

111TH CONGRESS
1ST SESSION

H. R. 3763

To amend the Fair Credit Reporting Act to provide for an exclusion from Red Flag Guidelines for certain businesses.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 8, 2009

Mr. ADLER of New Jersey (for himself, Mr. BROUN of Georgia, and Mr. SIMPSON) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Fair Credit Reporting Act to provide for an exclusion from Red Flag Guidelines for certain businesses.

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. EXCLUSION FOR CERTAIN SMALL BUSINESSES.**

4 (a) IN GENERAL.—Section 615(e) of the Fair Credit
5 Reporting Act (15 U.S.C. 1681m(e)) is amended by add-
6 ing at the end the following new paragraphs:

7 “(4) EXCLUSION FOR CERTAIN BUSINESSES.—

8 For purposes of this subsection, the term ‘creditor’
9 shall not include—

1 “(A) a health care practice with 20 or
2 fewer employees;

3 “(B) an accounting practice with 20 or
4 fewer employees;

5 “(C) a legal practice with 20 or fewer em-
6 ployees; or

7 “(D) any other business, if the Commis-
8 sion determines, following an application for ex-
9 clusion by such business, that such business—

10 “(i) knows all of its customers or cli-
11 ents individually;

12 “(ii) only performs services in or
13 around the residences of its customers; or

14 “(iii) has not experienced incidents of
15 identity theft and identity theft is rare for
16 businesses of that type.

17 “(5) LIMITATION ON EXCLUSION FOR BUSI-
18 NESSES NO-LONGER ELIGIBLE.—To the extent that
19 a business can no longer demonstrate that it meets
20 the criteria under paragraph (4) that permitted its
21 exclusion from the term ‘creditor’, such exclusion
22 shall no longer apply.

23 “(6) DEFINITIONS.—For purposes of this sub-
24 section:

1 “(A) EMPLOYEE.—With respect to a busi-
2 ness, the term ‘employee’ means any individual
3 who works for such business and is paid either
4 wages or a salary.

5 “(B) HEALTH CARE PRACTICE.—

6 “(i) IN GENERAL.—The term ‘health
7 care practice’ means a business that’s pri-
8 mary service is providing health care via
9 health care professionals employed by the
10 business.

11 “(ii) HEALTH CARE PROFESSIONAL.—

12 For purposes of subparagraph (A), the
13 term ‘health care professional’ means an
14 individual engaged in providing health care
15 and licensed under State law, including
16 physicians, dentists, podiatrists, chiroprac-
17 tors, physical therapists, occupational
18 therapists, marriage and family therapists,
19 optometrists, speech therapists, language
20 therapists, hearing therapists, and veteri-
21 narians.”.

22 (b) PROCESS FOR EXCLUSION APPLICATIONS.—Not
23 later than 180 days after the date of the enactment of
24 this Act, the Federal Trade Commission shall issue regula-
25 tions, in accordance with section 553 of title 5, United

- 1 States Code, that set forth the process by which a business
- 2 may apply for an exclusion under section 615(e)(4)(D) of
- 3 the Fair Credit Reporting Act.

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