aa) a national bank or a
8 Federal branch or Federal agen-
9 cy of a foreign bank, by the Of-
10 fice of the Comptroller of the
11 Currency;

12 (bb) a member bank of the
13 Federal Reserve System (other
14 than a national bank), a branch
15 or agency of a foreign bank
16 (other than a Federal branch,
17 Federal agency, or insured State
18 branch of a foreign bank), a com-
19 mercial lending company owned
20 or controlled by a foreign bank,
21 or an organization operating
22 under section 25 or 25A of the
23 Federal Reserve Act, by the
24 Board of Governors of the Fed-
25 eral Reserve System;

(cc) a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System or a national nonmember bank) or an insured State branch of a foreign bank, by the Board of Directors of the Federal Deposit Insurance Corporation; and

(dd) a savings association, the deposits of which are insured by the Federal Deposit Insurance Corporation, by the Director of the Office of Thrift Supervision; and

(II) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration in the case of a card issuer that is a Federal credit union, as defined in that Act.

(C) VIOLATIONS TREATED AS VIOLATIONS
OF OTHER LAWS.—

(i) IN GENERAL.—For the purpose of the exercise by any agency referred to in

1 this paragraph of its powers under any Act
 2 referred to in this paragraph, a violation
 3 of section 132(b) of the Truth in Lending
 4 Act (as added by this subsection) shall be
 5 deemed to be a violation of a requirement
 6 imposed under that Act.

7 (ii) AGENCY AUTHORITY.—In addition
 8 to its powers under any provision of law
 9 specifically referred to in subparagraph (A)
 10 or (B), each of the agencies referred to in
 11 those subparagraphs may exercise, for the
 12 purpose of enforcing compliance with sec-
 13 tion 132(b) of the Truth in Lending Act,
 14 any other authority conferred on such
 15 agency by law.

16 (b) FRAUD ALERTS.—Section 605 of the Fair Credit
 17 Reporting Act (15 U.S.C. 1681e) is amended by adding
 18 at the end the following:

19 “(g) FRAUD ALERTS.—

20 “(1) DEFINED TERM.—In this subsection, the
 21 term ‘fraud alert’ means a statement in the file of
 22 a consumer that notifies all prospective users of a
 23 consumer report made with respect to that consumer
 24 that—

1 “(A) the consumer’s identity may have
2 been used, without the consumer’s consent, to
3 fraudulently obtain goods or services in the con-
4 sumer’s name; and

5 “(B) the consumer does not authorize the
6 issuance or extension of credit in the name of
7 the consumer unless the issuer of such credit—

8 “(i) obtains express preauthorization
9 from the consumer at a telephone number
10 designated by the consumer; or

11 “(ii) utilizes another reasonable means
12 of communications to obtain the express
13 preauthorization of the consumer.

14 “(2) INCLUSION OF FRAUD ALERT IN CON-
15 SUMER FILE.—Upon the request of a consumer and
16 upon receiving proper identification, a consumer re-
17 porting agency shall include a fraud alert in the file
18 of that consumer.

19 “(3) NOTICE SENT BY CONSUMER REPORTING
20 AGENCIES.—A consumer reporting agency shall no-
21 tify each person procuring consumer credit informa-
22 tion with respect to a consumer of the existence of
23 a fraud alert in the file of that consumer, regardless
24 of whether a full credit report, credit score, or sum-
25 mary report is requested.

1 “(4) PROCEDURES TO RECEIVE FRAUD
2 ALERTS.—Any person who uses a consumer credit
3 report in connection with a credit transaction shall
4 establish reasonable procedures to receive fraud
5 alerts transmitted by consumer reporting agencies.

6 “(5) VIOLATIONS.—

7 “(A) CONSUMER REPORTING AGENCY.—
8 Any consumer reporting agency that fails to no-
9 tify any user of a consumer credit report of the
10 existence of a fraud alert in that report shall be
11 in violation of this section.

12 “(B) USER OF A CONSUMER REPORT.—
13 Any user of a consumer report that fails to
14 comply with preauthorization procedures con-
15 tained in a fraud alert and issues or extends
16 credit in the name of the consumer to a person
17 other than the consumer shall be in violation of
18 this section.

19 “(6) EXCEPTIONS.—

20 “(A) RESELLERS.—

21 “(i) IN GENERAL.—The provisions of
22 this subsection do not apply to a consumer
23 reporting agency that acts as a reseller of
24 information by assembling and merging in-
25 formation contained in the database of an-

1 other consumer reporting agency or mul-
 2 tiple consumer reporting agencies, and
 3 does not maintain a permanent database of
 4 the assembled or merged information from
 5 which new consumer reports are produced.

6 “(ii) LIMITATION.—A reseller of as-
 7 sembled or merged information shall pre-
 8 serve any fraud alert placed on a consumer
 9 report by another consumer reporting
 10 agency.

11 “(B) EXEMPT INSTITUTIONS.—The re-
 12 quirement under this subsection to place a
 13 fraud alert in a consumer file shall not apply
 14 to—

15 “(i) a check services company, which
 16 issues authorizations for the purpose of ap-
 17 proving or processing negotiable instru-
 18 ments, electronic funds transfers, or simi-
 19 lar methods of payments; or

20 “(ii) a demand deposit account infor-
 21 mation service company, which issues re-
 22 ports regarding account closures due to
 23 fraud, substantial overdrafts, ATM abuse,
 24 or similar negative information regarding a
 25 consumer, to inquiring banks or other fi-

1 nancial institutions for use only in review-
 2 ing a consumer request for a demand de-
 3 posit account at the inquiring bank or fi-
 4 nancial institution.”.

5 **SEC. 4. TRUNCATION OF CREDIT CARD ACCOUNT NUM-**
 6 **BERS.**

7 (a) IN GENERAL.—Except as provided in this section,
 8 no person, firm, partnership, association, corporation, or
 9 limited liability company that accepts credit cards for the
 10 transaction of business shall print more than the last 5
 11 digits of the credit card account number or the expiration
 12 date upon any receipt provided to the cardholder.

13 (b) LIMITATION.—This section—

14 (1) applies only to receipts that are electroni-
 15 cally printed; and

16 (2) does not apply to transactions in which the
 17 sole means of recording the cardholder’s credit card
 18 account number is by handwriting or by an imprint
 19 or copy of the credit card.

20 (c) EFFECTIVE DATE.—This section shall take ef-
 21 fect—

22 (1) on the date that is 4 years after the date
 23 of enactment of this Act, with respect to any cash
 24 register or other machine or device that electroni-
 25 cally prints receipts for credit card transactions that

1 is in use prior to the date of enactment of this Act;
 2 and

3 (2) on the date that is 18 months after the date
 4 of enactment of this Act, with respect to any cash
 5 register or other machine or device that electroni-
 6 cally prints receipts for credit card transactions that
 7 is first put into use on or after the date of enact-
 8 ment of this Act.

9 (d) EFFECT ON STATE LAW.—Nothing in this sec-
 10 tion prevents a State from imposing requirements that are
 11 the same or substantially similar to the requirements of
 12 this section at any time before the effective date of this
 13 section.

14 **SEC. 5. FREE ANNUAL CREDIT REPORT.**

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

17 “(c) FREE ANNUAL DISCLOSURE.—Upon the request
 18 of the consumer and without charge to the consumer, a
 19 consumer reporting agency shall make all the disclosures
 20 listed under section 609 once during any 12-month pe-
 21 riod.”.

