

The result was announced—yeas 41, nays 56, as follows:

[Rollcall Vote No. 436 Leg.]

YEAS—41

Akaka	Durbin	Levin
Baucus	Feingold	Lugar
Biden	Feinstein	McCain
Bingaman	Fitzgerald	Mikulski
Boxer	Graham (FL)	Murray
Byrd	Harkin	Nelson (FL)
Cantwell	Hollings	Reed
Clinton	Inouye	Reid
Conrad	Jeffords	Rockefeller
Corzine	Johnson	Sarbanes
Daschle	Kennedy	Schumer
Dayton	Kohl	Stabenow
Dodd	Lautenberg	Wyden
Dorgan	Leahy	

NAYS—56

Alexander	Crapo	Miller
Allard	DeWine	Murkowski
Allen	Dole	Nelson (NE)
Bayh	Domenici	Nickles
Bennett	Ensign	Pryor
Bond	Enzi	Roberts
Breaux	Frist	Santorum
Brownback	Graham (SC)	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Campbell	Hagel	Snowe
Carper	Hatch	Specter
Chafee	Hutchison	Stevens
Chambliss	Inhofe	Sununu
Cochran	Kyl	Talent
Coleman	Landrieu	Thomas
Collins	Lincoln	Voinovich
Cornyn	Lott	Warner
Craig	McConnell	

NOT VOTING—3

Edwards	Kerry	Lieberman
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The amendment (No. 2083) was rejected.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL CONSUMER CREDIT REPORTING SYSTEM IMPROVEMENT ACT OF 2003—Resumed

The PRESIDING OFFICER. Under the previous order, the clerk will read S. 1753 for the third time.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Banking Committee is discharged from further consideration of H.R. 2622, and the clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2622) to amend the Fair Credit Reporting Act in order to prevent identity theft, to improve the use of and consumer access to consumer reports, to enhance the accuracy of consumer reports, to limit the sharing of certain consumer information, to improve financial education and literacy, and for other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken and the text of S. 1753, as amended, is inserted in lieu thereof.

The clerk will read the bill for the third time.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

Mrs. FEINSTEIN. Mr. President, I have decided to vote against the National Consumer Credit Reporting System Improvement Act because, bottom line, this bill reduces the privacy rights of 36 million Californians.

These rights were obtained through the passage of landmark legislation sponsored by Senator Jackie Speier earlier this year in California, which gave consumers the right to tell financial institutions that they don't want their most sensitive personal information shared with hundreds or even thousands of affiliated companies.

This practice—affiliate sharing—can include your most sensitive information—the stocks you own, the certificates of deposit you hold, or the amount of money in your checking account.

Importantly, California's financial industry signed off on Senator Speier's bill, rather than face a ballot initiative, which likely would have succeeded.

Industry executives said at the time that the California bill "encompasses all aspects of the workability needed to ensure protection of customers' privacy" and that it is "a workable, reasonable compromise." In fact, the only major reservation expressed about that provision was that the bill did not represent a national standard. But now, given the opportunity to set such a national standard, these same companies worked to wipe out such protections—and I find this conduct particularly concerning. Attached is a letter from Senator Speier that attests to the behavior of California's financial industry.

So in response to calls for a national standard and to protect the rights of Californians, Senator BOXER and I developed an amendment that would have established a strong national standard on affiliate sharing, consistent with California's law, which would have given consumers a real voice in how their personal information is used.

This amendment came up for a vote and, unfortunately, it was defeated. I think time will show that this was the wrong vote, and I have no doubt that this issue will resurface as consumers learn more about the misuse of their most sensitive personal information.

I am disappointed that we did not achieve our main goal of adopting an amendment which would allow consumers to have control over their personal data, but I am pleased that the Senate approved two amendments, which I sponsored along with Senator BOXER, to protect consumers.

The first amendment, authorized by Senator BOXER, which I cosponsored, would give consumers greater protection against unwanted marketing.

Most importantly, the amendment would allow consumers to permanently opt-out of marketing by unrelated affiliates, while the underlying bill would have only limited the opt-out to 5 years. This means that if a consumer

asks a corporation not to share information with its affiliates for the purpose of marketing, the affiliate cannot solicit them—forever. Without this amendment, a consumer would have been required to go back to the corporation and reiterate his request after 5 years.

Additionally, this amendment clarified what the bill meant by a "pre-existing business relationship", where there was no definition before. With this amendment, a company's affiliate would only be able to market to consumers who have:

One, purchased, rented or leased the seller's goods or services or completed a financial transaction between the consumer and seller, within the 18 months immediately preceding the date of a solicitation; or

Two, inquired about or applied for a product or service offered by the seller, within the 3 months immediately preceding the marketing contact.

Without this clarification, companies might have been able to market to customers who purchased goods as many as 5 or 10 years earlier, or who made the mildest inquiry a few years ago. It is the same definition developed by the Federal Trade Commission in creating a national "Do Not Call" registry for telemarketers.

The Senate also adopted a second amendment, which I authored and was cosponsored by Senators BOXER and KENNEDY, that essentially provided a far more encompassing definition of medical information than is contained in current law.

Simply put, this amendment will help ensure that consumers aren't discriminated against based on their medical or health information when they apply for credit, insurance, or employment. The amendment also has the support of the American Medical Association, the American Cancer Society, and the California Medical Association. The Feinstein amendment would broadly expand the definition of "medical information" to read:

Information or data except age or gender, whether oral or recorded in any form or medium, created by or derived from a health care provider or the consumer that relates to:

(1) The past, present or future physical, mental or behavioral health or condition of an individual;

(2) The provision of health care to an individual; or

(3) Payment for the provision of health care to an individual.

This is the same definition of medical information established by the National Association of Insurance Commissioners in 2002. This definition has been implemented in a vast majority of our states.

Even with these modest amendments, however, I cannot support the reauthorization of the Fair Credit Reporting Act.

The Boxer-Feinstein marketing amendment will help prevent consumers from receiving unwanted solicitation, but it will do nothing to limit

the ability of companies to share information with their affiliates.

Affiliates, therefore, will continue to be able to use personal information to profile consumers in a way that leads to unfair increases in premiums or interest rates, to giving certain consumers inferior service, or to outrightly deny them credit cards, insurance policies, or other products.

Furthermore, the bill will do nothing to stop the creation of "internal credit reports" by large financial institutions. Unlike with traditional credit reports, consumers will continue to have no ability to access or correct errors in these documents.

Most Americans consider their personal information their private property. Yet, this bill will continue to deprive ordinary American consumers from having any choice over how their information is shared in the business world. This is the fundamental issue.

To give you a sense of the deep support for privacy, I would point to a survey of California voters completed on February 7 of this year.

The statewide survey found that by a 91-to-7 percent margin, California voters would favor a ballot proposition that "would require a bank, a credit card company, insurance company, or other financial institution to notify a customer and receive a customer's permission before selling any financial information to any separate financial or non-financial company."

This means that 9 out of 10 Californians support even stronger protections—where companies would have to gain your prior consent—opt-in—to share your financial data—than the amendment which Senator BOXER and I offered. And polls across the country reflected similar levels of support by Americans for stronger privacy laws.

This only underscores the need for strong federal standards. Clearly, businesses should be able to manage customer information in order to enhance services. But there must be strong rules that protect consumers. That is why Congress should have given consumers a choice—allowing them to tell companies that they don't want their most personal information shared.

So despite the fact that I support efforts in this legislation to combat identity theft and improve consumer access to credit report information, I believe that the bill doesn't do enough to protect consumer's privacy, and that is why I am voting against it.

Mr. President, I ask unanimous consent that a letter from Senator Jackie Speier be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CALIFORNIA STATE SENATE,
Sacramento, CA, October 24, 2003.

Hon. DIANNE FEINSTEIN,
U.S. Senator, California,
Hart Senate Office Building, Washington, DC.

Hon. BARBARA BOXER,
U.S. Senator, California,
Hart Senate Office Building, Washington, DC.

DEAR SENATORS FEINSTEIN AND BOXER: I wish to thank you for your efforts on behalf

of consumer privacy rights, and urge you continue to do all that is possible to protect California's hard-fought consumer privacy gains.

It has recently come to my attention that the financial services industry has been criticizing the contents of your amendment to S. 1753, substituting the newly-enacted and stronger California privacy standard on affiliate sharing in the "corporate family of companies," as unworkable and unreasonable. This same industry recently called my California bill "workable and reasonable," specifically removing their opposition to my measure and lavishing praise on it, even helping to gather votes. Industry made it clear that my bill met their workability concerns, progress made with their active participation. If my bill was workable for industry in California, then why shouldn't it be the national standard? A transcript of their August 14, 2003, public comments bear this out and is attached.

One industry representative stood with me on that day and said my bill "encompasses all aspects of the workability needed to ensure protection of customers' privacy," while another called it "a balanced measure that will provide meaningful privacy protections to consumers while also addressing the workability concerns" that industry had. Now the story is different, as industry sees a political opportunity to preempt California's standard on affiliate sharing with a weaker one.

The financial services industry appears to be acting in bad faith—it seems willing to say and do anything to erode California's recent progress on behalf of consumers, first to avoid a costly initiative battle and local ordinances limiting third-party sharing, now to pull the wool over Congress' eyes. Does the financial services industry really believe that millions of American consumers don't deserve a choice over what happens when their personal financial information, their financial DNA, is shared with thousands of affiliated companies? The industry's position is flawed public policy, weaker than their own standards abroad, and the kind of business practice that erodes consumer confidence.

I urge you to continue your efforts in making California's privacy standards those of the nation. California's affiliate standard was good enough for the financial industry two months ago; it certainly is acceptable now. Thank you again for your efforts; I stand ready to help you in any way possible.

All the best,

JACKIE SPEIER,
California State Senator.

Mr. DODD. Mr. President, I rise today to urge my strong support for S. 1753, the National Consumer Credit Reporting System Improvement Act of 2003. I would like to commend both Chairman SHELBY and Ranking Member SARBANES on this legislation and the thoroughness of the hearings which preceded this legislation. I applaud their deep commitment and thank them for their strong leadership on this issue.

This legislation is not perfect. It is not the bill that I would have written. Nor do I believe that this legislation represents a perfect bill from the perspective of the chairman or ranking member. However, I believe that it is a bipartisan bill that does a lot of very good things, and was put together in a very balanced manner.

The Banking Committee, both during the hearing process and the mark-up of

this legislation examined the numerous issues surrounding the Fair Credit Reporting Act: accuracy, privacy, security, financial literacy, among others.

We learned some critical information during this process. I believe that the hearing process shed significant light on the positives of the Fair Credit Reporting Act and gave us insight on how to enhance its effectiveness. The consumer credit system is critically important to our nation's economy, and this legislation attempts to balance the greater access to credit for consumers, more efficiency in the credit granting process and the needs of consumers to have greater accuracy and privacy protections.

Numerous witnesses testified to the need to improve accuracy in the credit reporting process. Concerns were raised that currently the critical information that is used in the credit granting process is not as timely and accurate as is necessary. Accurate credit reporting is essential to the proper functioning of our credit system and to the financial security of American consumers. Also, consumers must have a clearly articulated remedy for correcting errors when they do occur.

Additionally, consumers must be given greater knowledge and control over their personal financial information. The hearing on affiliate sharing shed light on current practices and the positives and negatives associated with those practices.

The committee heard from numerous witnesses that consumers were not provided with the tools necessary to fully understand the credit reporting process and become adept to using it to their maximum advantage. Financial literacy is not a one time event—it is a long process—educating more and more Americans as they become consumers.

Of special concern, we learned about the epidemic of identity theft. Identity theft is a growing problem affecting millions of Americans and that we must devote our full attention to increasing the security of financial information. We heard from a witness named John Harrison, a retired Army Captain from Connecticut who was the victim of identity theft. His credit reports clearly contained false information—misinformation that was planted there by a criminal—but Captain Harrison has had—and continues to have—enormous difficulty restoring his credit worthiness.

These are just some of the lessons regarding the current operation of the Fair Credit Reporting Act.

This legislation addresses many, if not all, of the concerns raised throughout the six hearings conducted by the committee.

This legislation strengthens consumers' ability to control both their personal financial and medical information. I have long supported the need to improve the privacy rights of consumers with respect to genetic, medical, and financial information. I am a cosponsor of legislation which would

provide greater choices for consumers to prevent sharing of information between affiliates and unaffiliated third parties. While this legislation does not go far enough to completely protect consumers, I believe it is an important step in the right direction.

This legislation provides consumers with the ability to prohibit affiliates from using their personal financial information for solicitations and other marketing purposes. In addition, an important amendment was adopted on the floor to provide consumers with additional protections against the misuse of sensitive medical information. It also contains important provisions that will significantly enhance consumer protections against the growing problem of identify theft.

Additionally, it grants consumers with access to one free credit report per year from the credit reporting bureaus. This access will allow consumers to monitor the accuracy of the information contained in their credit files and ensure that information resulting from identity theft does not end up destroying their financial reputation.

And by providing consumers with a free credit report, and access to the information used by creditors to judge their creditworthiness, this bill equips consumers with the tools to competitively shop for sources of financing and will lead consumers to make better informed and more judicious, credit-related decisions.

I believe that we can do more to give consumers better control over their personal information and how financial institutions share their information with their affiliates, for marketing as well as other purposes. This legislation is an important step in the right direction.

Irrespective of any changes that I, or others, may wish to raise with regard to S. 1753, there is no doubt that this legislation significantly improves the current privacy and accuracy standards of our consumer credit reporting system.

Again, I would like to thank Senators SARBANES and SHELBY and their staffs for their hard work on this legislation. I urge my colleagues to support S. 1753.

Mr. BAUCUS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time? There is 1 minute remaining on each side.

Mr. SHELBY. Mr. President, I yield myself 1 minute or less. We are getting ready to vote on the Fair Credit Reporting Act. We were able yesterday to move it to where we are today. We believe we have put together a bipartisan bill. We expect a heavy vote on both sides of the aisle. It is a complicated piece of legislation.

I commend Senator SARBANES, my colleague and the ranking Democrat,

for his leadership in helping us to get where we are today.

I yield back the remainder of my time.

Mr. SARBANES. Mr. President, this is the legislation we spent all day yesterday on. We worked through the issues, I think, in a reasonable and collegial fashion and the measure is now before us for final passage. I thank the chairman of the committee for his many courtesies.

I yield back the remainder of my time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 2, as follows:

[Rollcall Vote No. 437 Leg.]

YEAS—95

Akaka	Dodd	Lugar
Alexander	Dole	McCain
Allard	Domenici	McConnell
Allen	Dorgan	Mikulski
Baucus	Durbin	Miller
Bayh	Ensign	Murkowski
Bennett	Enzi	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Fitzgerald	Nelson (NE)
Bond	Frist	Nickles
Breaux	Graham (FL)	Pryor
Brownback	Graham (SC)	Reed
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Byrd	Hagel	Rockefeller
Campbell	Harkin	Santorum
Cantwell	Hatch	Sarbanes
Carper	Hollings	Schumer
Chafee	Hutchinson	Sessions
Chambliss	Inhofe	Shelby
Clinton	Inouye	Smith
Cochran	Jeffords	Snowe
Coleman	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kohl	Stevens
Cornyn	Kyl	Sununu
Corzine	Landrieu	Talent
Craig	Lautenberg	Thomas
Crapo	Leahy	Voinovich
Daschle	Levin	Warner
Dayton	Lincoln	Wyden
DeWine	Lott	

NAYS—2

Boxer

Feinstein

NOT VOTING—3

Edwards

Kerry

Lieberman

The bill (H.R. 2622), as amended, was passed, as follows:

H.R. 2622

Resolved, That the bill from the House of Representatives (H.R. 2622) entitled "An Act to amend the Fair Credit Reporting Act, to prevent identity theft, improve resolution of consumer disputes, improve the accuracy of consumer records, make improvements in the use of, and consumer access to, credit information, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Consumer Credit Reporting System Improvement Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IDENTITY THEFT PREVENTION AND CREDIT HISTORY RESTORATION

Subtitle A—Identity Theft Prevention

Sec. 111. Definitions.

Sec. 112. Fraud alerts and active duty alerts.

Sec. 113. Truncation of credit card and debit card account numbers.

Sec. 114. Establishment of procedures for the identification of possible instances of identity theft.

Sec. 115. Amendments to existing identity theft prohibition.

Sec. 116. Authority to truncate social security numbers.

Subtitle B—Protection and Restoration of Identity Theft Victim Credit History

Sec. 151. Summary of rights of identity theft victims.

Sec. 152. Blocking of information resulting from identity theft.

Sec. 153. Coordination of identity theft complaint investigations.

Sec. 154. Prevention of repulsion of consumer reports.

Sec. 155. Notice by debt collectors with respect to fraudulent information.

Sec. 156. Statute of limitations.

TITLE II—IMPROVEMENTS IN USE OF AND CONSUMER ACCESS TO CREDIT INFORMATION

Sec. 211. Free credit reports.

Sec. 212. Credit scores.

Sec. 213. Enhanced disclosure of the means available to opt out of prescreened lists.

Sec. 214. Affiliate sharing.

Sec. 215. Study of effects of credit scores and credit-based insurance scores on availability and affordability of financial products.

Sec. 216. Disposal of consumer report information and records.

TITLE III—ENHANCING THE ACCURACY OF CONSUMER REPORT INFORMATION

Sec. 311. Risk-based pricing notice.

Sec. 312. Procedures to enhance the accuracy and completeness of information furnished to consumer reporting agencies.

Sec. 313. Federal Trade Commission and consumer reporting agency action concerning complaints.

Sec. 314. Ongoing audits of the accuracy of consumer reports.

Sec. 315. Improved disclosure of the results of reinvestigation.

Sec. 316. Reconciling addresses.

Sec. 317. FTC study of issues relating to the Fair Credit Reporting Act.

TITLE IV—LIMITING THE USE AND SHARING OF MEDICAL INFORMATION IN THE FINANCIAL SYSTEM

Sec. 411. Protection of medical information in the financial system.

Sec. 412. Confidentiality of medical contact information in consumer reports.

TITLE V—FINANCIAL LITERACY AND EDUCATION IMPROVEMENT

Sec. 511. Short title.

Sec. 512. Definitions.

Sec. 513. Establishment of Financial Literacy and Education Commission.

Sec. 514. Duties of the Commission.
 Sec. 515. Powers of the Commission.
 Sec. 516. Commission personnel matters.
 Sec. 517. Study by the Comptroller General.
 Sec. 518. Authorization of appropriations.

TITLE VI—RELATION TO STATE LAW

Sec. 611. Relation to State law.

TITLE VII—MISCELLANEOUS

Sec. 711. Clerical amendments.

**TITLE I—IDENTITY THEFT PREVENTION
 AND CREDIT HISTORY RESTORATION**

Subtitle A—Identity Theft Prevention

SEC. 111. DEFINITIONS.

Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended by adding at the end the following:

“(q) DEFINITIONS RELATING TO FRAUD ALERTS.—

“(1) ACTIVE DUTY MILITARY CONSUMER.—The term ‘active duty military consumer’ means a consumer in military service who—

“(A) is on active duty (as defined in section 101(d)(1) of title 10, United States Code) or is a reservist performing duty under a call or order to active duty under a provision of law referred to in section 101(a)(13) of title 10, United States Code; and

“(B) is assigned to service away from the usual duty station of the consumer.

“(2) FRAUD ALERT; ACTIVE DUTY ALERT.—The terms ‘fraud alert’ and ‘active duty alert’ mean a statement in the file of a consumer that—

“(A) notifies all prospective users of a consumer report relating to the consumer that the consumer may be a victim of fraud, including identity theft, or is an active duty military consumer, as applicable;

“(B) provides to all prospective users of a consumer report relating to the consumer, a telephone number or other reasonable contact method designated by the consumer for the user to obtain authorization from the consumer before establishing new credit (including providing any increase in a credit limit with respect to an existing credit account) in the name of the consumer; and

“(C) is presented in a manner that facilitates a clear and conspicuous view of the statement described in subparagraph (A) or (B) by any person requesting such consumer report.

“(r) CREDIT CARD.—The term ‘credit card’ has the same meaning as in section 103 of the Truth in Lending Act.

“(s) DEBIT CARD.—The term ‘debit card’ means any card issued by a financial institution to a consumer for use in initiating an electronic fund transfer from the account of the consumer at such financial institution, for the purpose of transferring money between accounts or obtaining money, property, labor, or services.

“(t) ACCOUNT AND ELECTRONIC FUND TRANSFER.—The terms ‘account’ and ‘electronic fund transfer’ have the same meanings as in section 903 of the Electronic Fund Transfer Act.

“(u) CREDIT AND CREDITOR.—The terms ‘credit’ and ‘creditor’ have the same meanings as in section 702 of the Equal Credit Opportunity Act.

“(v) FEDERAL BANKING AGENCIES.—The term ‘Federal banking agencies’ has the same meaning as in section 3 of the Federal Deposit Insurance Act.

“(w) FINANCIAL INSTITUTION.—The term ‘financial institution’ means a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person that, directly or indirectly, holds an account belonging to a consumer.

“(x) RESELLER.—The term ‘reseller’ means a consumer reporting agency that—

“(1) assembles and merges information contained in the database of another con-

sumer reporting agency or multiple consumer reporting agencies concerning any consumer for purposes of furnishing such information to any third party, to the extent of such activities; and

“(2) does not maintain a database of the assembled or merged information from which new consumer reports are produced.

“(y) DEFINITIONS RELATING TO CREDIT SCORES.—

“(1) CREDIT SCORE AND KEY FACTORS.—When used in connection with an application for an extension of credit for a consumer purpose that is to be secured by a dwelling—

“(A) the term ‘credit score’—

“(i) means a numerical value or categorization derived from a statistical tool or modeling system used to predict the likelihood of certain credit behaviors, including default; and

“(ii) does not include—

“(I) any mortgage score or rating of an automated underwriting system that considers 1 or more factors in addition to credit information, including the loan-to-value ratio, the amount of down payment, or the financial assets of a consumer; or

“(II) other elements of the underwriting process or underwriting decision; and

“(B) the term ‘key factors’ means all relevant elements or reasons affecting the credit score for a consumer, listed in the order of their importance, based on their respective effects on the credit score.

“(2) DWELLING.—The term ‘dwelling’ has the same meaning as in section 103 of the Truth in Lending Act.

“(z) IDENTITY THEFT REPORT.—The term ‘identity theft report’ means a report—

“(1) that alleges an identity theft;

“(2) that is filed by a consumer with an appropriate Federal, State, or local government agency, including the United States Postal Inspection Service and any law enforcement agency; and

“(3) the filing of which subjects the person filing the report to criminal penalties relating to the filing of false information if, in fact, the information in the report is false.”.

SEC. 112. FRAUD ALERTS AND ACTIVE DUTY ALERTS.

The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after section 605 the following:

“§ 605A. Identity theft prevention; fraud alerts and active duty alerts

“(a) ONE-CALL FRAUD ALERTS.—

“(1) INITIAL ALERTS.—Upon the request of a consumer who asserts in good faith a suspicion that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, a consumer reporting agency described in section 603(p) that maintains a file on the consumer and has received appropriate proof of the identity of the requester shall—

“(A) include a fraud alert in the file of that consumer for a period of not less than 90 days, beginning on the date of such request, unless the consumer requests that such fraud alert be removed before the end of such period, and the agency has received appropriate proof of the identity of the requester for such purpose; and

“(B) refer the information regarding the fraud alert under this paragraph to each of the other consumer reporting agencies described in section 603(p), in accordance with procedures developed under section 621(f).

“(2) ACCESS TO FREE REPORTS.—In any case in which a consumer reporting agency includes a fraud alert in the file of a consumer pursuant to this subsection, the consumer reporting agency shall—

“(A) disclose to the consumer that the consumer may request a free copy of the file of the consumer pursuant to section 612(d); and

“(B) provide to the consumer all disclosures required to be made under section 609, without charge to the consumer, not later than 3 business days after any request described in subparagraph (A).

“(b) EXTENDED ALERTS.—

“(1) IN GENERAL.—Upon the request of a consumer who submits an identity theft report to a consumer reporting agency described in section 603(p) that maintains a file on the consumer, if the agency has received appropriate proof of the identity of the requester, the agency shall—

“(A) include a fraud alert in the file of that consumer during the 7-year period beginning on the date of such request, unless the consumer requests that such fraud alert be removed before the end of such period and the agency has received appropriate proof of the identity of the requester for such purpose;

“(B) during the 7-year period beginning on the date of such request, exclude the consumer from any list of consumers prepared by the consumer reporting agency and provided to any third party to offer credit or insurance to the consumer as part of a transaction that was not initiated by the consumer, unless the consumer requests that such exclusion be rescinded before the end of such period; and

“(C) refer the information regarding the extended fraud alert under this paragraph to each of the other consumer reporting agencies described in section 603(p), in accordance with procedures developed under section 621(f).

“(2) VERIFICATION OF IDENTITY THEFT CLAIM.—For purposes of paragraph (1), a consumer reporting agency shall accept as proof of a claim of identity theft, in lieu of an identity theft report—

“(A) a properly completed copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission; or

“(B) any affidavit of fact that is acceptable to the consumer reporting agency for that purpose.

“(3) ACCESS TO FREE REPORTS.—In any case in which a consumer reporting agency includes a fraud alert in the file of a consumer pursuant to this subsection, the consumer reporting agency shall—

“(A) disclose to the consumer that the consumer may request 2 free copies of the file of the consumer pursuant to section 612(d) during the 12-month period beginning on the date on which the fraud alert was included in the file; and

“(B) provide to the consumer all disclosures required to be made under section 609, without charge to the consumer, not later than 3 business days after any request described in subparagraph (A).

“(c) ACTIVE DUTY ALERTS.—Upon the request of an active duty military consumer, a consumer reporting agency described in section 603(p) that maintains a file on the active duty military consumer and has received appropriate proof of the identity of the requester shall—

“(1) include an active duty alert in the file of that active duty military consumer during a period of not less than 12 months, beginning on the date of the request, unless the active duty military consumer requests that such fraud alert be removed before the end of such period, and the agency has received appropriate proof of the identity of the requester for such purpose;

“(2) during the 12-month period beginning on the date of such request, exclude the active duty military consumer from any list of consumers prepared by the consumer reporting agency and provided to any third party to offer credit or insurance to the consumer as part of a transaction that was not initiated by the consumer, unless the consumer

requests that such exclusion be rescinded before the end of such period; and

“(3) refer the information regarding the active duty alert to each of the other consumer reporting agencies described in section 603(p), in accordance with procedures developed under section 621(f).

“(d) PROCEDURES.—Each consumer reporting agency described in section 603(p) shall establish policies and procedures to comply with this section, including procedures that allow consumers and active duty military consumers to request temporary, extended, or active duty alerts (as applicable) in a simple and easy manner, including by telephone.

“(e) REFERRALS OF FRAUD ALERTS.—Each consumer reporting agency described in section 603(p) that receives a referral of a fraud alert or active duty alert from another consumer reporting agency pursuant to this section shall, as though the agency received the request from the consumer directly, follow the procedures required under—

“(1) paragraphs (1)(A) and (2) of subsection (a), in the case of a referral under subsection (a)(1)(B);

“(2) paragraphs (1)(A), (1)(B), and (3) of subsection (b), in the case of a referral under subsection (b)(1)(C); and

“(3) paragraphs (1) and (2) of subsection (c), in the case of a referral under subsection (c)(3).

“(f) DUTY OF RESELLER TO RECONVEY ALERT.—A reseller shall include in its report any fraud alert or active duty alert placed in the file of a consumer pursuant to this section by another consumer reporting agency.

“(g) DUTY OF OTHER CONSUMER REPORTING AGENCIES TO PROVIDE CONTACT INFORMATION.—If a consumer contacts any consumer reporting agency that is not described in section 603(p) to communicate a suspicion that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, the agency shall provide information to the consumer on how to contact the Federal Trade Commission and the consumer reporting agencies described in section 603(p) to obtain more detailed information and request alerts under this section.”.

SEC. 113. TRUNCATION OF CREDIT CARD AND DEBIT CARD ACCOUNT NUMBERS.

Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended by adding at the end the following:

“(g) TRUNCATION OF CREDIT CARD AND DEBIT CARD NUMBERS.—

“(1) IN GENERAL.—Except as otherwise specifically provided in this subsection, no person that accepts credit cards or debit cards for the transaction of business shall print more than the last 5 digits of the card account number or the expiration date upon any receipt provided to the cardholder at the point of the sale or transaction.

“(2) LIMITATION.—This subsection applies only to receipts that are electronically printed, and does not apply to transactions in which the sole means of recording a credit card or debit card account number is by handwriting or by an imprint or copy of the card.

“(3) EFFECTIVE DATE.—This subsection shall become effective—

“(A) 3 years after the date of enactment of this subsection, with respect to any cash register or other machine or device that electronically prints receipts for credit card or debit card transactions that is in use before January 1, 2005; and

“(B) 1 year after the date of enactment of this subsection, with respect to any cash register or other machine or device that electronically prints receipts for credit card or debit card transactions that is first put into use on or after January 1, 2005.”.

SEC. 114. ESTABLISHMENT OF PROCEDURES FOR THE IDENTIFICATION OF POSSIBLE INSTANCES OF IDENTITY THEFT.

(a) IN GENERAL.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended—

(1) by striking “(e)” at the end; and

(2) by adding at the end the following:

“(e) RED FLAG GUIDELINES AND REGULATIONS REQUIRED.—

“(1) GUIDELINES.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall, with respect to the entities that are subject to their respective enforcement authority under section 621, and in coordination as described in paragraph (2)—

“(A) establish and maintain guidelines for use by each financial institution and each other person that is a creditor or other user of a consumer report regarding identity theft with respect to account holders at, or customers of, such entities, and update such guidelines as often as necessary;

“(B) prescribe regulations requiring each financial institution and each other person that is a creditor or other user of a consumer report to establish reasonable policies and procedures for implementing the guidelines established pursuant to paragraph (1), to identify possible risks to account holders or to the safety and soundness of the institution or customers; and

“(C) prescribe regulations requiring each financial institution and each other person that is a creditor or other user of a consumer report to notify the Federal Trade Commission (and any other agency or person that such rulemaking agency determines appropriate) in any case in which there has been, or is reasonably believed to have been unauthorized access to computerized or physical records which compromises the security, confidentiality, or integrity of consumer information maintained by or on behalf of that entity, except that such regulations shall not apply to a good faith acquisition of information by an employee or agent of such entity for a business purpose of that entity, if the information is not subject to further unauthorized access.

“(2) COORDINATION.—Each agency required to prescribe regulations under paragraph (1) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

“(3) CRITERIA.—In developing the guidelines required by paragraph (1)(A), the agencies described in paragraph (1) shall identify patterns, practices, and specific forms of activity that indicate the possible existence of identity theft.

“(4) CONSISTENCY WITH VERIFICATION REQUIREMENTS.—Policies and procedures established pursuant to paragraph (1) shall not be inconsistent with, or duplicative of, the policies and procedures required under section 5318(j) of title 31, United States Code.

“(f) INVESTIGATION OF CHANGES OF ADDRESS.—

“(1) IN GENERAL.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission, in carrying out the responsibilities of such agencies under subsection (e) shall, with respect to the entities that are subject to their respective enforcement authority under section 621, and in coordination as described in paragraph (2), prescribe regulations applicable to card issuers to ensure that, if any such card issuer receives a request for an additional or replacement card for an existing account not later than 30 days after the card issuer has received notification of a change of address for the same

account, the card issuer will follow reasonable policies and procedures that prohibit, as appropriate, the card issuer from issuing the additional or replacement card, unless the card issuer—

“(A) notifies the cardholder of the request at the former address of the cardholder and provides to the cardholder a means of promptly reporting incorrect address changes;

“(B) notifies the cardholder of the request by such other means of communication as the cardholder and the card issuer previously agreed to; or

“(C) uses other means of assessing the validity of the change of address, in accordance with reasonable policies and procedures established by the card issuer in accordance with the regulations prescribed under subsection (e).

“(2) COORDINATION.—Each agency required to prescribe regulations under paragraph (1) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

“(3) DEFINITION OF CARD ISSUER.—For purposes of this subsection, the term ‘card issuer’ means—

“(A) any person who issues a credit card, or the agent of such person with respect to such card; and

“(B) any person who issues a debit card.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 1 year after the date of enactment of this Act.

SEC. 115. AMENDMENTS TO EXISTING IDENTITY THEFT PROHIBITION.

Section 1028 of title 18, United States Code, is amended—

(1) in subsection (a)(7)—

(A) by striking “transfers” and inserting “transfers, possesses;”; and

(B) by striking “abet,” and inserting “abet, or in connection with;”;

(2) in subsection (b)(1)(D), by striking “transfer” and inserting “transfer, possession;”; and

(3) in subsection (b)(2), by striking “three years” and inserting “5 years”.

SEC. 116. AUTHORITY TO TRUNCATE SOCIAL SECURITY NUMBERS.

Section 609(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)(1)) is amended by striking “except that nothing” and inserting the following: “except that—

“(A) if the consumer to whom the file relates requests that the first 5 digits of the social security number (or similar identification number) of the consumer not be included in the disclosure and the consumer reporting agency has received appropriate proof of the identity of the requester, the consumer reporting agency shall so truncate such number in such disclosure; and

“(B) nothing”.

Subtitle B—Protection and Restoration of Identity Theft Victim Credit History

SEC. 151. SUMMARY OF RIGHTS OF IDENTITY THEFT VICTIMS.

(a) IN GENERAL.—Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended by adding at the end the following:

“(d) SUMMARY OF RIGHTS OF IDENTITY THEFT VICTIMS.—

“(1) IN GENERAL.—The Federal Trade Commission, in consultation with the Federal banking agencies and the National Credit Union Administration, shall prescribe the form and content of a summary of the rights of consumers under this title with respect to the procedures for remedying the effects of fraud or identity theft involving credit, electronic fund transfers, or accounts or transactions at or with a financial institution.

“(2) SUMMARY OF RIGHTS AND CONTACT INFORMATION.—If any consumer contacts a consumer reporting agency and expresses a belief that the consumer is a victim of fraud or identity theft involving credit, an electronic fund transfer, or an account or transaction at or with a financial institution, the consumer reporting agency shall, in addition to any other action that the agency may take, provide the consumer with the model summary of rights prepared by the Federal Trade Commission under paragraph (1) and information on how to contact the Commission to obtain more detailed information.

“(e) INFORMATION AVAILABLE TO VICTIMS.—

“(1) IN GENERAL.—For the purpose of documenting fraudulent transactions resulting from identity theft, not later than 20 days after the date of receipt of a request from a victim in accordance with paragraph (3), and subject to verification of the identity of the victim and the claim of identity theft in accordance with paragraph (2), a business entity that has provided credit to, provided for consideration products, goods, or services to, accepted payment from, or otherwise entered into a commercial transaction for consideration with, a person who has allegedly made unauthorized use of the means of identification of the victim, shall provide a copy of application and business transaction records in the control of the business entity, whether maintained by the business entity or by another person on behalf of the business entity, evidencing any transaction alleged to be a result of identity theft to—

“(A) the victim;

“(B) any Federal, State, or local governing law enforcement agency or officer specified by the victim in such a request; or

“(C) any law enforcement agency investigating the identity theft and authorized by the victim to take receipt of records provided under this subsection.

“(2) VERIFICATION OF IDENTITY AND CLAIM.—Before a business entity provides any information under paragraph (1), unless the business entity, at its discretion, is otherwise able to verify the identity of the victim making a request under paragraph (1), the victim shall provide to the business entity—

“(A) as proof of positive identification of the victim, at the election of the business entity—

“(i) the presentation of a government-issued identification card;

“(ii) personally identifying information of the same type as was provided to the business entity by the unauthorized person; or

“(iii) personally identifying information that the business entity typically requests from new applicants or for new transactions, at the time of the victim's request for information, including any documentation described in clauses (i) and (ii); and

“(B) as proof of a claim of identity theft, at the election of the business entity—

“(i) a copy of a police report evidencing the claim of the victim of identity theft; and

“(ii) a properly completed—

“(1) copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission; or

“(II) an affidavit of fact that is acceptable to the business entity for that purpose.

“(3) PROCEDURES.—The request of a victim under paragraph (1) shall—

“(A) be in writing; and

“(B) be mailed to an address specified by the business entity, if any.

“(4) NO CHARGE TO VICTIM.—Information required to be provided under paragraph (1) shall be so provided without charge.

“(5) AUTHORITY TO DECLINE TO PROVIDE INFORMATION.—A business entity may decline to provide information under paragraph (1) if, in the exercise of good faith, the business entity determines that—

“(A) this subsection does not require disclosure of the information;

“(B) the request for the information is based on a misrepresentation of fact by the individual requesting the information relevant to the request for information; or

“(C) the information requested is Internet navigational data or similar information about a person's visit to a website or online service.

“(6) LIMITATION ON LIABILITY.—Except as provided in section 621, sections 616 and 617 do not apply to any violation of this subsection.

“(7) NO NEW RECORDKEEPING OBLIGATION.—Nothing in this subsection creates an obligation on the part of a business entity to obtain, retain, or maintain information or records that are not otherwise required to be obtained, retained, or maintained in the ordinary course of its business or under other applicable law.

“(8) RULE OF CONSTRUCTION.—

“(A) IN GENERAL.—No provision of Federal or State law (except a law involving the non-disclosure of information related to a pending Federal criminal investigation) prohibiting the disclosure of financial information by a business entity to third parties shall be used to deny disclosure of information to the victim under this subsection.

“(B) LIMITATION.—Except as provided in subparagraph (A), nothing in this subsection permits a business entity to disclose information, including information to law enforcement under subparagraphs (B) and (C) of paragraph (1), that the business entity is otherwise prohibited from disclosing under any other applicable provision of Federal or State law.

“(9) AFFIRMATIVE DEFENSE.—In any civil action brought to enforce this subsection, it is an affirmative defense (which the defendant must establish by a preponderance of the evidence) for a business entity to file an affidavit or answer stating that—

“(A) the business entity has made a reasonably diligent search of its available business records; and

“(B) the records requested under this subsection do not exist or are not available.

“(10) DEFINITION OF VICTIM.—For purposes of this subsection, the term ‘victim’ means a consumer whose means of identification or financial information has been used or transferred (or has been alleged to have been used or transferred) without the authority of that consumer, with the intent to commit, or to aid or abet, identity theft or any other violation of law.”

(b) PUBLIC CAMPAIGN TO PREVENT IDENTITY THEFT.—Not later than 2 years after the date of enactment of this Act, the Federal Trade Commission shall establish and implement a media and distribution campaign to teach the public how to prevent identity theft. Such campaign shall include existing Federal Trade Commission education materials, as well as radio, television, and print public service announcements, video cassettes, interactive digital video discs (DVD's) or compact audio discs (CD's), and Internet resources.

(c) CONFORMING AMENDMENT.—Section 624(b)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)(3)), regarding relation to State laws) is amended by striking “section 609(c)” and inserting “subsection (c) or (d) of section 609”.

SEC. 152. BLOCKING OF INFORMATION RESULTING FROM IDENTITY THEFT.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after section 605A, as added by this Act, the following:

“§ 605B. Block of information resulting from identity theft

“(a) BLOCK.—Except as otherwise provided in this section, a consumer reporting agency shall block the reporting of any information in the file of a consumer that the consumer identifies as information that resulted from an alleged identity theft, not later than 3 business days after the date of receipt by such agency of—

“(1) appropriate proof of the identity of the consumer;

“(2) a copy of an identity theft report; and

“(3) the identification of such information by the consumer.

“(b) NOTIFICATION.—A consumer reporting agency shall promptly notify the furnisher of information identified by the consumer under subsection (a)—

“(1) that the information may be a result of identity theft;

“(2) that an identity theft report has been filed;

“(3) that a block has been requested under this section; and

“(4) of the effective dates of the block.

“(c) AUTHORITY TO DECLINE OR RESCIND.—

“(1) IN GENERAL.—A consumer reporting agency may decline to block, or may rescind any block, of information relating to a consumer under this section, if the consumer reporting agency reasonably determines that—

“(A) the information was blocked in error or a block was requested by the consumer in error;

“(B) the information was blocked, or a block was requested by the consumer, on the basis of a material misrepresentation of fact relevant to the request to block; or

“(C) the consumer obtained possession of goods, services, or money as a result of the blocked transaction or transactions.

“(2) NOTIFICATION TO CONSUMER.—If a block of information is declined or rescinded under this subsection, the affected consumer shall be notified promptly, in the same manner as consumers are notified of the reinsertion of information under section 611(a)(5)(B).

“(3) SIGNIFICANCE OF BLOCK.—For purposes of this subsection, if a consumer reporting agency rescinds a block, the presence of information in the file of a consumer prior to the blocking of such information is not evidence of whether the consumer knew or should have known that the consumer obtained possession of any goods, services, or money as a result of the block.

“(d) EXCEPTION FOR RESELLERS.—

“(1) NO RESELLER FILE.—This section shall not apply to a consumer reporting agency, if the consumer reporting agency—

“(A) is a reseller;

“(B) is not, at the time of the request of the consumer under subsection (a), otherwise furnishing or reselling a consumer report concerning the information identified by the consumer; and

“(C) informs the consumer, by any means, that the consumer may report the identity theft to the Federal Trade Commission to obtain consumer information regarding identity theft.

“(2) RESELLER WITH FILE.—The sole obligation of the consumer reporting agency under this section, with regard to any request of a consumer under this section, shall be to block the consumer report maintained by the consumer reporting agency from any subsequent use, if—

“(A) the consumer, in accordance with the provisions of subsection (a), identifies, to a consumer reporting agency, information in the file of the consumer that resulted from identity theft; and

“(B) the consumer reporting agency is a reseller of the identified information.

“(3) NOTICE.—In carrying out its obligation under paragraph (2), the reseller shall

promptly provide a notice to the consumer of the decision to block the file. Such notice shall contain the name, address, and telephone number of each consumer reporting agency from which the consumer information was obtained for resale.

“(e) EXCEPTION FOR VERIFICATION COMPANIES.—The provisions of this section do not apply to a check services company, acting as such, which issues authorizations for the purpose of approving or processing negotiable instruments, electronic fund transfers, or similar methods of payments, except that, beginning 3 business days after receipt of information described in paragraphs (1) through (3) of subsection (a), a check services company shall not report to a national consumer reporting agency described in section 603(p), any information identified in the subject identity theft report as resulting from identity theft.

“(f) ACCESS TO BLOCKED INFORMATION BY LAW ENFORCEMENT AGENCIES.—No provision of this section shall be construed as requiring a consumer reporting agency to prevent a Federal, State, or local law enforcement agency from accessing blocked information in a consumer file to which the agency could otherwise obtain access under this title.”.

(b) CLERICAL AMENDMENT.—The table of sections for the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after the item relating to section 605 the following new items:

“605A. Identity theft prevention; fraud alerts and active duty alerts.

“605B. Block of information resulting from identity theft.”.

SEC. 153. COORDINATION OF IDENTITY THEFT COMPLAINT INVESTIGATIONS.

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

“(f) COORDINATION OF CONSUMER COMPLAINT INVESTIGATIONS.—

“(1) IN GENERAL.—Each consumer reporting agency described in section 603(p) shall develop and maintain procedures for the referral to each other such agency of any consumer complaint received by the agency alleging identity theft, or requesting a fraud alert under section 605A or a block under section 605B.

“(2) MODEL FORM AND PROCEDURE FOR REPORTING IDENTITY THEFT.—The Federal Trade Commission, in consultation with the Federal banking agencies and the National Credit Union Administration, shall develop a model form and model procedures to be used by consumers who are victims of identity theft for contacting and informing creditors and consumer reporting agencies of the fraud.

“(3) ANNUAL SUMMARY REPORTS.—Each consumer reporting agency described in section 603(p) shall submit an annual summary report to the Federal Trade Commission on consumer complaints received by the agency on identity theft or fraud alerts.”.

SEC. 154. PREVENTION OF REPELLUTION OF CONSUMER REPORTS.

(a) PREVENTION OF REINSERTION OF ERRONEOUS INFORMATION.—

(1) DUTIES OF FURNISHERS UPON NOTICE OF IDENTITY THEFT-RELATED DISPUTES.—Section 623(b) of the Fair Credit Reporting Act (15 U.S.C. 1681s-2(b)) is amended—

(A) by redesignating paragraph (2) as paragraph (3);

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

“(2) DUTIES OF FURNISHERS UPON NOTICE OF IDENTITY THEFT-RELATED DISPUTES.—A person that furnishes information to any consumer reporting agency shall—

(A) have in place reasonable procedures to respond to any notification that it receives

from a consumer reporting agency under section 605B relating to information resulting from identity theft, to prevent that person from furnishing such blocked information; and

“(B) take the actions described in subparagraphs (A) through (D) of paragraph (1), if such person receives directly from a consumer, an identity theft report or a properly completed copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission.”; and

(C) in paragraph (3), as redesignated, by striking “paragraph (1)” and inserting “this subsection”.

(2) CONFORMING AMENDMENTS RELATING TO NOTICE OF IDENTITY THEFT DIRECTLY FROM CONSUMERS.—Section 623(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681s-2(b)(1)) is amended—

(A) in the matter preceding subparagraph (A), by inserting “or as described in paragraph (2)(B),” after “agency.”;

(B) subparagraph (B), by inserting before the semicolon the following: “, and by the consumer, and other documentation reasonably available to the person that is necessary to conduct a reasonable investigation”;

(C) in subparagraph (C), by inserting before the semicolon at the end the following: “, and to the consumer, if notice of the dispute was received directly from the consumer, as described in paragraph (2)(B)”.

(b) PROHIBITION ON SALE OR TRANSFER OF DEBT CAUSED BY IDENTITY THEFT.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m), as amended by this Act, is amended by adding at the end the following:

“(g) PROHIBITION ON SALE OR TRANSFER OF DEBT CAUSED BY IDENTITY THEFT.—

“(1) IN GENERAL.—No person shall sell, transfer for consideration, or place for collection a debt that such person has been notified under section 605B has resulted from identity theft.

“(2) APPLICABILITY.—The prohibitions of this subsection shall apply to all persons collecting a debt described in paragraph (1) after the date of a notification under paragraph (1).

“(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit—

“(A) the repurchase of a debt in any case in which the assignee of the debt requires such repurchase because the debt has resulted from identity theft;

“(B) the securitization of a debt; or

“(C) the transfer of debt as a result of a merger, acquisition, purchase and assumption transaction, or transfer of substantially all of the assets of an entity.”.

SEC. 155. NOTICE BY DEBT COLLECTORS WITH RESPECT TO FRAUDULENT INFORMATION.

Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m), as amended by this Act, is amended by adding at the end the following:

“(h) DEBT COLLECTOR COMMUNICATIONS CONCERNING IDENTITY THEFT.—If a person acting as a debt collector (as that term is defined in title VIII) on behalf of a third party that is a creditor or other user of a consumer report is notified that any information relating to a debt that the person is attempting to collect may be fraudulent or may be the result of identity theft, that person shall—

“(1) notify the third party that the information may be fraudulent or may be the result of identity theft; and

“(2) upon request of the consumer to whom the debt purportedly relates, provide to the consumer all information to which the consumer would otherwise be entitled if the consumer were not a victim of identity theft,

but wished to dispute the debt under provisions of law applicable to that person.”.

SEC. 156. STATUTE OF LIMITATIONS.

Section 618 of the Fair Credit Reporting Act (15 U.S.C. 1681p) is amended to read as follows:

“§ 618. Jurisdiction of courts; limitation of actions

“An action to enforce any liability created under this title may be brought in any appropriate United States district court, without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than the earlier of—

“(1) 2 years after the date of discovery by the plaintiff of the violation that is the basis for such liability; or

“(2) 5 years after the date on which the violation that is the basis for such liability occurs.”.

TITLE II—IMPROVEMENTS IN USE OF AND CONSUMER ACCESS TO CREDIT INFORMATION

SEC. 211. FREE CREDIT REPORTS.

(a) IN GENERAL.—Section 612 of the Fair Credit Reporting Act (15 U.S.C. 1681j) is amended—

(1) by redesignating subsection (a) as subsection (f), and transferring it to the end of the section;

(2) by inserting before subsection (b) the following:

“(a) FREE ANNUAL DISCLOSURE.—

“(1) IN GENERAL.—A consumer reporting agency described in section 603(p) shall make all disclosures pursuant to section 609 once during any 12-month period upon request of the consumer and without charge to the consumer, only if the request is made by mail or through an Internet website using the centralized system and the standardized form established for such requests in accordance with section 211(c) of the National Consumer Credit Reporting System Improvement Act of 2003.

“(2) TIMING.—A consumer reporting agency shall provide a consumer report under paragraph (1) not later than 15 days after the date on which the request is received under paragraph (1).

“(3) REINVESTIGATIONS.—Notwithstanding the time periods specified in section 611(a)(1), a reinvestigation under that section by a consumer reporting agency upon a request of a consumer that is made after receiving a consumer report under this subsection shall be completed not later than 45 days after the date on which the request is received.”;

(3) by redesignating subsection (d) as subsection (e);

(4) by inserting before subsection (e), as redesignated, the following:

“(d) FREE DISCLOSURES IN CONNECTION WITH FRAUD ALERTS.—Upon the request of a consumer, a consumer reporting agency described in section 603(p) shall make all disclosures pursuant to section 609 without charge to the consumer, as provided in subsections (a)(2) and (b)(3) of section 605A, as applicable.”;

(5) in subsection (e), as redesignated, by striking “subsection (a)” and inserting “subsection (f)”;

(6) in subsection (f), as redesignated, by striking “Except as provided in subsections (b), (c), and (d), a” and inserting “In the case of a request from a consumer other than a request that is covered by any of subsections (a) through (d), a”.

(b) SUMMARY OF RIGHTS TO OBTAIN AND DISPUTE INFORMATION IN CONSUMER REPORTS AND TO OBTAIN CREDIT SCORES.—Section 609(c) of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended to read as follows:

“(c) SUMMARY OF RIGHTS TO OBTAIN AND DISPUTE INFORMATION IN CONSUMER REPORTS AND TO OBTAIN CREDIT SCORES.—

“(1) COMMISSION SUMMARY OF RIGHTS REQUIRED.—

“(A) IN GENERAL.—The Federal Trade Commission shall prepare a model summary of the rights of consumers under this title.

“(B) CONTENT OF SUMMARY.—The summary of rights prepared under subparagraph (A) shall include a description of—

“(i) the right of a consumer to obtain a copy of a consumer report under subsection (a) from each consumer reporting agency;

“(ii) the frequency and circumstances under which a consumer is entitled to receive a consumer report without charge under section 612;

“(iii) the right of a consumer to dispute information in the file of the consumer under section 611;

“(iv) the right of a consumer to obtain a credit score from a consumer reporting agency, and a description of how to obtain a credit score; and

“(v) the method by which a consumer can contact, and obtain a consumer report from, a consumer reporting agency without charge, as provided in the regulations of the Federal Trade Commission prescribed under section 211(c) of the National Consumer Credit Reporting System Improvement Act of 2003.

“(C) AVAILABILITY OF SUMMARY OF RIGHTS.—The Federal Trade Commission shall—

“(i) actively publicize the availability of the summary of rights prepared under this paragraph;

“(ii) conspicuously post on its Internet website the availability of such summary of rights; and

“(iii) promptly make such summary of rights available to consumers, on request.

“(2) SUMMARY OF RIGHTS REQUIRED TO BE INCLUDED WITH AGENCY DISCLOSURES.—A consumer reporting agency shall provide to a consumer, with each written disclosure by the agency to the consumer under this section—

“(A) the summary of rights prepared by the Federal Trade Commission under paragraph (1);

“(B) in the case of a consumer reporting agency described in section 603(p), a toll-free telephone number established by the agency, at which personnel are accessible to consumers during normal business hours;

“(C) a list of all Federal agencies responsible for enforcing any provision of this title, and the address and any appropriate phone number of each such agency, in a form that will assist the consumer in selecting the appropriate agency;

“(D) a statement that the consumer may have additional rights under State law, and that the consumer may wish to contact a State or local consumer protection agency or a State attorney general (or the equivalent thereof) to learn of those rights; and

“(E) a statement that a consumer reporting agency is not required to remove accurate derogatory information from the file of a consumer, unless the information is outdated under section 605 or cannot be verified.”.

(c) RULEMAKING REQUIRED.—

(1) IN GENERAL.—The Federal Trade Commission shall prescribe regulations applicable to consumer reporting agencies described in section 603(p) of the Fair Credit Reporting Act to require the establishment of—

(A) a centralized source, through which consumers may obtain a consumer report from each consumer reporting agency described in that section 603(p) using a single request and without charge to the consumer, as provided in section 612(a) of the Fair Credit Reporting Act (as amended by this Act);

(B) a standardized form for a consumer to make such a request for a consumer report by mail or through an Internet website; and

(C) streamlined methods by which such a consumer reporting agency shall provide such consumer reports, after consideration of—

(i) the significant demands that may be placed on consumer reporting agencies in providing such consumer reports;

(ii) appropriate means to ensure that consumer reporting agencies can satisfactorily meet those demands, including the efficacy of a system of staggering the availability to consumers of such consumer reports using a quarterly method based on the birth month of the consumer; and

(iii) the ease by which consumers should be able to contact consumer reporting agencies with respect to access to such consumer reports.

(2) TIMING.—Regulations required by this subsection shall—

(A) be issued in final form not later than 6 months after the date of enactment of this Act; and

(B) become effective not later than 6 months after the date on which they are issued in final form.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall become effective on the effective date of the regulations prescribed by the Federal Trade Commission in accordance with subsection (c).

SEC. 212. CREDIT SCORES.

(a) DUTIES OF CONSUMER REPORTING AGENCIES TO DISCLOSE CREDIT SCORES.—

(1) IN GENERAL.—Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended by adding at the end the following:

“(6) In connection with an application for an extension of credit for a consumer purpose that is to be secured by a dwelling—

“(A) the current, or most recent, credit score of the consumer that was previously calculated by the agency;

“(B) the range of possible credit scores under the model used;

“(C) the key factors, if any, not to exceed 4, that adversely affected the credit score of the consumer in the model used;

“(D) the date on which the credit score was created; and

“(E) the name of the person or entity that provided the credit score or the credit file on the basis of which the credit score was created.”.

(2) LIMITATIONS ON REQUIRED PROVISION OF CREDIT SCORE.—Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g), as amended by this Act, is amended by adding at the end the following:

“(f) LIMITATIONS ON REQUIRED PROVISION OF CREDIT SCORE.—

“(1) IN GENERAL.—Subsection (a)(6) may not be construed—

“(A) to compel a consumer reporting agency to develop or disclose a credit score if the agency does not, in the ordinary course of its business—

“(i) distribute scores that are used in connection with extensions of credit secured by residential real property; or

“(ii) develop credit scores that assist creditors in understanding the general credit behavior of the consumer and predicting future credit behavior;

“(B) to require a consumer reporting agency that distributes credit scores developed by another person or entity to provide a further explanation of those scores, or to process a dispute arising pursuant to section 611(a), except that the consumer reporting agency shall be required to provide to the consumer the name and information for contacting the person or entity that developed the score;

“(C) to require a consumer reporting agency to maintain credit scores in its files; or

“(D) to compel disclosure of a credit score, except upon specific request of the consumer, except that if a consumer requests the credit file and not the credit score, then the consumer shall be provided with the credit file and a statement that the consumer may request and obtain a credit score.

“(2) PROVISION OF SCORING MODEL.—In complying with subsection (a)(6) and this subsection, a consumer reporting agency shall supply to the consumer—

“(A) a credit score that is derived from a credit scoring model that is widely distributed to users of credit scores by that consumer reporting agency in connection with any extension of credit secured by a dwelling; or

“(B) a credit score that assists the consumer in understanding the credit scoring assessment of the credit behavior of the consumer and predictions about future credit behavior.”.

(3) CONFORMING AMENDMENT.—Section 609(a)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)(1)(B)), as so designated by section 116, is amended by inserting before the period “, other than as provided in paragraph (6)”.’.

(b) DUTIES OF USERS OF CREDIT SCORES.—

(1) IN GENERAL.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m), as amended by this Act, is amended by adding at the end the following:

“(i) DUTIES OF USERS OF CREDIT SCORES.—

“(1) DISCLOSURES.—Any person that makes or arranges extensions of credit for consumer purposes that are to be secured by a dwelling and that uses credit scores for that purpose, shall be required to provide to the consumer to whom the credit score relates, as soon as is reasonably practicable after such use—

“(A) a copy of the information described in section 609(a)(6) that was obtained from a consumer reporting agency or that was developed and used by that user of the credit score information; or

“(B) if the user of the credit score information obtained such information from a third party that developed such information (other than a consumer reporting agency or the user itself), only—

“(i) a copy of the information described in section 609(a)(6) provided to the user by the person or entity that developed the credit score; and

“(ii) a notice that generally describes credit scores, their use, and the sources and kinds of data used to generate credit scores.

“(2) RULE OF CONSTRUCTION.—This subsection may not be construed to require the user of a credit score described in paragraph (1)—

“(A) to explain to the consumer the information provided pursuant to section 609(a)(6), unless that information was developed by the user;

“(B) to disclose any information other than a credit score or the key factors required to be disclosed under section 609(a)(6)(C);

“(C) to disclose any credit score or related information obtained by the user after a transaction occurs; or

“(D) to provide more than 1 disclosure under this subsection to any 1 consumer per credit transaction.

“(3) LIMITATION.—Except as otherwise provided in this subsection, the obligation of a user of a credit score under this subsection shall be limited solely to providing a copy of the information that was received from the consumer reporting agency or other person. A user of a credit score has no liability under this subsection for the content of credit score information received from a consumer reporting agency or for the omission of any

information within the report provided by the consumer reporting agency.”.

(2) CONFORMING AMENDMENT.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended in the section heading, by adding at the end the following: “and credit scores”.

(c) CONTRACTUAL LIABILITY.—Section 616 of the Fair Credit Reporting Act (15 U.S.C. 1681n) is amended by adding at the end the following:

“(d) USE OF CREDIT SCORES.—Any provision of any contract that prohibits the disclosure of a credit score by a consumer reporting agency or a person who makes or arranges extensions of credit to the consumer to whom the credit score relates is void. A user of a credit score shall not have liability under any such contractual provision for disclosure of a credit score.”.

(d) RELATION TO STATE LAWS.—Section 624(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)(1)), regarding relation to State laws is amended—

(1) in subparagraph (E), by striking “or” at the end; and

(2) by adding at the end the following:

“(G) subsections (a)(6) and (f) of section 609, relating to the disclosure of credit scores by consumer reporting agencies in connection with an application for an extension of credit that is to be secured by a dwelling;

“(H) section 615(i), relating to the duties of users of credit scores to disclose credit score information to consumers in connection with an application for an extension of credit that is to be secured by a dwelling; or”.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective 180 days after the date of enactment of this Act.

SEC. 213. ENHANCED DISCLOSURE OF THE MEANS AVAILABLE TO OPT OUT OF PRESCREENED LISTS.

(a) NOTICE AND RESPONSE FORMAT FOR USERS OF REPORTS.—Section 615(d)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681m(d)(2)) is amended to read as follows:

“(2) DISCLOSURE OF ADDRESS AND TELEPHONE NUMBER; FORMAT.—A statement under paragraph (1) shall—

“(A) include the address and toll-free telephone number of the appropriate notification system established under section 604(e); and

“(B) be presented in such format and in such type size and manner as is established by the Federal Trade Commission, by rule, in consultation with the Federal banking agencies and the National Credit Union Administration.”.

(b) RULEMAKING SCHEDULE.—Regulations required by section 615(d)(2) of the Fair Credit Reporting Act, as amended by this section, shall be issued in final form not later than 1 year after the date of enactment of this Act.

(c) DURATION OF ELECTIONS.—Section 604(e) of the Fair Credit Reporting Act (15 U.S.C. 1681b(e)) is amended in each of paragraphs (3)(A) and (4)(B)(i), by striking “2-year period” each place that term appears and inserting “7-year period”.

(d) PUBLIC AWARENESS CAMPAIGN.—The Federal Trade Commission shall actively publicize and conspicuously post on its website any address and the toll-free telephone number established as part of a notification system for opting out of prescreening under section 604(e), and otherwise take measures to increase public awareness regarding the availability of the right to opt out of prescreening.

SEC. 214. AFFILIATE SHARING.

(a) LIMITATION.—The Fair Credit Reporting Act (15 U.S.C. 1601 et seq.) is amended—

(1) by redesignating section 624 (regarding relation to State laws), as so designated by section 2413(b) of the Consumer Credit Re-

porting Reform Act of 1996 (110 Stat. 3009-447), as section 625;

(2) by redesignating section 624 (regarding disclosures to FBI for counterintelligence purposes), as added by section 601(a) of the Intelligence Authorization Act for Fiscal Year 1996 (Public Law 104-93; 109 Stat. 974) (15 U.S.C. 1681u), as section 626; and

(3) by inserting after section 623 the following:

“SEC. 624. AFFILIATE SHARING.

“(a) SPECIAL RULE FOR SOLICITATION FOR PURPOSES OF MARKETING.—

“(1) NOTICE.—Any person that receives from another person related to it by common ownership or affiliated by corporate control a communication of information that would be a consumer report, except for clauses (i) through (iii) of section 603(d)(2)(A), may not use the information to make a solicitation for marketing purposes to a consumer about its products or services, unless—

“(A) it is clearly and conspicuously disclosed to the consumer that the information may be communicated among such persons for purposes of making such solicitations to the consumer; and

“(B) the consumer is provided an opportunity and a simple method to prohibit the making of such solicitations to the consumer by such person.

“(2) CONSUMER CHOICE.—

“(A) IN GENERAL.—The notice required under paragraph (1) shall allow the consumer the opportunity to prohibit all such solicitations, and may allow the consumer to choose from different options when electing to prohibit the sending of such solicitations, including options regarding the types of entities and information covered, and which methods of delivering solicitations the consumer elects to prohibit.

“(B) FORMAT.—Notwithstanding subparagraph (A), the notice required under paragraph (1) must be clear, conspicuous, and concise, and any method provided under paragraph (1)(B) must be simple. The regulations prescribed to implement this section shall provide specific guidance regarding how to comply with such standards.

“(3) DURATION.—The election of a consumer pursuant to paragraph (1)(B) to prohibit the sending of solicitations shall be effective permanently, beginning on the date on which the person receives the election of the consumer, unless the consumer requests that such election be revoked.

“(4) DEFINITION.—For purposes of this section, the term ‘pre-existing business relationship’ means a relationship between a person and a consumer, based on—

“(A) the purchase, rental, or lease by the consumer of that person’s goods or services, or a financial transaction between the consumer and that person during the 18-month period immediately preceding the date on which the consumer receives the notice required under this section; or

“(B) an inquiry or application by the consumer regarding a product or service offered by that person, during the 3-month period immediately preceding the date on which the consumer receives the notice required under this section.

“(5) SCOPE.—This section shall not apply to a person—

“(A) using information to make a solicitation for marketing purposes to a consumer with whom the person has a pre-existing business relationship;

“(B) using information to perform services on behalf of another person related by common ownership or affiliated by corporate control, except that this subparagraph shall not permit a person to send solicitations on behalf of another person if such other person would not be permitted to send the solici-

tion on its own behalf as a result of the election of the consumer to prohibit solicitations under paragraph (1)(B);

“(C) using information in direct response to a communication initiated by the consumer in which the consumer has requested information about a product or service; or

“(D) using information to directly respond to solicitations authorized or requested by the consumer.

“(b) NOTICE FOR OTHER PURPOSES PERMISSIBLE.—A notice or other disclosure that is equivalent to the notice required by subsection (a), and that is provided by a person described in subsection (a) to a consumer together with disclosures required by any other provision of law shall satisfy the requirements of subsection (a).”.

(b) RULEMAKING REQUIRED.—

(1) IN GENERAL.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall, with respect to the entities that are subject to their respective enforcement authority under section 621 of the Fair Credit Reporting Act, and in coordination as described in paragraph (2), prescribe regulations to implement section 624 of the Fair Credit Reporting Act, as added by this section.

(2) COORDINATION.—Each agency required to prescribe regulations under paragraph (1) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

(3) CONSIDERATIONS.—In promulgating regulations under this subsection, the Federal Trade Commission shall—

(A) ensure that affiliate sharing notification methods provide a simple means for consumers to make determinations and choices under section 624 of the Fair Credit Reporting Act, as added by this section; and

(B) consider the affiliate sharing notification practices employed on the date of enactment of this Act by persons that will be subject to that section 624.

(4) TIMING.—Regulations required by this subsection shall—

(A) be issued in final form not later than 6 months after the date of enactment of this Act; and

(B) become effective not later than 3 months after the date on which they are issued in final form.

(c) CONFORMING AMENDMENT.—Section 603(d)(2)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)) is amended by inserting “subject to section 624,” after “(A)”.

(d) CLERICAL AMENDMENT.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended in the table of sections, by striking the items following the item relating to section 623 and inserting the following:

“624. Affiliate sharing.

“625. Relation to State laws.

“626. Disclosures to FBI for counterintelligence purposes.”.

(e) STUDIES OF INFORMATION SHARING PRACTICES.—

(1) IN GENERAL.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall jointly conduct regular studies of the consumer information sharing practices by financial institutions and other persons that are creditors or users of consumer reports with their affiliates.

(2) MATTERS FOR STUDY.—In conducting the studies required by paragraph (1), the agencies described in paragraph (1) shall—

(A) identify—

(i) the purposes for which financial institutions and other creditors and users of consumer reports share consumer information;

(ii) the types of information shared by such entities with their affiliates;

(iii) the number of choices provided to consumers with respect to the control of such sharing, and the degree to and manner in which consumers exercise such choices, if at all; and

(iv) whether such entities share or may share personally identifiable transaction or experience information with affiliates for purposes—

(I) that are related to employment or hiring, including whether the person that is the subject of such information is given notice of such sharing, and the specific uses of such shared information; or

(II) of general publication of such information; and

(B) specifically examine the information sharing practices that financial institutions and other creditors and users of consumer reports and their affiliates employ for the purpose of making underwriting decisions or credit evaluations of consumers.

(3) REPORTS.—

(A) INITIAL REPORT.—Not later than 3 years after the date of enactment of this Act, the Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall jointly submit a report to the Congress on the results of the initial study conducted in accordance with this subsection, together with any recommendations for legislative or regulatory action.

(B) FOLLOWUP REPORTS.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall, not less frequently than once every 3 years following the date of submission of the initial report under subparagraph (A), jointly submit a report to the Congress that, together with any recommendations for legislative or regulatory action—

(i) documents any changes in the areas of study referred to in paragraph (2)(A) occurring since the date of submission of the previous report;

(ii) identifies any changes in the practices of financial institutions and other creditors and users of consumer reports in sharing consumer information with their affiliates for the purpose of making underwriting decisions or credit evaluations of consumers occurring since the date of submission of the previous report; and

(iii) examines the effects that changes described in clause (ii) have had, if any, on the degree to which such affiliate sharing practices reduce the need for financial institutions, creditors, and other users of consumer reports to rely on credit reports for such decisions.

(f) DEFINITIONS.—As used in this section—

(1) the terms “consumer”, “consumer report”, “consumer reporting agency”, “creditor”, “Federal banking agencies”, and “financial institution”, have the same meanings as in section 603 of the Fair Credit Reporting Act, as amended by this Act; and

(2) the term “affiliates” means persons that are related by common ownership or affiliated by corporate control.

SEC. 215. STUDY OF EFFECTS OF CREDIT SCORES AND CREDIT-BASED INSURANCE SCORES ON AVAILABILITY AND AFFORDABILITY OF FINANCIAL PRODUCTS.

(a) DEFINED TERM.—As used in this section, the term “credit score” means a numerical value or a categorization derived from a statistical tool or modeling system used to predict the likelihood of certain credit or insurance behaviors, including default.

(b) STUDY REQUIRED.—The Federal Trade Commission shall conduct a study of—

(1) the effects of the use of credit scores and credit-based insurance scores on the availability and affordability of financial

products and services, including credit cards, mortgages, auto loans, and property and casualty insurance;

(2) the degree of correlation between the factors considered by credit score systems and the quantifiable risks and actual losses experienced by businesses, including the extent to which each of the factors considered or otherwise taken into account by such systems correlated to risk or loss;

(3) the extent to which the use of credit scoring models, credit scores and credit-based insurance scores benefit or negatively impact persons based on geography, income, ethnicity, race, color, religion, national origin, age, sex, marital status, or creed; and

(4) the extent to which credit scoring systems are used by businesses, the factors considered by such systems, and the effects of variables which are not considered by such systems.

(c) PUBLIC PARTICIPATION.—The Federal Trade Commission shall seek public input about the prescribed methodology and research design of the study required by subsection (b).

(d) REPORT.—

(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of enactment of this Act, the Federal Trade Commission shall submit a detailed report on the study conducted under this section to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) the findings and conclusions of the Commission;

(B) recommendations to address specific areas of concern that were identified in the study; and

(C) recommendations for legislative or administrative action that the Commission may determine to be necessary to ensure that credit and credit-based insurance scores are used appropriately and fairly.

SEC. 216. DISPOSAL OF CONSUMER REPORT INFORMATION AND RECORDS.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681m) is amended by adding at the end the following:

“§ 627. Disposal of records

“(a) REGULATIONS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Federal Trade Commission shall issue final regulations requiring any person that maintains or otherwise possesses consumer information or any compilation of consumer information derived from consumer reports for a business purpose to properly dispose of any such information or compilation.

“(2) EXEMPTION AUTHORITY.—In issuing regulations under this section, the Federal Trade Commission may exempt any person or class of persons from application of those regulations, as the Commission deems appropriate to carry out the purpose of this section.

“(b) RULE OF CONSTRUCTION.—Nothing in this section may be construed to alter or affect any requirement imposed under any other provision of law to maintain any record.”.

(b) CLERICAL AMENDMENT.—The table of sections for the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by this Act, is amended by adding at the end the following:

“627. Disposal of records.”.

TITLE III—ENHANCING THE ACCURACY OF CONSUMER REPORT INFORMATION

SEC. 311. RISK-BASED PRICING NOTICE.

(a) DUTIES OF USERS.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m),

as amended by this Act, is amended by adding at the end the following:

“(j) DUTIES OF USERS IN CERTAIN CREDIT TRANSACTIONS.—

“(1) IN GENERAL.—Subject to rules prescribed as provided in paragraph (5), if any person uses a consumer report in connection with a grant, extension, or other provision of credit on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that person, based in whole or in part on a consumer report, the person shall provide a notice to the consumer in the form and manner required by regulations prescribed in accordance with this subsection.

“(2) EXCEPTIONS.—No notice shall be required from a person under this subsection if—

“(A) the consumer applied for specific material terms and was granted those terms, unless those terms were initially specified by the person after the transaction was initiated by the consumer and after the person obtained a consumer report; or

“(B) the person has provided or will provide a notice to the consumer under subsection (a) in connection with the transaction.

“(3) OTHER NOTICE NOT SUFFICIENT.—A person that is required to provide a notice under subsection (a) cannot meet that requirement by providing a notice under this subsection.

“(4) CONTENT AND DELIVERY OF NOTICE.—A notice under this subsection shall include, at a minimum—

“(A) a statement informing the consumer that the terms offered to the consumer were set based on information from a consumer report;

“(B) identification of the consumer reporting agency that furnished that report;

“(C) a statement informing the consumer that the consumer may obtain a copy of a consumer report from that consumer reporting agency without charge; and

“(D) the contact information specified by that consumer reporting agency for obtaining such consumer reports (including a toll-free telephone number established by the agency in the case of a consumer reporting agency described in section 603(p)).

“(5) RULEMAKING.—

“(A) RULES REQUIRED.—The Federal Trade Commission and the Board of Governors of the Federal Reserve System shall jointly prescribe rules, in accordance with section 553 of title 5, United States Code, to carry out this subsection.

“(B) CONTENT.—Rules required by subparagraph (A) shall address, but are not limited to—

“(i) the form, content, time, and manner of delivery of any notice under this subsection;

“(ii) clarification of the meaning of terms used in this subsection, including what credit terms are material, and when credit terms are materially less favorable;

“(iii) exceptions to the notice requirement under this subsection for classes of persons or transactions regarding which the agencies determine that notice would not significantly benefit consumers; and

“(iv) a model notice that may be used to comply with this subsection.”.

(b) RELATION TO STATE LAWS.—Section 625(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)(1)), regarding relation to State laws, as so designated and amended by this Act, is amended by adding at the end the following:

“(I) section 615(j), relating to the duties of users of consumer reports to provide notice with respect to terms in certain credit transactions;”.

SEC. 312. PROCEDURES TO ENHANCE THE ACCURACY AND COMPLETENESS OF INFORMATION FURNISHED TO CONSUMER REPORTING AGENCIES.

(a) ACCURACY GUIDELINES AND REGULATIONS.—Section 623 of the Fair Credit Reporting Act (15 U.S.C. 1681s-2) is amended by adding at the end the following:

“(e) ACCURACY GUIDELINES AND REGULATIONS REQUIRED.—

“(1) GUIDELINES.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall, with respect to the entities that are subject to their respective enforcement authority under section 621, and in coordination as described in paragraph (2)—

“(A) establish and maintain guidelines for use by each person that furnishes information to a consumer reporting agency regarding the accuracy and completeness of the information relating to consumers that such entities furnish to consumer reporting agencies, and update such guidelines as often as necessary; and

“(B) prescribe regulations requiring each person that furnishes information to a consumer reporting agency to establish reasonable policies and procedures for implementing the guidelines established pursuant to subparagraph (A).

“(2) COORDINATION.—Each agency required to prescribe regulations under paragraph (1) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

“(3) CRITERIA.—In developing the guidelines required by paragraph (1)(A), the agencies described in paragraph (1) shall—

“(A) identify patterns, practices, and specific forms of activity that can compromise the accuracy and completeness of information furnished to consumer reporting agencies;

“(B) review the methods (including technological means) used to furnish information relating to consumers to consumer reporting agencies;

“(C) determine whether persons that furnish information to consumer reporting agencies maintain and enforce policies to provide complete and accurate information to consumer reporting agencies; and

“(D) examine the policies and processes that persons that furnish information to consumer reporting agencies employ to conduct reinvestigations and correct inaccurate information relating to consumers that has been furnished to consumer reporting agencies.”

(b) FURNISHER LIABILITY EXCEPTION.—Section 623(a)(5) of the Fair Credit Reporting Act (15 U.S.C. 1681s-2(a)(5)) is amended—

(1) by striking “A person” and inserting the following:

“(A) IN GENERAL.—A person”;

(2) by inserting “date of delinquency on the account, which shall be the” before “month”;

(3) by inserting “on the account” before “that immediately preceded”; and

(4) by adding at the end the following:

“(B) RULE OF CONSTRUCTION.—For purposes of this paragraph only, and provided that the consumer does not dispute the information, a person that furnishes information on a delinquent account that is placed for collection, charged for profit or loss, or subjected to any similar action, complies with this paragraph, if—

“(i) the person reports the same date of delinquency as that provided by the creditor to which the account was owed at the time at which the commencement of the delinquency occurred, if the creditor previously reported

that date of delinquency to a consumer reporting agency;

“(ii) the creditor did not previously report the date of delinquency to a consumer reporting agency, and the person establishes and follows reasonable procedures to obtain the date of delinquency from the creditor or another reliable source and reports that date as the date of delinquency; or

“(iii) the creditor did not previously report the date of delinquency to a consumer reporting agency and the date of delinquency cannot be reasonably obtained as provided in clause (ii), the person establishes and follows reasonable procedures to ensure the date reported as the date of delinquency precedes the date on which the account is placed for collection, charged to profit or loss, or subjected to any similar action, and reports such date to the credit reporting agency.”

(c) LIABILITY AND ENFORCEMENT.—

(1) CIVIL LIABILITY.—Section 623 of the Fair Credit Reporting Act (15 U.S.C. 1681s-2) is amended by striking subsections (c) and (d) and inserting the following:

“(c) LIMITATION ON LIABILITY.—Except as provided in section 621(c)(1)(B), sections 616 and 617 do not apply to any violation of—

“(1) subsection (a) of this section;

“(2) subsection (e) of this section, except that nothing in this paragraph shall limit, expand, or otherwise affect liability under section 616 or 617, as applicable, for violations of subsection (b) of this section;

“(3) subsection (e) or (f) of section 615; or

“(4) subparagraph (A) of subsection (b)(2) of this section that is based on the development of procedures required by that subparagraph, except that furnishing information otherwise in violation of subsection (b) shall be subject to liability under sections 616 and 617, as applicable, to the same extent as such a furnishing violation was subject to such liability on the day before the date of enactment of the National Consumer Credit Reporting System Improvement Act of 2003.

“(d) LIMITATION ON ENFORCEMENT.—The provisions of law described in paragraphs (1) through (4) of subsection (c) (other than with respect to the exceptions described in paragraphs (2) and (4) of subsection (c)) shall be enforced exclusively as provided under section 621 by the Federal agencies and officials and the State officials identified in section 621.”

(2) STATE ACTIONS.—Section 621(c) of the Fair Credit Reporting Act (15 U.S.C. 1681s(c)) is amended—

(A) in paragraph (1)(B)(ii), by striking “of section 623(a)” and inserting “described in any of paragraphs (1) through (4) of section 623(c) (other than with respect to the exception described in paragraph (4) of section 623(c))”; and

(B) in paragraph (5)—

(i) in each of subparagraphs (A) and (B), by inserting after “section 623(a)(1)” each place that term appears the following: “or a violation described in any of paragraphs (2) through (4) of section 623(c) (other than with respect to the exception described in paragraph (4) of section 623(c))”; and

(ii) by amending the paragraph heading to read as follows:

“(5) LIMITATIONS ON STATE ACTIONS FOR CERTAIN VIOLATIONS.—”

(d) RULE OF CONSTRUCTION.—Nothing in this section, the amendments made by this section, or any other provision of this Act shall be construed to affect any liability under section 616 or 617 of the Fair Credit Reporting Act (15 U.S.C. 1681n, 1681o) that existed on the day before the date of enactment of this Act.

SEC. 313. FEDERAL TRADE COMMISSION AND CONSUMER REPORTING AGENCY ACTION CONCERNING COMPLAINTS.

Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i) is amended by adding at the end the following:

“(e) TREATMENT OF COMPLAINTS AND REPORT TO CONGRESS.—

“(1) IN GENERAL.—The Federal Trade Commission shall—

“(A) compile all complaints that it receives that a file of a consumer that is maintained by a consumer reporting agency described in section 603(p) contains incomplete or inaccurate information, with respect to which, the consumer appears to have disputed the completeness or accuracy with the consumer reporting agency or otherwise utilized the procedures provided by subsection (a); and

“(B) transmit each such complaint to each consumer reporting agency involved.

“(2) EXCLUSION.—Complaints received or obtained by the Federal Trade Commission pursuant to its investigative authority under the Federal Trade Commission Act shall not be subject to this paragraph (1).

“(3) AGENCY RESPONSIBILITIES.—Each consumer reporting agency described in section 603(p) that receives a complaint transmitted by the Federal Trade Commission pursuant to paragraph (1) shall—

“(A) review each such complaint to determine whether all legal obligations imposed on the consumer reporting agency under this title (including any obligation imposed by an applicable court or administrative order) have been met with respect to the subject matter of the complaint;

“(B) provide reports on a regular basis to the Commission regarding the determinations of and actions taken by the consumer reporting agency, if any, in connection with its review of such complaints; and

“(C) maintain, for a reasonable time period, records regarding the disposition of each such complaint that is sufficient to demonstrate compliance with this subsection.

“(4) RULEMAKING AUTHORITY.—The Federal Trade Commission may prescribe regulations in accordance with the requirements of section 553 of title 5, United States Code, as appropriate to implement this subsection.

“(5) ANNUAL REPORT.—The Federal Trade Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives an annual report regarding information gathered by the Commission under this subsection.”

SEC. 314. ONGOING AUDITS OF THE ACCURACY OF CONSUMER REPORTS.

(a) AUDITS REQUIRED.—The Board of Governors of the Federal Reserve System (in this section referred to as “the Board”) shall conduct ongoing audits of the accuracy and completeness of information contained in consumer reports prepared or maintained by consumer reporting agencies. The Board shall independently verify the accuracy and completeness of information contained in consumer reports by evaluating information and data provided by consumer reporting agencies (as defined in section 603 of the Fair Credit Reporting Act).

(b) SUBJECT MATTERS.—In conducting audits under this section, the Board shall examine—

(1) the accuracy and completeness of information contained in consumer reports, including an analysis of the type of inaccurate or incomplete information, if any, that may have the most significant impact on the availability and terms of various credit products offered to borrowers; and

(2) the impact, if any, of incomplete and inaccurate information on the credit and credit-based insurance scores that are most widely used to determine borrower credit worthiness and to make insurance underwriting and rating decisions, including an analysis of how, if at all, changes to credit scores resulting from inaccurate or incomplete credit reporting information affect the availability and terms of various credit products offered to borrowers.

(c) BIENNIAL REPORTS REQUIRED.—

(1) IN GENERAL.—The Board shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives at the end of the 2-year period beginning on the date of enactment of this Act. Thereafter, the Board shall conduct additional audits and submit additional reports once every 2 years.

(2) CONTENTS.—Each report submitted under this subsection shall contain a detailed summary of the findings and conclusions of the Board with respect to the audits required by this section, and such recommendations for legislative and administrative action as the Board may determine to be appropriate.

(d) PROVISION OF REPORTS TO THE BOARD FOR PURPOSES OF ANALYSIS.—Section 604(d) of the Fair Credit Reporting Act (12 U.S.C. 1681b(d)) is amended to read as follows:

“(d) FURNISHING CONSUMER REPORTS FOR ACCURACY OR COMPLIANCE AUDITS.—A consumer reporting agency shall provide consumer reports to the Board of Governors of the Federal Reserve System, upon request, for the purpose of conducting an accuracy or compliance audit in accordance with section 314 of the National Consumer Credit Reporting System Improvement Act of 2003.”

SEC. 315. IMPROVED DISCLOSURE OF THE RESULTS OF REINVESTIGATION.

(a) IN GENERAL.—Section 611(a)(5)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681i) is amended by striking “shall” and all that follows through the end of the subparagraph, and inserting the following: “shall—

“(i) promptly delete that item of information from the file of the consumer, or modify that item of information, as appropriate, based on the results of the reinvestigation; and

“(ii) promptly notify the furnisher of that information that the information has been modified or deleted from the file of the consumer.”

(b) FURNISHER REQUIREMENTS RELATING TO INACCURATE, INCOMPLETE, OR UNVERIFIABLE INFORMATION.—Section 623(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681s-2(b)(1)) is amended—

(1) in subparagraph (C), by striking “and” at the end; and

(2) in subparagraph (D), by striking the period at the end and inserting the following: “; and

“(E) if an item of any information disputed by a consumer is found to be inaccurate or incomplete or cannot be verified after any reinvestigation under paragraph (I), promptly delete that item of information from the furnisher’s records or modify that item of information, as appropriate, based on the results of the reinvestigation.”

SEC. 316. RECONCILING ADDRESSES.

Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c), as amended by this Act, is amended by adding at the end the following:

“(h) NOTICE OF DISCREPANCY IN ADDRESS.—

“(1) IN GENERAL.—If a person has requested a consumer report relating to a consumer from a consumer reporting agency described in section 603(p), the request includes an address for the consumer that substantially

differs from the addresses in the file of the consumer, and the agency provides a consumer report in response to the request, the consumer reporting agency shall notify the requester of the existence of the discrepancy.

“(2) REGULATIONS.—

“(A) REGULATIONS REQUIRED.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall, with respect to the entities that are subject to their respective enforcement authority under section 621, and in coordination as described in subparagraph (B), prescribe regulations providing guidance regarding reasonable policies and procedures that a user of a consumer report should employ when such user has received a notice of discrepancy under paragraph (1).

“(B) COORDINATION.—Each agency required to prescribe regulations under subparagraph (A) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

“(C) POLICIES AND PROCEDURES TO BE INCLUDED.—The regulations prescribed under subparagraph (A) shall describe reasonable policies and procedures for use by a user of a consumer report—

“(i) to form a reasonable belief that the user knows the identity of the person to whom the consumer report pertains; and

“(ii) if the user establishes a continuing relationship with the consumer, and the user regularly and in the ordinary course of business furnishes information to the consumer reporting agency from which the notice of discrepancy pertaining to the consumer was obtained, to reconcile the address of the consumer with the consumer reporting agency by furnishing such address to such consumer reporting agency as part of information regularly furnished by the user for the period in which the relationship is established.”

SEC. 317. FTC STUDY OF ISSUES RELATING TO THE FAIR CREDIT REPORTING ACT.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Federal Trade Commission shall conduct a study on ways to improve the operation of the Fair Credit Reporting Act.

(2) AREAS FOR STUDY.—In conducting the study under paragraph (1), the Federal Trade Commission shall review—

(A) the efficacy of increasing the number of points of identifying information that a credit reporting agency is required to match to ensure that a consumer is the correct individual to whom a consumer report relates before releasing a consumer report to a user, including—

(i) the extent to which requiring additional points of such identifying information to match would—

(I) enhance the accuracy of credit reports; and

(II) combat the provision of incorrect consumer reports to users;

(ii) the extent to which requiring an exact match of the first and last name, social security number, and address and ZIP Code of the consumer would enhance the likelihood of increasing credit report accuracy; and

(iii) the effects of allowing consumer reporting agencies to use partial matches of social security numbers and name recognition software on the accuracy of credit reports;

(B) requiring notification to consumers when negative information has been added to their credit reports, including—

(i) the potential impact of such notification on the ability of consumers to identify errors on their credit reports; and

(ii) the potential impact of such notification on the ability of consumers to remove

fraudulent information from their credit reports;

(C) the effects of requiring that a consumer who has experienced an adverse action based on a credit report receives a copy of the same credit report that the creditor relied on in taking the adverse action, including—

(i) the extent to which providing such reports to consumers would increase the ability of consumers to identify errors in their credit reports; and

(ii) the extent to which providing such reports to consumers would increase the ability of consumers to remove fraudulent information from their credit reports;

(D) any common financial transactions that are not generally reported to the consumer reporting agencies, but would provide useful information in determining the credit worthiness of consumers; and

(E) any actions that might be taken within a voluntary reporting system to encourage the reporting of the types of transactions described in subparagraph (D).

(3) COSTS AND BENEFITS.—With respect to each area of study described in paragraph (2), the Federal Trade Commission shall consider the extent to which such requirements would benefit consumers, balanced against the cost of implementing such provisions.

(b) REPORT REQUIRED.—Not later than 270 days after the date of enactment of this Act, the chairman of the Federal Trade Commission shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives containing a detailed summary of the findings and conclusions of the study under this section, together with such recommendations for legislative or administrative actions as may be appropriate.

TITLE IV—LIMITING THE USE AND SHARING OF MEDICAL INFORMATION IN THE FINANCIAL SYSTEM

SEC. 411. PROTECTION OF MEDICAL INFORMATION IN THE FINANCIAL SYSTEM.

(a) IN GENERAL.—Section 604(g) of the Fair Credit Reporting Act (15 U.S.C. 1681b(g)) is amended to read as follows:

“(g) PROTECTION OF MEDICAL INFORMATION.—

“(1) LIMITATION ON CONSUMER REPORTING AGENCIES.—A consumer reporting agency shall not furnish for employment purposes, or in connection with a credit or insurance transaction, a consumer report that contains medical information about a consumer, unless—

“(A) if furnished in connection with an insurance transaction, the consumer affirmatively consents to the furnishing of the report;

“(B) if furnished for employment purposes or in connection with a credit transaction—

“(i) the information to be furnished is relevant to process or effect the employment or credit transaction; and

“(ii) the consumer provides specific written consent for the furnishing of the report that describes in clear and conspicuous language the use for which the information will be furnished; or

“(C) such information is restricted or reported using codes that do not identify, or provide information sufficient to infer, the specific provider or the nature of such services, products, or devices to a person other than the consumer, unless the report is being provided to an insurance company for a purpose relating to engaging in the business of insurance, other than property and casualty insurance.

“(2) LIMITATION ON CREDITORS.—Except as permitted pursuant to paragraph (3)(C) or regulations prescribed under paragraph (5)(A), a creditor shall not obtain or use medical information pertaining to a consumer in

connection with any determination of the consumer's eligibility, or continued eligibility, for credit.

“(3) ACTIONS AUTHORIZED BY FEDERAL LAW, INSURANCE ACTIVITIES AND REGULATORY DETERMINATIONS.—Section 603(d)(3) shall not be construed so as to treat information or any communication of information as a consumer report if the information or communication is disclosed—

“(A) in connection with the business of insurance or annuities, including the activities described in section 18B of the model Privacy of Consumer Financial and Health Information Regulation issued by the National Association of Insurance Commissioners (as in effect on January 1, 2003);

“(B) for any purpose permitted without authorization under the Standards for Individually Identifiable Health Information promulgated by the Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996, or referred to under section 1179 of such Act, or described in section 502(e) of Public Law 106-102; or

“(C) as otherwise determined to be necessary and appropriate, by regulation or order and subject to paragraph (6), by the Federal Trade Commission, any Federal banking agency or the National Credit Union Administration (with respect to any financial institution subject to the jurisdiction of such agency or Administration under paragraph (1), (2), or (3) of section 621(b), or the applicable State insurance authority (with respect to any person engaged in providing insurance or annuities).

“(4) LIMITATION ON REDISCLOSURE OF MEDICAL INFORMATION.—Any person that receives medical information pursuant to paragraph (1) or (3) shall not disclose such information to any other person, except as necessary to carry out the purpose for which the information was initially disclosed, or as otherwise permitted by statute, regulation, or order.

“(5) REGULATIONS AND EFFECTIVE DATE FOR PARAGRAPH (2).—

“(A) REGULATIONS REQUIRED.—Each Federal banking agency and the National Credit Union Administration shall, subject to paragraph (6) and after notice and opportunity for comment, prescribe regulations that permit transactions under paragraph (2) that are determined to be necessary and appropriate to protect legitimate operational, transactional, risk, consumer, and other needs, consistent with the intent of paragraph (2) to restrict the use of medical information for inappropriate purposes.

“(B) FINAL REGULATIONS REQUIRED.—The Federal banking agencies and the National Credit Union Administration shall issue the regulations required under subparagraph (A) in final form before the end of the 6-month period beginning on the date of enactment of the National Consumer Credit Reporting System Improvement Act of 2003.

“(6) COORDINATION WITH OTHER LAWS.—No provision of this subsection shall be construed as altering, affecting, or superseding the applicability of any other provision of Federal law relating to medical confidentiality.”

(b) RESTRICTION ON SHARING OF MEDICAL INFORMATION.—Section 603(d) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)) is amended—

(1) in paragraph (2), by striking “The term” and inserting “Except as provided in paragraph (3), the term”; and

(2) by adding at the end the following new paragraph:

“(3) RESTRICTION ON SHARING OF MEDICAL INFORMATION.—Except for information or any communication of information disclosed as provided in section 604(g)(3), the exclusions in paragraph (2) shall not apply with respect

to information disclosed to any person related by common ownership or affiliated by corporate control, if the information is medical information, including information that is an individualized list or description based on the payment transactions of the consumer for medical products or services, or an aggregate list of identified consumers based on payment transactions for medical products or services.

(c) DEFINITION.—Section 603(i) of the Fair Credit Reporting Act (15 U.S.C. 1681a(i)) is amended to read as follows:

“(i) MEDICAL INFORMATION.—The term ‘medical information’ means information or data, other than age or gender, whether oral or recorded, in any form or medium, created by or derived from a health care provider or the consumer, that relates to—

“(1) the past, present, or future physical, mental, or behavioral health or condition of an individual;

“(2) the provision of health care to an individual; or

“(3) the payment for the provision of health care to an individual.”

(d) EFFECTIVE DATES.—This section shall take effect at the end of the 180-day period beginning on the date of enactment of this Act, except that paragraph (2) of section 604(g) of the Fair Credit Reporting Act (as amended by subsection (a)) shall take effect on the later of—

(1) the end of the 90-day period beginning on the date on which the regulations required under paragraph (5)(B) of such section 604(g) (as added by subsection (a) of this section) are issued in final form; or

(2) the date specified in the regulations referred to in paragraph (1).

SEC. 412. CONFIDENTIALITY OF MEDICAL CONTACT INFORMATION IN CONSUMER REPORTS.

(a) DUTIES OF MEDICAL INFORMATION FURNISHERS.—Section 623(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s-2(a)) is amended by adding at the end the following:

“(6) DUTY TO PROVIDE NOTICE OF STATUS AS MEDICAL INFORMATION FURNISHER.—A person whose primary business is providing medical services, products, or devices, or the person's agent or assignee, who furnishes information to a consumer reporting agency on a consumer shall be considered a medical information furnisher for purposes of this title, and shall notify the agency of such status.”

(b) RESTRICTION OF DISSEMINATION OF MEDICAL CONTACT INFORMATION.—Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)) is amended by adding at the end the following:

“(6) The name, address, and telephone number of any medical information furnisher that has notified the agency of its status, unless—

“(A) such name, address, and telephone number are restricted or reported using codes that do not identify, or provide information sufficient to infer, the specific provider or the nature of such services, products, or devices to a person other than the consumer; or

“(B) the report is being provided to an insurance company for a purpose relating to engaging in the business of insurance other than property and casualty insurance.”

(c) NO EXCEPTIONS ALLOWED FOR DOLLAR AMOUNTS.—Section 605(b) of the Fair Credit Reporting Act (15 U.S.C. 1681c(b)) is amended by striking “The provisions of subsection (a)” and inserting “The provisions of paragraphs (1) through (5) of subsection (a)”.

(d) COORDINATION WITH OTHER LAWS.—No provision of any amendment made by this section shall be construed as altering, affecting, or superseding the applicability of any other provision of Federal law relating to medical confidentiality.

(e) FTC REGULATION OF CODING OF TRADE NAMES.—Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s), as amended by this Act, is amended by adding at the end the following:

“(g) FTC REGULATION OF CODING OF TRADE NAMES.—If the Federal Trade Commission determines that a person described in paragraph (6) of section 623(a) has not met the requirements of such paragraph, the Commission shall take action to ensure the person's compliance with such paragraph, which may include issuing model guidance or prescribing reasonable policies and procedures as necessary to ensure that such person complies with such paragraph.”

(f) TECHNICAL AND CONFORMING AMENDMENTS.—Section 604(g) of the Fair Credit Reporting Act (15 U.S.C. 1681b(g)), as amended by section 411 of this Act, is amended—

(1) in paragraph (1), by inserting “(other than medical contact information treated in the manner required under section 605(a)(6))” after “a consumer report that contains medical information”; and

(2) in paragraph (2), by inserting “(other than medical information treated in the manner required under section 605(a)(6))” after “a creditor shall not obtain or use medical information”.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 15-month period beginning on the date of enactment of this Act.

TITLE V—FINANCIAL LITERACY AND EDUCATION IMPROVEMENT

SEC. 511. SHORT TITLE.

This title may be cited as the “Financial Literacy and Education Improvement Act”.

SEC. 512. DEFINITIONS.

As used in this title—

(1) the term “Chairperson” means the Chairperson of the Financial Literacy and Education Commission; and

(2) the term “Commission” means the Financial Literacy and Education Commission established under section 513.

SEC. 513. ESTABLISHMENT OF FINANCIAL LITERACY AND EDUCATION COMMISSION.

(a) IN GENERAL.—There is established a commission to be known as the “Financial Literacy and Education Commission”.

(b) PURPOSE.—The Commission shall serve to improve the financial literacy and education of persons in the United States.

(c) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of—

(A) the Secretary of the Treasury;

(B) the respective head of each of the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, the Securities and Exchange Commission, each of the Departments of Education, Agriculture, Defense, Health and Human Services, Housing and Urban Development, Labor, and Veterans Affairs, the Federal Trade Commission, the General Services Administration, the Small Business Administration, the Social Security Administration, the Commodity Futures Trading Commission, and the Office of Personnel Management; and

(C) at the discretion of the President, not more than 5 individuals appointed by the President from among the administrative heads of any other Federal agencies, departments, or other Government entities, whom the President determines to be engaged in a serious effort to improve financial literacy and education.

(2) ALTERNATES.—Each member of the Commission may designate an alternate if the member is unable to attend a meeting of the Commission. Such alternate shall be an

individual who exercises significant decision-making authority.

(d) **CHAIRPERSON.**—The Secretary of the Treasury shall serve as the Chairperson.

(e) **MEETINGS.**—The Commission shall hold, at the call of the Chairperson, at least 1 meeting every 4 months. All such meetings shall be open to the public. The Commission may hold, at the call of the Chairperson, such other meetings as the Chairperson sees fit to carry out this title.

(f) **QUORUM.**—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) **INITIAL MEETING.**—The Commission shall hold its first meeting not later than 60 days after the date of enactment of this Act.

SEC. 514. DUTIES OF THE COMMISSION.

(a) DUTIES.—

(1) **IN GENERAL.**—The Commission, through the authority of the members referred to in section 513(c), shall take such actions as it deems necessary to streamline, improve, or augment the financial literacy and education programs, grants, and materials of the Federal Government, including curricula for all Americans.

(2) **AREAS OF EMPHASIS.**—To improve financial literacy and education, the Commission shall emphasize, among other elements, basic personal income and household money management and planning skills, including how to—

(A) create household budgets, initiate savings plans, and make strategic investment decisions for education, retirement, home ownership, wealth building, or other savings goals;

(B) manage spending, credit, and debt, including credit card debt, effectively;

(C) increase awareness of the availability and significance of credit reports and credit scores in obtaining credit, the importance of their accuracy (and how to correct inaccuracies), their effect on credit terms, and the effect common financial decisions may have on credit scores;

(D) ascertain fair and favorable credit terms;

(E) avoid abusive, predatory, or deceptive credit offers and financial products;

(F) understand, evaluate, and compare financial products, services, and opportunities;

(G) understand resources that ought to be easily accessible and affordable, and that inform and educate investors as to their rights and avenues of recourse when an investor believes his or her rights have been violated by unprofessional conduct of market intermediaries; and

(H) improve financial literacy and education through all other related skills.

(b) WEBSITE.—

(1) **IN GENERAL.**—The Commission shall establish and maintain a website, such as the domain name "FinancialLiteracy.gov", or a similar domain name.

(2) **PURPOSES.**—The website established under paragraph (1) shall—

(A) serve as a clearinghouse of information about Federal financial literacy and education programs;

(B) provide a coordinated entry point for accessing information about all Federal publications, grants, and materials promoting enhanced financial literacy and education;

(C) offer information on all Federal grants to promote financial literacy and education, and on how to target, apply for, and receive a grant that is most appropriate under the circumstances;

(D) as the Commission considers appropriate, feature website links to efforts that have no commercial content and that feature information about financial literacy and

education programs, materials, or campaigns; and

(E) offer such other information as the Commission finds appropriate to share with the public in the fulfillment of its purpose.

(c) **TOLL-FREE HOTLINE.**—The Commission shall establish a toll-free telephone number that shall be made available to members of the public seeking information about issues pertaining to financial literacy and education.

(d) **DEVELOPMENT AND DISSEMINATION OF MATERIALS.**—The Commission shall—

(1) develop materials to promote financial literacy and education; and

(2) disseminate such materials to the general public.

(e) **COORDINATION OF EFFORTS.**—The Commission shall take such steps as are necessary to coordinate and promote financial literacy and education efforts at the State and local level, including promoting partnerships among Federal, State, and local governments, nonprofit organizations, and private enterprises.

(f) **NATIONAL STRATEGY.**—

(1) **IN GENERAL.**—The Commission shall—

(A) not later than 18 months after the date of enactment of this Act, develop a national strategy to promote basic financial literacy and education among all American consumers; and

(B) coordinate Federal efforts to implement the strategy developed under subparagraph (A).

(2) **STRATEGY.**—The strategy to promote basic financial literacy and education required to be developed under paragraph (1) shall provide for—

(A) participation by State and local governments and private, nonprofit, and public institutions in the creation and implementation of such strategy;

(B) the development of methods—

(i) to increase the general financial education level of current and future consumers of financial services and products; and

(ii) to enhance the general understanding of financial services and products;

(C) review of Federal activities designed to promote financial literacy and education, and development of a plan to improve coordination of such activities; and

(D) the identification of areas of overlap and duplication among Federal financial literacy and education activities and proposed means of eliminating any such overlap and duplication.

(3) **NATIONAL STRATEGY REVIEW.**—The Commission shall, not less than annually, review the national strategy developed under this subsection and make such changes and recommendations as it deems necessary.

(g) **CONSULTATION.**—The Commission shall actively consult with a variety of representatives from private and nonprofit organizations and State and local agencies, as determined appropriate by the Commission.

(h) **REPORTS.**—

(1) **IN GENERAL.**—Not later than 18 months after the date of the first meeting of the Commission, and annually thereafter, the Commission shall issue a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the progress of the Commission in carrying out this title.

(2) **CONTENTS.**—The report required under paragraph (1) shall include—

(A) information concerning the implementation of the duties of the Commission under subsections (a) through (g);

(B) an assessment of the success of the Commission in implementing the national strategy developed under subsection (f);

(C) an assessment of the availability, utilization, and impact of Federal financial literacy and education materials;

(D) information concerning the content and public use of—

(i) the website established under subsection (b); and

(ii) the toll-free telephone number established under subsection (c);

(E) a brief survey of the financial literacy and education materials developed under subsection (d), and data regarding the dissemination and impact of such materials, as measured by improved financial decision making;

(F) a brief summary of any hearings conducted by the Commission, including a list of witnesses who testified at such hearings;

(G) information about the activities of the Commission planned for the next fiscal year;

(H) a summary of all Federal financial literacy and education activities targeted to communities that have historically lacked access to financial literacy materials and education, and have been underserved by the mainstream financial systems; and

(I) such other materials relating to the duties of the Commission as the Commission deems appropriate.

(3) **INITIAL REPORT.**—The initial report under paragraph (1) shall include information regarding all Federal programs, materials, and grants which seek to improve financial literacy, and assess the effectiveness of such programs.

(i) **TESTIMONY.**—The Commission shall provide, upon request, testimony by the Chairperson to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

SEC. 515. POWERS OF THE COMMISSION.

(a) **HEARINGS.**—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this title.

(b) **INFORMATION FROM FEDERAL AGENCIES.**—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this title. Upon request of the Chairperson, the head of such department or agency shall furnish such information to the Commission.

(c) **PERIODIC STUDIES.**—The Commission may conduct periodic studies regarding the state of financial literacy and education in the United States, as the Commission determines appropriate.

SEC. 516. COMMISSION PERSONNEL MATTERS.

(a) **COMPENSATION OF MEMBERS.**—Each member of the Commission shall serve without compensation in addition to that received for their service as an officer or employee of the United States.

(b) **TRAVEL EXPENSES.**—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) **ASSISTANCE.**—

(1) **IN GENERAL.**—The Director of the Office of Financial Education of the Department of the Treasury shall provide assistance to the Commission, upon request of the Commission, without reimbursement.

(2) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

SEC. 517. STUDY BY THE COMPTROLLER GENERAL.

Not later than 3 years after the date of enactment of this Act, the Comptroller General

of the United States shall submit a report to Congress assessing the effectiveness of the Commission in promoting financial literacy and education.

SEC. 518. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this title, including administrative expenses of the Commission.

TITLE VI—RELATION TO STATE LAW

SEC. 611. RELATION TO STATE LAW.

Section 625(d) of the Fair Credit Reporting Act (15 U.S.C. 1681t(d), regarding relation to State laws), as so designated by section 214 of this Act, is amended—

- (1) by striking paragraph (2);
- (2) by striking “(c)—” and all that follows through “do not affect” and inserting “(c) do not affect”; and
- (3) by striking “1996; and” and inserting “1996.”.

TITLE VII—MISCELLANEOUS

SEC. 711. CLERICAL AMENDMENTS.

(a) **SHORT TITLE.**—Section 601 of the Fair Credit Reporting Act (15 U.S.C. 1601 note) is amended by striking “the Fair Credit Reporting Act.” and inserting “the ‘Fair Credit Reporting Act.’”.

(b) **SECTION 604.**—Section 604(a) of the Fair Credit Reporting Act (15 U.S.C. 1681b(a)) is amended in paragraphs (1) through (5), other than subparagraphs (E) and (F) of paragraph (3), by moving each margin 2 ems to the right.

(c) **SECTION 605.**—
(1) Section 605(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(1)) is amended by striking “(1) cases” and inserting “(1) Cases”.

(2)(A) Section 5(1) of Public Law 105-347 (112 Stat. 3211) is amended by striking “Judgments which” and inserting “judgments which”.

(B) The amendment made by subparagraph (A) shall be deemed to have the same effective date as section 5(1) of Public Law 105-347 (112 Stat. 3211).

(d) **SECTION 609.**—Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended—

(1) in paragraph (2), by moving the margin 2 ems to the right; and

(2) in paragraph (3)(C), by moving the margin 2 ems to the left.

(e) **SECTION 617.**—Section 617(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681o(a)(1)) is amended by adding “and” at the end.

(f) **SECTION 621.**—Section 621(b)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)(1)(B)) is amended by striking “25(a)” and inserting “25A”.

(g) **TITLE 31.**—Section 5318 of title 31, United States Code, is amended by redesignating the second item designated as subsection (l) (relating to applicability of rules) as subsection (m).

(h) **CONFORMING AMENDMENT.**—Section 2411(c) of Public Law 104-208 (110 Stat. 3009-445) is repealed.

Mr. SHELBY. Mr. President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendments, requests a conference with the House on the disagreeing votes of the two Houses, and the Chair is authorized to appoint the following conferees:

The Presiding Officer appointed Mr. SHELBY, Mr. BENNETT, Mr. ALLARD, Mr.

ENZI, Mr. SARBANES, Mr. DODD, and Mr. JOHNSON, conferees on the part of the Senate.

The PRESIDING OFFICER. Under the previous order, S. 1753 is returned to the calendar.

EXECUTIVE SESSION

NOMINATION OF ROGER W. TITUS, OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session for the consideration of Executive Calendar item No. 402, which the clerk will report.

The legislative clerk read the nomination of Roger W. Titus, to be United States District Judge for the District of Maryland.

The PRESIDING OFFICER. There are 2 minutes evenly divided on the nomination.

Who yields time?

The Senator from Vermont.

Mr. LEAHY. Mr. President, I compliment the Republican leadership for finally agreeing to move to the nomination of Roger Titus, who has been cleared on this side for some time.

The nominee has won universal acclaim as a member of the Maryland bar. In fact, it was suggested that he was going to be nominated to the U.S. Court of Appeals for the Fourth Circuit. It would have been a consensus where both Republicans and Democrats would have agreed. I wish the administration had done that. Instead, they have moved him to fill this seat. It is not a confrontational one for the circuit. In any event, he should be supported. He will make the 168th judicial nominee of President Bush's to be confirmed, which sets an all-time record for this time in a President's term in office, surpassing even that of President Reagan, when we had a Republican majority.

Mr. Titus has been an active litigator in Maryland for over 37 years, and has litigated hundreds of cases, both civil and criminal. He has been a partner at the Venable law firm and is a former president of the Maryland Bar Association. He has also served as an adjunct professor at the Georgetown University Law Center. Mr. Titus earned a unanimous “well-qualified” rating from the ABA, and an AV rating from Martindale-Hubbell.

In 2001, Mr. Titus was honored with The Baltimore Daily Record's first Leadership in the Law Award, which recognizes members of the legal community for their devotion to the betterment of the profession and their communities. In 1999, Mr. Titus received the Century of Service Award from the Montgomery County Bar Association for his outstanding contributions to the legal profession and community during the 20th century.

According to an article in The Baltimore Sun, Mr. Titus was apparently in

the running to be nominated for a seat on the U.S. Court of Appeals for the Fourth Circuit. In light of his stellar qualifications, deep roots in his legal community and ability to garner the bipartisan support of his elected officials he would have been a consensus choice for this important appellate seat. It is unfortunate that the President felt the need to nominate someone without any local ties to that Maryland vacancy.

There are reportedly 30,000 practicing attorneys in the State of Maryland. Instead of nominating a well-qualified Marylander like Mr. Titus to Judge Murnahan's vacant seat on the Fourth Circuit, the President selected a younger, more controversial nominee with very little litigation experience. Not surprisingly, that nominee, Claude Allen, received a partial “not qualified” rating by the American Bar Association and his selection for this prestigious lifetime appointment has garnered a significant amount of opposition from concerned citizens groups.

It is regrettable that this President has again chosen the course of confrontation and conflict for his appellate court nominations. Mr. Titus, with his many years of litigation experience and his well-deserved reputation as a leader among lawyers in Maryland, is the type of person who should have been chosen for Judge Murnahan's vacant seat on the Fourth Circuit. His nomination stands in sharp contrast to the inexperienced and divisive candidates chosen by the White House for too many appellate judgeships in what appear to be an effort to pack the court with ideological nominees and tilt these courts.

There is no doubt that Mr. Titus is a Republican, yet he has the support of both of his home-State Senators and has earned the unanimous support of the Members of the Judiciary Committee. I am happy to support his nomination today and I congratulate Mr. Titus and his family on his confirmation. I commend Senators SARBANES and MIKULSKI for their efforts to identify outstanding Maryland lawyers to maintain the high standards of the Federal bench in Maryland.

In less than 3 years' time, President George W. Bush exceeded the number of judicial nominees confirmed for President Reagan in all 4 years of his first term in office. Senate Democrats have cooperated so that this President already surpassed the record of the President Republicans acknowledge to be the “all time champ” at appointing Federal judges. Since July, 2001, despite the fact that the Senate majority has shifted twice, with today's vote, a total of 168 judicial nominations have been confirmed, including 29 circuit court appointments. One hundred judges were confirmed in the 17 months of the Democratic Senate majority and with Mr. Titus' nomination we will have confirmed 68 during the comparative time of the Republican majority.