

111TH CONGRESS
2D SESSION

S. 3987

To amend the Fair Credit Reporting Act with respect to the applicability of identity theft guidelines to creditors.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 30, 2010

Mr. THUNE (for himself and Mr. BEGICH) introduced the following bill; which was read twice, considered, read the third time, and passed

A BILL

To amend the Fair Credit Reporting Act with respect to the applicability of identity theft guidelines to creditors.

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 “Red Flag Program
5 Clarification Act of 2010”.

6 **SEC. 2. SCOPE OF CERTAIN CREDITOR REQUIREMENTS.**

7 (a) AMENDMENT TO FCRA.—Section 615(e) of the
8 Fair Credit Reporting Act (15 U.S.C. 1681m(e)) is
9 amended by adding at the end the following:

1 “(4) DEFINITIONS.—As used in this subsection,
2 the term ‘creditor’—

3 “(A) means a creditor, as defined in sec-
4 tion 702 of the Equal Credit Opportunity Act
5 (15 U.S.C. 1691a), that regularly and in the
6 ordinary course of business—

7 “(i) obtains or uses consumer reports,
8 directly or indirectly, in connection with a
9 credit transaction;

10 “(ii) furnishes information to con-
11 sumer reporting agencies, as described in
12 section 623, in connection with a credit
13 transaction; or

14 “(iii) advances funds to or on behalf
15 of a person, based on an obligation of the
16 person to repay the funds or repayable
17 from specific property pledged by or on be-
18 half of the person;

19 “(B) does not include a creditor described
20 in subparagraph (A)(iii) that advances funds on
21 behalf of a person for expenses incidental to a
22 service provided by the creditor to that person;
23 and

24 “(C) includes any other type of creditor, as
25 defined in that section 702, as the agency de-

1 scribed in paragraph (1) having authority over
2 that creditor may determine appropriate by rule
3 promulgated by that agency, based on a deter-
4 mination that such creditor offers or maintains
5 accounts that are subject to a reasonably fore-
6 seeable risk of identity theft.”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall become effective on the date of enact-
9 ment of this Act.

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