

116TH CONGRESS  
1ST SESSION

# S. 84

To amend the Small Business Act to require that consumer reporting agencies and other credit reporting companies provide certain protections to small businesses, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

JANUARY 10, 2019

Mr. RUBIO (for himself, Mr. KENNEDY, Mr. COONS, and Mr. JONES) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

---

## A BILL

To amend the Small Business Act to require that consumer reporting agencies and other credit reporting companies provide certain protections to small businesses, 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 “Small Business Credit  
5       Protection Act”.

6       **SEC. 2. DATA BREACHES.**

7       (a) IN GENERAL.—The Small Business Act (15  
8       U.S.C. 631 et seq.) is amended—

1 (1) by redesignating section 49 (15 U.S.C. 631  
2 note) as section 50; and

3 (2) by inserting after section 48 (15 U.S.C.  
4 657u) the following:

5 **“SEC. 49. DATA BREACHES.**

6 “(a) DEFINITION.—In this section, the term ‘credit  
7 reporting company’—

8 “(1) has the meaning given the term ‘consumer  
9 reporting agency’ in section 603 of the Fair Credit  
10 Reporting Act (15 U.S.C. 1681a); and

11 “(2) includes an entity that collects commercial  
12 credit data.

13 “(b) REQUIREMENTS FOR REPORTING BREACHES.—

14 “(1) APPLICABLE STATE LAW.—

15 “(A) IN GENERAL.—Except as provided in  
16 paragraph (2), if nonpublic data of a small  
17 business concern that is collected or stored by  
18 a credit reporting company has been breached,  
19 the credit reporting company shall report the  
20 breach promptly and not later than as required  
21 under the law of the State in which the small  
22 business concern is located.

23 “(B) LOCATIONS IN MULTIPLE STATES.—

24 If a small business concern that is affected by  
25 a breach described in subparagraph (A) has lo-

1 cations in more than 1 State, for the purposes  
2 of that subparagraph, the law of the State that  
3 imposes the shortest period for the reporting of  
4 the breach shall apply.

5 “(2) EXCEPTION.—

6 “(A) IN GENERAL.—If a small business  
7 concern that is affected by a breach described  
8 in paragraph (1)(A) is located in a State that  
9 does not have a law that imposes a set period  
10 for the reporting of the breach, the credit re-  
11 porting company to which the requirement  
12 under that paragraph applies shall report the  
13 breach in the most expeditious manner prac-  
14 ticable and without unreasonable delay.

15 “(B) RULE OF CONSTRUCTION REGARDING  
16 A LAW ENFORCEMENT REQUEST.—For the pur-  
17 poses of subparagraph (A), a delay with respect  
18 to the reporting of a breach described in that  
19 subparagraph that is caused by a requirement  
20 to respond to a request submitted by a law en-  
21 forcement agency shall be construed to be a  
22 reasonable delay.

23 “(c) PROHIBITION.—During the 180-day period be-  
24 ginning on the date on which a breach described in sub-  
25 section (b)(1)(A) occurs, a credit reporting company may

1 not charge a small business concern that is affected by  
2 that breach for providing the small business concern with  
3 the credit report of the small business concern.

4 “(d) NO PREEMPTION.—Nothing in this section shall  
5 preempt any State law with respect to credit reporting  
6 companies.”.

7 (b) GAO REPORT.—

8 (1) DEFINITIONS.—In this subsection—

9 (A) the term “credit reporting company”—

10 (i) has the meaning given the term  
11 “consumer reporting agency” in section  
12 603 of the Fair Credit Reporting Act (15  
13 U.S.C. 1681a); and

14 (ii) includes an entity that collects  
15 commercial credit data; and

16 (B) the term “small business concern” has  
17 the meaning given the term in section 3(a) of  
18 the Small Business Act (15 U.S.C. 632(a)).

19 (2) REPORT.—Not later than 1 year after the  
20 date of enactment of this Act, the Comptroller Gen-  
21 eral of the United States shall submit to Congress  
22 a report regarding the economic harm incurred by  
23 small business concerns as a result of data breaches  
24 at credit reporting companies.