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S. 1847

To enhance the accuracy of credit reporting and provide greater rights to consumers who dispute errors in their credit reports, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 23, 2015

Mr. SCHATZ (for himself, Ms. WARREN, Mr. BLUMENTHAL, Mr. SANDERS, Mr. MERKLEY, and Mrs. MCCASKILL) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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A BILL

To enhance the accuracy of credit reporting and provide greater rights to consumers who dispute errors in their credit reports, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Stop Errors in Credit Use and Reporting Act'' or the ''SECURE Act''.

SEC. 2. LEGAL RECOURSE FOR CONSUMERS.

(a) INJUNCTIVE RELIEF.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended—

(1) in section 616—

(A) in subsection (a), by striking ''(a) IN GENERAL.—'' and inserting ''(a) DAMAGES.—'';

(B) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(C) by inserting after subsection (b) the following:

''(c) INJUNCTIVE RELIEF.—In addition to any other remedy set forth in this section, a court may award injunctive relief to require compliance with the requirements imposed under this title with respect to any consumer. In the event of any successful action for injunctive relief under this subsection, the court may award to the prevailing party costs and reasonable attorney fees (as determined by the court) incurred during the action by such party.''; and

(2) in section 617—

(A) in subsection (a), by striking ''(a) IN GENERAL.—'' and inserting ''(a) DAMAGES.—'';

(B) by redesignating subsection (b) as subsection (c); and

(C) by inserting after subsection (a) the following:

"(b) INJUNCTIVE RELIEF.—In addition to any other remedy set forth in this section, a court may award injunctive relief to require compliance with the requirements imposed under this title with respect to any consumer. In the event of any successful action for injunctive relief under this subsection, the court may award to the prevailing party costs and reasonable attorney fees (as determined by the court) incurred during the action by such party.".

(b) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—Section 621(a)(2)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681s(a)(2)(A)) is amended—

(1) by striking "(A) KNOWING VIOLATIONS.—" and inserting "(A) NEGLIGENT, WILLFUL, OR KNOWING VIOLATIONS.—"; and

(2) by inserting "negligent, willful, or" before "knowing".

SEC. 3. INCREASED REQUIREMENTS FOR CONSUMER REPORTING AGENCIES AND FURNISHERS OF INFORMATION.

(a) PROVISION AND CONSIDERATION OF DOCUMENTATION PROVIDED BY CONSUMERS.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended—

(1) in section 611—

(A) in subsection (a)—

(i) in paragraph (2)—

(I) in subparagraph (A), by inserting ", including all documentation provided by the consumer" after "received from the consumer or reseller"; and

(II) in subparagraph (B), by inserting ", including all documentation provided by the consumer," after "from the consumer or reseller"; and

(ii) in paragraph (4), by inserting ", including all documentation," after "relevant information"; and

(B) in subsection (f)(2)(B)(ii), by inserting ", including all documentation," after "relevant information"; and

(2) in section 623—

(A) in subsection (a)(8)(E), by striking clause (ii) and inserting the following:

"(ii) review and consider all relevant information, including all documentation, provided by the consumer with the notice;"; and

(B) in subsection (b)(1), by striking subparagraph (B) and inserting the following:

"(B) review and consider all relevant information, including all documentation, provided by the consumer reporting agency pursuant to section 611(a)(2);".

(b) GATHERING AND REPORTING OF INFORMATION RELATING TO CONSUMER DISPUTES.—Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding at the end the following:

"(g) GATHERING AND REPORTING OF INFORMATION RELATING TO CONSUMER DISPUTES.—

"(1) REPORTS REQUIRED.—The Bureau shall provide reports regarding the disputes described in subsection (a)(1) received by consumer reporting agencies in such intervals and to such parties as the Bureau deems appropriate.

"(2) GATHERING OF INFORMATION.—The Bureau shall prescribe rules for the gathering of information relating to disputes described in subsection (a)(1) received by consumer reporting agencies to be used in generating the reports under paragraph (1), including rules establishing—

"(A) the type and format of information that shall be received by the Bureau from each consumer reporting agency; and

"(B) the frequency of receipt of the information from consumer reporting agencies.".

(c) ACCURACY COMPLIANCE PROCEDURES.—Section 607 of the Fair Credit Reporting Act (15 U.S.C. 1681e) is amended by striking subsection (b) and inserting the following:

"(b) ACCURACY OF REPORT.—

"(1) IN GENERAL.—A consumer reporting agency shall follow reasonable procedures when preparing a consumer report to assure maximum possible accuracy of the information concerning the individual to whom the consumer report relates.

"(2) BUREAU RULE TO ASSURE MAXIMUM POSSIBLE ACCURACY.—

"(A) PROPOSED RULE.—Not later than 1 year after the date of enactment of the Stop Errors in Credit Use and Reporting Act, the Bureau shall issue a proposed rule establishing the procedures that a consumer reporting agency must follow to assure maximum possible accuracy of all consumer reports furnished by the agency in compliance with this subsection.

"(B) CONSIDERATIONS.—When formulating the rule required under subparagraph (A), the Bureau shall consider if requiring the

matching of the following information would improve the accuracy of consumer reports:

"(i) The first name and last name of a consumer.

"(ii) The date of birth of a consumer.

"(iii) All 9 digits of the social security number of a consumer.

"(iv) Any other information that the Bureau determines would aid in assuring maximum possible accuracy of all consumer reports furnished by consumer reporting agencies in compliance with this subsection.".

(d) RESPONSIBILITIES OF FURNISHERS OF INFORMATION TO CONSUMER REPORTING AGENCIES.—Section 623(a)(8)(F)(i)(II) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)(8)(F)(i)(II)) is amended by inserting ", and does not include any new or additional information that would be relevant to a reinvestigation" before the period.

(e) DISCLOSURES TO CONSUMERS.—Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended—

(1) in subsection (a)(3)(B), by striking "; and" and all that follows through the end of subparagraph (B) and inserting the following:

"(ii) the address and telephone number of the person; and

"(iii) the permissible purpose of the person for obtaining the consumer report, including the specific type of credit product that is extended, reviewed, or collected as described in section 604(a)(3)(A).";

(2) in subsection (f)—

(A) by amending paragraph (7)(A) to read as follows:

"(A) supply the consumer with a credit score that—

"(i) is derived from a credit scoring model that is widely distributed to users by the consumer reporting agency for the purpose of any extension of credit or other transaction designated by the consumer who is requesting the credit score; or

"(ii) is widely distributed to lenders of common consumer loan products and predicts the future credit behavior of the consumer; and"; and

(B) in paragraph (8), by inserting ", except that a credit score shall be provided free of charge to the consumer if requested in connection with a free annual consumer report described in section 612(a)" before the period; and

(3) in subsection (g)(1)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D) through (G) as subparagraphs (C) through (F), respectively.

(f) NOTIFICATION REQUIREMENTS.—

(1) ADVERSE INFORMATION NOTIFICATION.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended—

(A) in section 612, by striking subsection (b) and inserting the following:

"(b) FREE DISCLOSURE AFTER NOTICE OF ADVERSE ACTION OR OFFER OF CREDIT ON MATERIALLY LESS FAVORABLE TERMS.—

"(1) IN GENERAL.—Not later than 14 days after the date on which a consumer reporting agency receives a notification under subsection (a)(2) or (h)(6) of section 615, or from a debt collection agency affiliated with the consumer reporting agency, the

consumer reporting agency shall make, without charge to the consumer, all disclosures required in accordance with the rules prescribed by the Bureau under section 609(h).

"(2) TRANSITION PERIOD.—After the effective date of the provisions of the Stop Errors in Credit Use and Reporting Act and before the Bureau has finalized the rule required under section 609(h), a consumer reporting agency that is required to make disclosures under this subsection shall provide to the consumer a copy of the current credit report on the consumer and any other disclosures required under this Act or the Stop Errors in Credit Use and Reporting Act, without charge to the consumer."; and

(B) in section 615(a)—

(i) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5) respectively;

(ii) by inserting after paragraph (1) the following:

"(2) direct the consumer reporting agency that provided the consumer report used in the decision to take the adverse action to provide the consumer with the disclosures described in section 612(b);"; and

(iii) in paragraph (5), as redesignated by this paragraph—

(I) in the matter preceding subparagraph (A), by striking ''of the consumer's right'';

(II) by striking subparagraph (A) and inserting the following:

''(A) that the consumer will receive a copy of the consumer report on the consumer, free of charge, from the consumer reporting agency that furnished the consumer report; and''; and

(III) in subparagraph (B), by inserting ''of the right of the consumer'' before ''to dispute''.

(2) NOTIFICATION IN CASES OF LESS FAVORABLE TERMS.—Section 615(h) of the Fair Credit Reporting Act (15 U.S.C. 1681m(h)) is amended—

(A) in paragraph (1), by striking ''paragraph (6)'' and inserting ''paragraph (7)'';

(B) in paragraph (2), by striking ''paragraph (6)'' and inserting ''paragraph (7)'';

(C) in paragraph (5)(C), by striking ''may obtain'' and inserting ''will receive'';

(D) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(E) by inserting after paragraph (5) the following:

''(6) REPORTS PROVIDED TO CONSUMERS.—A person who uses a consumer report as described in paragraph (1) shall notify and direct the consumer reporting agency that provided the consumer report to provide the consumer with the disclosures described in section 612(b).''.

(3) NOTIFICATION OF SUBSEQUENT SUBMISSIONS OF NEGATIVE INFORMATION.—Section 623(a)(7)(A)(ii) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)(7)(A)(ii)) is amended by striking ''or customer'' and inserting ''or'' before ''account''.

(4) BUREAU RULE DEFINING CERTAIN DISCLOSURE REQUIREMENTS.—Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended by adding at the end the following:

''(h) BUREAU RULE DEFINING CERTAIN DISCLOSURE REQUIREMENTS.—

''(1) PROPOSED RULE.—Not later than 1 year after the date of enactment of the Stop Errors in

Credit Use and Reporting Act, the Bureau shall publish a proposed rule to implement the disclosure requirements described in section 612(b).

"(2) CONSIDERATIONS.—In formulating the rule required under paragraph (1), the Bureau shall consider—

"(A) what information would enable consumers to determine the reasons for which a person took adverse action or offered credit on materially less favorable terms and to verify the accuracy of such information; and

"(B) how to provide the information described in subparagraph (A) while protecting consumer privacy, including procedures to ensure that such information is provided to the consumer at the appropriate address.".

SEC. 4. REGULATORY REFORM.

Section 621 of the Federal Credit Reporting Act (15 U.S.C. 1681s) is amended by adding at the end the following:

"(h) CONSUMER REPORTING AGENCY REGISTRY.—

"(1) ESTABLISHMENT OF REGISTRY.—Not later than 180 days after the date of enactment of the Stop Errors in Credit Use and Reporting Act, the

Bureau shall establish 3 publicly available registries of consumer reporting agencies, including—

"(A) a registry of nationwide consumer reporting agencies as described in section 603(p);

"(B) a registry of nationwide specialty consumer reporting agencies as defined in section 603(x); and

"(C) a registry of all other consumer reporting agencies included under section 603(f) that are not included under section 603(p) or 603(x).

"(2) REGISTRATION REQUIREMENT.—All consumer reporting agencies as defined in section 603(f) must register with one of the registries established by the Bureau under this subsection in a timeframe established by the Bureau.".

SEC. 5. IDENTITY THEFT PROTECTION FOR MINORS.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after section 605B (15 U.S.C. 1681c–2) the following:

"SEC. 605C. ADDITIONAL PROTECTIONS FOR CREDIT REPORTS OF MINOR CONSUMERS.

"(a) DEFINITIONS.—In this section—

"(1) the term 'blocked file' means a file of a minor consumer in which, under this section, a consumer reporting agency—

"(A) maintains a file with the name, social security number, date of birth, and, if applicable, any credit information of the minor consumer;

"(B) may not provide any person with a consumer report of the minor consumer; and

"(C) blocks the input of any information into the file, except with permission from a covered guardian of the minor consumer;

"(2) the term 'covered guardian' means—

"(A) the legal guardian of a minor child;

"(B) the custodian of a minor child; or

"(C) in the case of a child in foster care, the State agency or Indian tribe or tribal organization responsible for the foster care of the child; and

"(3) the term 'minor consumer' means a consumer who has not attained 16 years of age.

"(b) BLOCKING A FILE.—A consumer reporting agency described in section 603(p) shall, upon request by, and receipt of appropriate proof of identity of, the covered guardian or minor consumer, create a blocked file for the

minor consumer or convert a file of the minor consumer already in existence to a blocked file.

"(c) UNBLOCKING A FILE.—A consumer reporting agency described in section 603(p) shall unblock a blocked file—

"(1) upon request by the covered guardian of a minor consumer;

"(2) if the file was blocked as a result of a material misrepresentation, including—

"(A) a representation that the consumer was a minor consumer when the consumer was not a minor consumer at the time of the representation; and

"(B) a representation that an individual was the covered guardian of a minor consumer when the individual was not the covered guardian of the minor consumer at the time of the representation;

"(3) on the date of the 16th birthday of the minor consumer; or

"(4) if the minor consumer becomes emancipated under the law of the State in which the minor consumer resides, on the date of the emancipation of the minor consumer.

"(d) REGULATIONS.—The Bureau shall promulgate regulations carrying out this section.

"(e) FEES.—

"(1) IN GENERAL.—A credit reporting agency may charge a fair and reasonable fee, as determined by the Bureau, to create a blocked file or to unblock a file.

"(2) EXEMPTION.—The Bureau may exempt an individual who suspects that the individual has been a victim of fraud or identity theft from a fee described in paragraph (1).

"(f) EXCEPTIONS.—No provision of this section shall be construed as requiring a consumer reporting agency described in section 603(p) to prevent a Federal, State, or local law enforcement agency from accessing a blocked file.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after the item related to section 605B the following new item:

"605C. Additional protections for credit reports of minor consumers.".

SEC. 6. STUDY OF A PUBLIC CREDIT REPORTING SYSTEM.

(a) STUDY.—Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall undertake a study—

(1) of credit systems in the international credit system with government-administered consumer credit reporting systems;

(2) of available information regarding the accuracy of existing government-administered consumer credit reporting systems;

(3) to evaluate the feasibility of a national, government-administered consumer credit reporting system;

(4) of any consumer benefits that might reasonably be expected to result from a government-administered consumer credit report; and

(5) of any costs that might result from a government-administered consumer credit reporting system in the United States.

(b) PUBLICATION OF FINDINGS.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall publish the findings under subsection (a).

SEC. 7. EFFECTIVE DATE.

Except as otherwise provided in this Act and the amendments made by this Act, the provisions of this Act and the amendments made by this Act shall take effect 6 months after the date of enactment of this Act.

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