

111TH CONGRESS  
2D SESSION

# S. 3987

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IN THE HOUSE OF REPRESENTATIVES

DECEMBER 1, 2010

Referred to the Committee on Financial Services

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## AN ACT

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,*

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Red Flag Program  
3 Clarification Act of 2010”.

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

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

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

10 “(A) means a creditor, as defined in sec-  
11 tion 702 of the Equal Credit Opportunity Act  
12 (15 U.S.C. 1691a), that regularly and in the  
13 ordinary course of business—

14 “(i) obtains or uses consumer reports,  
15 directly or indirectly, in connection with a  
16 credit transaction;

17 “(ii) furnishes information to con-  
18 sumer reporting agencies, as described in  
19 section 623, in connection with a credit  
20 transaction; or

21 “(iii) advances funds to or on behalf  
22 of a person, based on an obligation of the  
23 person to repay the funds or repayable  
24 from specific property pledged by or on be-  
25 half of the person;

1                         “(B) does not include a creditor described  
2                         in subparagraph (A)(iii) that advances funds on  
3                         behalf of a person for expenses incidental to a  
4                         service provided by the creditor to that person;  
5                         and

6                     “(C) includes any other type of creditor, as  
7                     defined in that section 702, as the agency de-  
8                     scribed in paragraph (1) having authority over  
9                     that creditor may determine appropriate by rule  
10                     promulgated by that agency, based on a deter-  
11                     mination that such creditor offers or maintains  
12                     accounts that are subject to a reasonably fore-  
13                     seeable risk of identity theft.”.

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

Passed the Senate November 30, 2010.

Attest: NANCY ERICKSON,  
*Secretary.*