



INQUISITIVE RESEARCH CORPORATION  
416 MAIN STREET, 2ND FLOOR  
METUCHEN, NJ 08840  
732-321-0041 | FAX: 732-321-0085

# COMPLIANCE INFORMATION KIT

Thank you for using pre-employment screening as part of your hiring and staff promotion process. This kit contains legal information from the Federal government that your business needs when you request credit reports on your employees and job applicants.

Discuss this literature with your in-house Legal and Compliance Department when you have questions regarding consumer report requests.\*

Please find the enclosed materials:

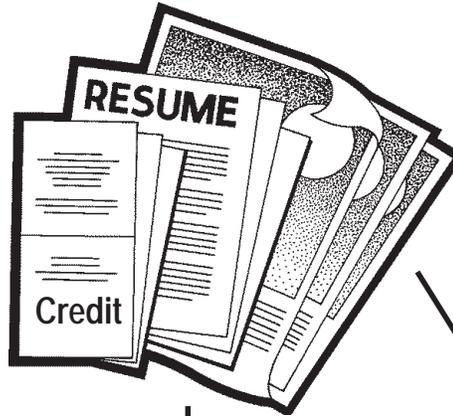
- Federal Trade Commission (FTC) Facts for Business:  
Using Consumer Reports: What Employers Need to Know
- A Summary of Your Rights Under the Fair Credit Reporting Status (FCRA)
- Fair Credit Reporting Act (FCRA) Requirements
- Fair Credit Reporting Act (FCRA) (highlighted sections only)

The full version of the FCRA is available at [www.ftc.gov/os/statutes/fcra.pdf](http://www.ftc.gov/os/statutes/fcra.pdf)

You can also contact Customer Service at **732-321-0041** to have the entire FCRA e-mailed to you.

# FTC FACTS for Business

## Using Consumer Reports: What Employers Need To Know



- *Your advertisement for cashiers nets 100 applications. You want credit reports on each applicant. You plan to eliminate those with poor credit histories. What are your obligations?*
- *You are considering a number of your long-term employees for major promotions. Can you check their credit reports to ensure that only financially responsible individuals are considered?*
- *A job candidate has authorized you to obtain a credit report. The applicant has a poor credit history. Although the credit history is considered a negative factor, it's the applicant's lack of relevant experience that's more important to you. You turn down the application. What procedures must you follow?*

# A

s an employer, you may use consumer reports when you hire new employees and when you evaluate employees for promotion, reassignment, and retention — as long as you comply with the Fair Credit Reporting Act (FCRA). Sections 604, 606, and 615 of the FCRA spell out your responsibilities when using consumer reports for employment purposes.

The FCRA is designed primarily to protect the privacy of consumer report information and to guarantee that the information supplied by consumer reporting agencies is as accurate as possible. Amendments to the FCRA — which went into effect September 30, 1997 — significantly increase the legal obligations of employers who use consumer reports. Congress expanded employer responsibilities because of concern that inaccurate or incomplete consumer reports could cause applicants to be denied jobs or cause employees to be denied promotions unjustly. The amendments ensure (1) that individuals are aware that consumer reports may be used for employment purposes and agree to such use, and (2) that individuals are notified promptly if information in a consumer report may result in a negative employment decision.

### What is a Consumer Report?

A consumer report contains information about your personal and credit characteristics, character, general reputation, and lifestyle. To be covered by the FCRA, a report must be prepared by a consumer reporting agency (CRA) — a business that assembles such reports for other businesses.

Employers often do background checks on applicants and get consumer reports during their employment. Some employers only want an applicant's or employee's credit payment records; others want driving records and criminal histories. For sensitive positions, it's not unusual for employers to order investigative consumer reports — reports that include interviews with an applicant's or employee's friends, neighbors, and associates. All of these types of reports are consumer reports if they are obtained from a CRA.

Applicants are often asked to give references. Whether verifying such references is covered by the FCRA depends on who does the verifi-

cation. A reference verified by the employer is *not* covered by the Act; a reference verified by an employment or reference checking agency (or other CRA) is covered. Section 603(o) provides special procedures for reference checking; otherwise, checking references may constitute an investigative consumer report subject to additional FCRA requirements.

### Key Provisions of the FCRA Amendments

#### *Written Notice and Authorization.*

Before you can get a consumer report for employment purposes, you must notify the individual in **writing** — in a document consisting solely of this notice — that a report may be used. You also must get the person's **written authorization** before you ask a CRA for the report. (Special procedures apply to the trucking industry.)

#### *Adverse Action Procedures.*

If you rely on a consumer report for an “adverse action” — denying a job application, reassigning or terminating an employee, or denying a promotion — be aware that:

**Step 1: Before** you take the adverse action, you must give the individual a **pre-adverse action disclosure** that includes a copy of the individual's consumer report and a copy of “A Summary of Your Rights Under the Fair Credit Reporting Act” — a document prescribed by the Federal Trade Commission (FTC). The CRA that furnishes the individual's report will give you the summary of consumer rights.

**Step 2: After** you've taken an adverse action, you must give the individual notice — orally, in writing, or electronically — that the action has been taken in an **adverse action notice**. It must include:

- the name, address, and phone number of the CRA that supplied the report;

- a statement that the CRA that supplied the report did not make the decision to take the adverse action and cannot give specific reasons for it; and
- a notice of the individual's right to dispute the accuracy or completeness of any information the agency furnished, and his or her right to an additional free consumer report from the agency upon request within 60 days.

### *Certifications to Consumer Reporting Agencies.*

Before giving you an individual's consumer report, the CRA will require you to certify that you are in compliance with the FCRA and that you will not misuse any information in the report in violation of federal or state equal employment opportunity laws or regulations.

In 1998, Congress amended the FCRA to provide special procedures for mail, telephone, or electronic employment applications in the trucking industry. Employers do not need to make written disclosures and obtain written permission in the case of applicants who will be subject to state or federal regulation as truckers. Finally, no pre-adverse action disclosure or Section 615(a) disclosure is required. Instead, the employer must, within three days of the decision, provide an oral, written, or electronic adverse action disclosure consisting of: (1) a statement that an adverse action has been taken based on a consumer report; (2) the name, address, and telephone number of the CRA; (3) a statement that the CRA did not make the decision; and (4) a statement that the consumer may obtain a copy of the actual report from the employer if he or she provides identification.

### In Practice...

*You advertise vacancies for cashiers and receive 100 applications. You want just credit reports on each applicant because you plan to*

*eliminate those with poor credit histories. What are your obligations?*

- You can get credit reports — one type of consumer report — if you notify each applicant in writing that a credit report may be requested and if you receive the applicant's written consent. Before you reject an applicant based on credit report information, you must make a **pre-adverse action disclosure** that includes a copy of the credit report and the summary of consumer rights under the FCRA. Once you've rejected an applicant, you must provide an **adverse action notice** if credit report information affected your decision.

*You are considering a number of your long-term employees for a major promotion. You want to check their consumer reports to ensure that only responsible individuals are considered for the position. What are your obligations?*

- You cannot get consumer reports unless the employees have been notified that reports may be obtained and have given their written permission. If the employees gave you written permission in the past, you need only make sure that the employees receive or have received a "separate document" notice that reports may be obtained during the course of their employment — no more notice or permission is required. If your employees have not received notice and given you permission, you must notify the employees and get their written permission before you get their reports.

In each case where information in the report influences your decision to deny promotion, you must provide the employee with a **pre-adverse action disclosure**. The employee also must receive an **adverse action notice** once you have selected another individual for the job.

# Facts for Business

*A job applicant gives you the okay to get a consumer report. Although the credit history is poor and that's a negative factor, the applicant's lack of relevant experience carries more weight in your decision not to hire.*

*What's your responsibility?*

- In any case where information in a consumer report is a factor in your decision — even if the report information is not a major consideration — you must follow the procedures mandated by the FCRA. In this case, you would be required to provide the applicant a **pre-adverse action disclosure** before you reject his or her application. When you formally reject the applicant, you would be required to provide an **adverse action notice**.

*The applicants for a sensitive financial position have authorized you to obtain credit reports.*

*You reject one applicant, whose credit report shows a debt load that may be too high for the proposed salary, even though the report shows a good repayment history. You turn down another, whose credit report shows only one credit account, because you want someone who has shown more financial responsibility. Are you obliged to provide any notices to these applicants?*

- Both applicants are entitled to a **pre-adverse action disclosure** and an **adverse action notice**. If **any** information in the credit report influences an adverse decision, the applicant is entitled to the notices — even when the information isn't negative.

## **Non-compliance**

There are legal consequences for employers who fail to get an applicant's permission before requesting a consumer report or who fail to

provide pre-adverse action disclosures and adverse action notices to unsuccessful job applicants. The FCRA allows individuals to sue employers for damages in federal court. A person who successfully sues is entitled to recover court costs and reasonable legal fees. The law also allows individuals to seek punitive damages for deliberate violations. In addition, the Federal Trade Commission, other federal agencies, and the states may sue employers for noncompliance and obtain civil penalties.

## **For More Information**

For your copy of the FCRA, contact the FTC. The FTC works for the consumer to prevent fraudulent, deceptive, and unfair business practices in the marketplace and to provide information to help consumers spot, stop, and avoid them. To file a complaint or to get free information on consumer issues, visit [www.ftc.gov](http://www.ftc.gov) or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261. The FTC enters Internet, telemarketing, identity theft, and other fraud-related complaints into Consumer Sentinel, a secure, online database available to hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

## **Your Opportunity to Comment**

The National Small Business Ombudsman and 10 Regional Fairness Boards collect comments from small businesses about federal compliance and enforcement activities. Each year, the Ombudsman evaluates the conduct of these activities and rates each agency's responsiveness to small businesses. Small businesses can comment to the Ombudsman without fear of reprisal. To comment, call toll-free 1-888-REGFAIR (1-888-734-3247) or go to [www.sba.gov/ombudsman](http://www.sba.gov/ombudsman).

FEDERAL TRADE COMMISSION	FOR THE CONSUMER
1-877-FTC-HELP	<a href="http://www.ftc.gov">www.ftc.gov</a>

Federal Trade Commission  
Bureau of Consumer Protection  
Office of Consumer and Business Education

March 1999

---

## A Summary of Your Rights Under the Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA) promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies. There are many types of consumer reporting agencies, including credit bureaus and specialty agencies (such as agencies that sell information about check writing histories, medical records, and rental history records). Here is a summary of your major rights under the FCRA. **For more information, including information about additional rights, go to [www.ftc.gov/credit](http://www.ftc.gov/credit) or write to: Consumer Response Center, Room 130-A, Federal Trade Commission, 600 Pennsylvania Ave. N.W., Washington, D.C. 20580.**

- **You must be told if information in your file has been used against you.** Anyone who uses a credit report or another type of consumer report to deny your application for credit, insurance, or employment – or to take another adverse action against you – must tell you, and must give you the name, address, and phone number of the agency that provided the information.
- **You have the right to know what is in your file.** You may request and obtain all the information about you in the files of a consumer reporting agency (your “file disclosure”). You will be required to provide proper identification, which may include your Social Security number. In many cases, the disclosure will be free. You are entitled to a free file disclosure if:
  - a person has taken adverse action against you because of information in your credit report;
  - you are the victim of identify theft and place a fraud alert in your file;
  - your file contains inaccurate information as a result of fraud;
  - you are on public assistance;
  - you are unemployed but expect to apply for employment within 60 days.In addition, by September 2005 all consumers will be entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See [www.ftc.gov/credit](http://www.ftc.gov/credit) for additional information.
- **You have the right to ask for a credit score.** Credit scores are numerical summaries of your credit-worthiness based on information from credit bureaus. You may request a credit score from consumer reporting agencies that create scores or distribute scores used in residential real property loans, but you will have to pay for it. In some mortgage transactions, you will receive credit score information for free from the mortgage lender.
- **You have the right to dispute incomplete or inaccurate information.** If you identify information in your file that is incomplete or inaccurate, and report it to the consumer reporting agency, the agency must investigate unless your dispute is frivolous. See [www.ftc.gov/credit](http://www.ftc.gov/credit) for an explanation of dispute procedures.
- **Consumer reporting agencies must correct or delete inaccurate, incomplete, or unverifiable information.** Inaccurate, incomplete or unverifiable information must be removed or corrected, usually within 30 days. However, a consumer reporting agency may continue to report information it has verified as accurate.



INQUISITIVE RESEARCH CORPORATION  
416 MAIN STREET, 2ND FLOOR  
METUCHEN, NJ 08840  
732-321-0041 | FAX: 732-321-0085

## FCRA Requirements

### **FEDERAL FAIR CREDIT REPORTING ACT (AS AMENDED BY THE CONSUMER CREDIT REPORTING REFORM ACT OF 1996)**

Although the FCRA primarily regulates the operations of consumer credit reporting agencies, it also affects you as a user of information. The following are highlighted sections of the FCRA that regulate the request and use of consumer reports:

- § 604. Permissible Purposes of Reports
- § 607. Compliance Procedures
- § 615. Requirement on users of consumer reports
- § 616. Civil liability for willful noncompliance
- § 617. Civil liability for negligent noncompliance
- § 619. Obtaining information under false pretenses
- § 621. Administrative Enforcement
- § 623. Responsibilities of Furnishers of Information to Consumer Reporting Agencies

Each of these sections is of direct consequence to users who obtain reports on consumers. In addition, the complete version of the FCRA is available online at [www.ftc.gov/os/statutes/fcra.pdf](http://www.ftc.gov/os/statutes/fcra.pdf)

As directed by the law, credit reports may be issued only if they are to be used for extending credit, review or collection of an account, employment purposes, underwriting insurance or in connection with some other legitimate business transaction such as in investment, partnership, etc. It is imperative that you identify each request for a report to be used for employment purposes when such report is ordered. Additional state laws may also impact your usage of reports for employment purposes.

We strongly endorse the letter and spirit of the Federal Fair Credit Reporting Act. We believe that this law and similar state laws recognize and preserve the delicate balance between the rights of the consumer and the legitimate needs of commerce.

In addition to the Federal Fair Credit Reporting Act, other federal and state laws addressing such topics as computer crime and unauthorized access to protected databases have also been enacted.

The full version of the FCRA is available online at [www.ftc.gov/os/statutes/fcra.pdf](http://www.ftc.gov/os/statutes/fcra.pdf)  
You can also contact Customer Service at **732-321-0041** to have the entire FCRA e-mailed to you.

## **THE FAIR CREDIT REPORTING ACT**

As a public service, the staff of the Federal Trade Commission (FTC) has prepared the following complete text of the Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681 et seq. Although staff generally followed the format of the U.S. Code as published by the Government Printing Office, the format of this text does differ in minor ways from the Code (and from West's U.S. Code Annotated). For example, this version uses FCRA section numbers (§§ 601-625) in the headings. (The relevant U.S. Code citation is included with each section heading and each reference to the FCRA in the text.) Although the staff has made every effort to transcribe the statutory material accurately, this compendium is intended only as a convenience for the public and not a substitute for the text in the U. S. Code. The Commission's website ([www.ftc.gov](http://www.ftc.gov)) posted this document on January 31, 2005.

This version of the FCRA includes the amendments to the FCRA set forth in the Consumer Credit Reporting Reform Act of 1996 (Public Law 104-208, the Omnibus Consolidated Appropriations Act for Fiscal Year 1997, Title II, Subtitle D, Chapter 1), Section 311 of the Intelligence Authorization for Fiscal Year 1998 (Public Law 105-107), the Consumer Reporting Employment Clarification Act of 1998 (Public Law 105-347), Section 506 of the Gramm-Leach-Bliley Act (Public Law 106-102), Sections 358(g) and 505(c) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) (Public Law 107-56), and the Fair and Accurate Credit Transactions Act of 2003 (FACT Act) (Public Law 108-159).

The provisions added to the FCRA by the FACT Act became effective at different times. In some cases, the provision includes its own effective date. In other cases, the FACT Act provides that the effective dates be prescribed by the FTC and Federal Reserve Board. See 16 CFR Part 602. (69 Fed. Reg. 6526; February 11, 2004) (69 Fed. Reg. 29061; May 20, 2004).

## TABLE OF CONTENTS

---

§ 601	Short title
§ 602	Congressional findings and statement of purpose
§ 603	Definitions; rules of construction
§ 604	Permissible purposes of consumer reports
§ 605	Requirements relating to information contained in consumer reports
§ 605A	Identity theft prevention; fraud alerts and active duty alerts
§ 605B	Block of information resulting from identity theft
§ 606	Disclosure of investigative consumer reports
§ 607	Compliance procedures
§ 608	Disclosures to governmental agencies
§ 609	Disclosures to consumers
§ 610	Conditions and form of disclosure to consumers
§ 611	Procedure in case of disputed accuracy
§ 612	Charges for certain disclosures
§ 613	Public record information for employment purposes
§ 614	Restrictions on investigative consumer reports
§ 615	Requirements on users of consumer reports
§ 616	Civil liability for willful noncompliance
§ 617	Civil liability for negligent noncompliance
§ 618	Jurisdiction of courts; limitation of actions
§ 619	Obtaining information under false pretenses
§ 620	Unauthorized disclosures by officers or employees
§ 621	Administrative enforcement
§ 622	Information on overdue child support obligations
§ 623	Responsibilities of furnishers of information to consumer reporting agencies
§ 624	Affiliate sharing
§ 625	Relation to state laws
§ 626	Disclosures to FBI for counterintelligence purposes
§ 627	Disclosures to governmental agencies for counterterrorism purposes
§ 628	Disposal of records
§ 629	Corporate and technological circumvention prohibited

- (iii) to any self-regulatory organization with regulatory authority over the activities of the employer or employee;
- (iv) as otherwise required by law; or
- (v) pursuant to section 608.

(2) *Subsequent disclosure.* After taking any adverse action based in whole or in part on a communication described in paragraph (1), the employer shall disclose to the consumer a summary containing the nature and substance of the communication upon which the adverse action is based, except that the sources of information acquired solely for use in preparing what would be but for subsection (d)(2)(D) an investigative consumer report need not be disclosed.

(3) For purposes of this subsection, the term “self-regulatory organization” includes any self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act of 1934), any entity established under title I of the Sarbanes-Oxley Act of 2002, any board of trade designated by the Commodity Futures Trading Commission, and any futures association registered with such Commission.

**§ 604. Permissible purposes of consumer reports** [15 U.S.C. § 1681b]

(a) *In general.* Subject to subsection (c), any consumer reporting agency may furnish a consumer report under the following circumstances and no other:

- (1) In response to the order of a court having jurisdiction to issue such an order, or a subpoena issued in connection with proceedings before a Federal grand jury.
- (2) In accordance with the written instructions of the consumer to whom it relates.
- (3) To a person which it has reason to believe
  - (A) intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer; or
  - (B) intends to use the information for employment purposes; or
  - (C) intends to use the information in connection with the underwriting of insurance involving the consumer; or
  - (D) intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or

- (E) intends to use the information, as a potential investor or servicer, or current insurer, in connection with a valuation of, or an assessment of the credit or prepayment risks associated with, an existing credit obligation; or
  - (F) otherwise has a legitimate business need for the information
    - (i) in connection with a business transaction that is initiated by the consumer; or
    - (ii) to review an account to determine whether the consumer continues to meet the terms of the account.
- (4) In response to a request by the head of a State or local child support enforcement agency (or a State or local government official authorized by the head of such an agency), if the person making the request certifies to the consumer reporting agency that
- (A) the consumer report is needed for the purpose of establishing an individual's capacity to make child support payments or determining the appropriate level of such payments;
  - (B) the paternity of the consumer for the child to which the obligation relates has been established or acknowledged by the consumer in accordance with State laws under which the obligation arises (if required by those laws);
  - (C) the person has provided at least 10 days' prior notice to the consumer whose report is requested, by certified or registered mail to the last known address of the consumer, that the report will be requested; and
  - (D) the consumer report will be kept confidential, will be used solely for a purpose described in subparagraph (A), and will not be used in connection with any other civil, administrative, or criminal proceeding, or for any other purpose.
- (5) To an agency administering a State plan under Section 454 of the Social Security Act (42 U.S.C. § 654) for use to set an initial or modified child support award.
- (b) Conditions for Furnishing and Using Consumer Reports for Employment Purposes.
- (1) *Certification from user.* A consumer reporting agency may furnish a consumer report for employment purposes only if
- (A) the person who obtains such report from the agency certifies to the agency that
    - (i) the person has complied with paragraph (2) with respect to the consumer report, and the person will comply with paragraph (3) with respect to the consumer report if paragraph (3) becomes applicable; and

- (ii) information from the consumer report will not be used in violation of any applicable Federal or State equal employment opportunity law or regulation; and
- (B) the consumer reporting agency provides with the report, or has previously provided, a summary of the consumer's rights under this title, as prescribed by the Federal Trade Commission under section 609(c)(3) [§ 1681g].

(2) Disclosure to Consumer.

- (A) *In general.* Except as provided in subparagraph (B), a person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless--
  - (i) a clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes; and
  - (ii) the consumer has authorized in writing (which authorization may be made on the document referred to in clause (i)) the procurement of the report by that person.
- (B) *Application by mail, telephone, computer, or other similar means.* If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, at any time before a consumer report is procured or caused to be procured in connection with that application--
  - (i) the person who procures the consumer report on the consumer for employment purposes shall provide to the consumer, by oral, written, or electronic means, notice that a consumer report may be obtained for employment purposes, and a summary of the consumer's rights under section 615(a)(3); and
  - (ii) the consumer shall have consented, orally, in writing, or electronically to the procurement of the report by that person.
- (C) *Scope.* Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer's application for employment only if--
  - (i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of title 49, or a position subject to safety regulation by a State transportation agency; and

- (ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by mail, telephone, computer, or other similar means.

(3) Conditions on use for adverse actions.

- (A) *In general.* Except as provided in subparagraph (B), in using a consumer report for employment purposes, before taking any adverse action based in whole or in part on the report, the person intending to take such adverse action shall provide to the consumer to whom the report relates--

- (i) a copy of the report; and
- (ii) a description in writing of the rights of the consumer under this title, as prescribed by the Federal Trade Commission under section 609(c)(3).<sup>1</sup>

- (B) Application by mail, telephone, computer, or other similar means.

- (i) If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, and if a person who has procured a consumer report on the consumer for employment purposes takes adverse action on the employment application based in whole or in part on the report, then the person must provide to the consumer to whom the report relates, in lieu of the notices required under subparagraph (A) of this section and under section 615(a), within 3 business days of taking such action, an oral, written or electronic notification--
  - (I) that adverse action has been taken based in whole or in part on a consumer report received from a consumer reporting agency;
  - (II) of the name, address and telephone number of the consumer reporting agency that furnished the consumer report (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis);
  - (III) that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide to the consumer the specific reasons why the adverse action was taken; and
  - (IV) that the consumer may, upon providing proper identification, request a free copy of a report and may dispute with the consumer reporting agency the accuracy or completeness of any information in a report.

---

<sup>1</sup>The references in Sections 604(b)(3)(A) and 604(b)(3)(B) should be to Section 609(c)(1), not (c)(3) that no longer exists as the result of Congress' re-organization of Section 609(c) in 2003 (FACT Act).

- (ii) If, under clause (B)(i)(IV), the consumer requests a copy of a consumer report from the person who procured the report, then, within 3 business days of receiving the consumer's request, together with proper identification, the person must send or provide to the consumer a copy of a report and a copy of the consumer's rights as prescribed by the Federal Trade Commission under section 609(c)(3).
- (C) *Scope.* Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer's application for employment only if--
  - (i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of title 49, or a position subject to safety regulation by a State transportation agency; and
  - (ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by mail, telephone, computer, or other similar means.

(4) Exception for national security investigations.

- (A) *In general.* In the case of an agency or department of the United States Government which seeks to obtain and use a consumer report for employment purposes, paragraph (3) shall not apply to any adverse action by such agency or department which is based in part on such consumer report, if the head of such agency or department makes a written finding that--
  - (i) the consumer report is relevant to a national security investigation of such agency or department;
  - (ii) the investigation is within the jurisdiction of such agency or department;
  - (iii) there is reason to believe that compliance with paragraph (3) will--
    - (I) endanger the life or physical safety of any person;
    - (II) result in flight from prosecution;
    - (III) result in the destruction of, or tampering with, evidence relevant to the investigation;
    - (IV) result in the intimidation of a potential witness relevant to the investigation;
    - (V) result in the compromise of classified information; or

- (VI) otherwise seriously jeopardize or unduly delay the investigation or another official proceeding.
  - (B) *Notification of consumer upon conclusion of investigation.* Upon the conclusion of a national security investigation described in subparagraph (A), or upon the determination that the exception under subparagraph (A) is no longer required for the reasons set forth in such subparagraph, the official exercising the authority in such subparagraph shall provide to the consumer who is the subject of the consumer report with regard to which such finding was made--
    - (i) a copy of such consumer report with any classified information redacted as necessary;
    - (ii) notice of any adverse action which is based, in part, on the consumer report; and
    - (iii) the identification with reasonable specificity of the nature of the investigation for which the consumer report was sought.
  - (C) *Delegation by head of agency or department.* For purposes of subparagraphs (A) and (B), the head of any agency or department of the United States Government may delegate his or her authorities under this paragraph to an official of such agency or department who has personnel security responsibilities and is a member of the Senior Executive Service or equivalent civilian or military rank.
  - (D) *Report to the Congress.* Not later than January 31 of each year, the head of each agency and department of the United States Government that exercised authority under this paragraph during the preceding year shall submit a report to the Congress on the number of times the department or agency exercised such authority during the year.
  - (E) *Definitions.* For purposes of this paragraph, the following definitions shall apply:
    - (i) The term “classified information” means information that is protected from unauthorized disclosure under Executive Order No. 12958 or successor orders.
    - (ii) The term “national security investigation” means any official inquiry by an agency or department of the United States Government to determine the eligibility of a consumer to receive access or continued access to classified information or to determine whether classified information has been lost or compromised.
- (c) Furnishing reports in connection with credit or insurance transactions that are not initiated by the consumer.

- (1) *In general.* A consumer reporting agency may furnish a consumer report relating to any consumer pursuant to subparagraph (A) or (C) of subsection (a)(3) in connection with any credit or insurance transaction that is not initiated by the consumer only if
- (A) the consumer authorizes the agency to provide such report to such person; or
  - (B)(i) the transaction consists of a firm offer of credit or insurance;
  - (ii) the consumer reporting agency has complied with subsection (e); and
  - (iii) there is not in effect an election by the consumer, made in accordance with subsection (e), to have the consumer's name and address excluded from lists of names provided by the agency pursuant to this paragraph.
- (2) *Limits on information received under paragraph (1)(B).* A person may receive pursuant to paragraph (1)(B) only
- (A) the name and address of a consumer;
  - (B) an identifier that is not unique to the consumer and that is used by the person solely for the purpose of verifying the identity of the consumer; and
  - (C) other information pertaining to a consumer that does not identify the relationship or experience of the consumer with respect to a particular creditor or other entity.
- (3) *Information regarding inquiries.* Except as provided in section 609(a)(5) [§1681g], a consumer reporting agency shall not furnish to any person a record of inquiries in connection with a credit or insurance transaction that is not initiated by a consumer.

(d) Reserved.

(e) Election of consumer to be excluded from lists.

- (1) *In general.* A consumer may elect to have the consumer's name and address excluded from any list provided by a consumer reporting agency under subsection (c)(1)(B) in connection with a credit or insurance transaction that is not initiated by the consumer, by notifying the agency in accordance with paragraph (2) that the consumer does not consent to any use of a consumer report relating to the consumer in connection with any credit or insurance transaction that is not initiated by the consumer.
- (2) *Manner of notification.* A consumer shall notify a consumer reporting agency under paragraph (1)
- (A) through the notification system maintained by the agency under paragraph (5); or

- (B) by submitting to the agency a signed notice of election form issued by the agency for purposes of this subparagraph.
- (3) *Response of agency after notification through system.* Upon receipt of notification of the election of a consumer under paragraph (1) through the notification system maintained by the agency under paragraph (5), a consumer reporting agency shall
- (A) inform the consumer that the election is effective only for the 5-year period following the election if the consumer does not submit to the agency a signed notice of election form issued by the agency for purposes of paragraph (2)(B); and
  - (B) provide to the consumer a notice of election form, if requested by the consumer, not later than 5 business days after receipt of the notification of the election through the system established under paragraph (5), in the case of a request made at the time the consumer provides notification through the system.
- (4) *Effectiveness of election.* An election of a consumer under paragraph (1)
- (A) shall be effective with respect to a consumer reporting agency beginning 5 business days after the date on which the consumer notifies the agency in accordance with paragraph (2);
  - (B) shall be effective with respect to a consumer reporting agency
    - (i) subject to subparagraph (C), during the 5-year period beginning 5 business days after the date on which the consumer notifies the agency of the election, in the case of an election for which a consumer notifies the agency only in accordance with paragraph (2)(A); or
    - (ii) until the consumer notifies the agency under subparagraph (C), in the case of an election for which a consumer notifies the agency in accordance with paragraph (2)(B);
  - (C) shall not be effective after the date on which the consumer notifies the agency, through the notification system established by the agency under paragraph (5), that the election is no longer effective; and
  - (D) shall be effective with respect to each affiliate of the agency.
- (5) *Notification System*
- (A) *In general.* Each consumer reporting agency that, under subsection (c)(1)(B), furnishes a consumer report in connection with a credit or insurance transaction that is not initiated by a consumer, shall
    - (i) establish and maintain a notification system, including a toll-free telephone number, which permits any consumer whose consumer

report is maintained by the agency to notify the agency, with appropriate identification, of the consumer's election to have the consumer's name and address excluded from any such list of names and addresses provided by the agency for such a transaction; and

(ii) publish by not later than 365 days after the date of enactment of the Consumer Credit Reporting Reform Act of 1996, and not less than annually thereafter, in a publication of general circulation in the area served by the agency

(I) a notification that information in consumer files maintained by the agency may be used in connection with such transactions; and

(II) the address and toll-free telephone number for consumers to use to notify the agency of the consumer's election under clause (I).

(B) *Establishment and maintenance as compliance.* Establishment and maintenance of a notification system (including a toll-free telephone number) and publication by a consumer reporting agency on the agency's own behalf and on behalf of any of its affiliates in accordance with this paragraph is deemed to be compliance with this paragraph by each of those affiliates.

(6) *Notification system by agencies that operate nationwide.* Each consumer reporting agency that compiles and maintains files on consumers on a nationwide basis shall establish and maintain a notification system for purposes of paragraph (5) jointly with other such consumer reporting agencies.

(f) *Certain use or obtaining of information prohibited.* A person shall not use or obtain a consumer report for any purpose unless

(1) the consumer report is obtained for a purpose for which the consumer report is authorized to be furnished under this section; and

(2) the purpose is certified in accordance with section 607 [§ 1681e] by a prospective user of the report through a general or specific certification.

(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 (other than medical contact information treated in the manner required under section 605(a)(6)) 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) the information to be furnished pertains solely to transactions, accounts, or balances relating to debts arising from the receipt of medical services, products, or devices, where such information, other than account status or amounts, is restricted or reported using codes that do not identify, or do not provide information sufficient to infer, the specific provider or the nature of such services, products, or devices, as provided in section 605(a)(6).
- (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 (other than medical contact information treated in the manner required under section 605(a)(6)) 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 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 (and which shall include permitting actions necessary for administrative verification purposes), 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 Fair and Accurate Credit Transactions 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.

**§ 605. Requirements relating to information contained in consumer reports [15 U.S.C. §1681c]**

- (a) *Information excluded from consumer reports.* Except as authorized under subsection (b) of this section, no consumer reporting agency may make any consumer report containing any of the following items of information:
- (1) Cases under title 11 [United States Code] or under the Bankruptcy Act that, from the date of entry of the order for relief or the date of adjudication, as the case may be, antedate the report by more than 10 years.
- (2) Civil suits, civil judgments, and records of arrest that from date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.
- (3) Paid tax liens which, from date of payment, antedate the report by more than seven years.
- (4) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.<sup>2</sup>

---

<sup>2</sup>The reporting periods have been lengthened for certain adverse information pertaining to U.S. Government insured or guaranteed student loans, or pertaining to national direct student loans. See sections 430A(f) and 463(c)(3) of the Higher Education Act of 1965, 20 U.S.C. 1080a(f) and 20 U.S.C. 1087cc(c)(3), respectively.

that is adverse to the interest of the consumer and that is obtained through a personal interview with a neighbor, friend, or associate of the consumer or with another person with whom the consumer is acquainted or who has knowledge of such item of information, unless

- (A) the agency has followed reasonable procedures to obtain confirmation of the information, from an additional source that has independent and direct knowledge of the information; or
- (B) the person interviewed is the best possible source of the information.

**§ 607. Compliance procedures** [15 U.S.C. § 1681e]

(a) *Identity and purposes of credit users.* Every consumer reporting agency shall maintain reasonable procedures designed to avoid violations of section 605 [§ 1681c] and to limit the furnishing of consumer reports to the purposes listed under section 604 [§ 1681b] of this title. These procedures shall require that prospective users of the information identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose. Every consumer reporting agency shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by such prospective user prior to furnishing such user a consumer report. No consumer reporting agency may furnish a consumer report to any person if it has reasonable grounds for believing that the consumer report will not be used for a purpose listed in section 604 [§ 1681b] of this title.

(b) *Accuracy of report.* Whenever a consumer reporting agency prepares a consumer report it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.

(c) *Disclosure of consumer reports by users allowed.* A consumer reporting agency may not prohibit a user of a consumer report furnished by the agency on a consumer from disclosing the contents of the report to the consumer, if adverse action against the consumer has been taken by the user based in whole or in part on the report.

(d) Notice to Users and Furnishers of Information

(1) *Notice requirement.* A consumer reporting agency shall provide to any person

- (A) who regularly and in the ordinary course of business furnishes information to the agency with respect to any consumer; or
- (B) to whom a consumer report is provided by the agency;

a notice of such person's responsibilities under this title.

***See also 16 CFR 698, App G-H  
69 Fed. Reg. 69776 (11/30/04)***

(2) *Content of notice.* The Federal Trade Commission shall prescribe the content of notices under paragraph (1), and a consumer reporting agency shall be in compliance with this subsection if it provides a notice under paragraph (1) that is substantially similar to the Federal Trade Commission prescription under this paragraph.

(e) Procurement of Consumer Report for Resale

- (1) *Disclosure.* A person may not procure a consumer report for purposes of reselling the report (or any information in the report) unless the person discloses to the consumer reporting agency that originally furnishes the report
  - (A) the identity of the end-user of the report (or information); and
  - (B) each permissible purpose under section 604 [§ 1681b] for which the report is furnished to the end-user of the report (or information).
  
- (2) *Responsibilities of procurers for resale.* A person who procures a consumer report for purposes of reselling the report (or any information in the report) shall
  - (A) establish and comply with reasonable procedures designed to ensure that the report (or information) is resold by the person only for a purpose for which the report may be furnished under section 604 [§ 1681b], including by requiring that each person to which the report (or information) is resold and that resells or provides the report (or information) to any other person
    - (i) identifies each end user of the resold report (or information);
    - (ii) certifies each purpose for which the report (or information) will be used; and
    - (iii) certifies that the report (or information) will be used for no other purpose; and
  - (B) before reselling the report, make reasonable efforts to verify the identifications and certifications made under subparagraph (A).
  
- (3) *Resale of consumer report to a federal agency or department.* Notwithstanding paragraph (1) or (2), a person who procures a consumer report for purposes of reselling the report (or any information in the report) shall not disclose the identity of the end-user of the report under paragraph (1) or (2) if--
  - (A) the end user is an agency or department of the United States Government which procures the report from the person for purposes of determining the eligibility of the consumer concerned to receive access or continued access to classified information (as defined in section 604(b)(4)(E)(i)); and
  - (B) the agency or department certifies in writing to the person reselling the report that nondisclosure is necessary to protect classified information or the safety of persons employed by or contracting with, or undergoing investigation for work or contracting with the agency or department.

**§ 613. Public record information for employment purposes** [15 U.S.C. § 1681k]

- (a) *In general.* A consumer reporting agency which furnishes a consumer report for employment purposes and which for that purpose compiles and reports items of information on consumers which are matters of public record and are likely to have an adverse effect upon a consumer's ability to obtain employment shall
- (1) at the time such public record information is reported to the user of such consumer report, notify the consumer of the fact that public record information is being reported by the consumer reporting agency, together with the name and address of the person to whom such information is being reported; or
  - (2) maintain strict procedures designed to insure that whenever public record information which is likely to have an adverse effect on a consumer's ability to obtain employment is reported it is complete and up to date. For purposes of this paragraph, items of public record relating to arrests, indictments, convictions, suits, tax liens, and outstanding judgments shall be considered up to date if the current public record status of the item at the time of the report is reported.
- (b) *Exemption for national security investigations.* Subsection (a) does not apply in the case of an agency or department of the United States Government that seeks to obtain and use a consumer report for employment purposes, if the head of the agency or department makes a written finding as prescribed under section 604(b)(4)(A).

**§ 614. Restrictions on investigative consumer reports** [15 U.S.C. § 1681l]

Whenever a consumer reporting agency prepares an investigative consumer report, no adverse information in the consumer report (other than information which is a matter of public record) may be included in a subsequent consumer report unless such adverse information has been verified in the process of making such subsequent consumer report, or the adverse information was received within the three-month period preceding the date the subsequent report is furnished.

**§ 615. Requirements on users of consumer reports** [15 U.S.C. § 1681m]

- (a) *Duties of users taking adverse actions on the basis of information contained in consumer reports.* If any person takes any adverse action with respect to any consumer that is based in whole or in part on any information contained in a consumer report, the person shall
- (1) provide oral, written, or electronic notice of the adverse action to the consumer;
  - (2) provide to the consumer orally, in writing, or electronically
    - (A) the name, address, and telephone number of the consumer reporting agency (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis) that furnished the report to the person; and

- (B) a statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the consumer the specific reasons why the adverse action was taken; and
- (3) provide to the consumer an oral, written, or electronic notice of the consumer's right
- (A) to obtain, under section 612 [§ 1681j], a free copy of a consumer report on the consumer from the consumer reporting agency referred to in paragraph (2), which notice shall include an indication of the 60-day period under that section for obtaining such a copy; and
  - (B) to dispute, under section 611 [§ 1681i], with a consumer reporting agency the accuracy or completeness of any information in a consumer report furnished by the agency.

(b) Adverse Action Based on Information Obtained from Third Parties Other than Consumer Reporting Agencies

(1) *In general.* Whenever credit for personal, family, or household purposes involving a consumer is denied or the charge for such credit is increased either wholly or partly because of information obtained from a person other than a consumer reporting agency bearing upon the consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, the user of such information shall, within a reasonable period of time, upon the consumer's written request for the reasons for such adverse action received within sixty days after learning of such adverse action, disclose the nature of the information to the consumer. The user of such information shall clearly and accurately disclose to the consumer his right to make such written request at the time such adverse action is communicated to the consumer.

(2) Duties of Person Taking Certain Actions Based on Information Provided by Affiliate

- (A) *Duties, generally.* If a person takes an action described in subparagraph (B) with respect to a consumer, based in whole or in part on information described in subparagraph (C), the person shall
  - (i) notify the consumer of the action, including a statement that the consumer may obtain the information in accordance with clause (ii); and
  - (ii) upon a written request from the consumer received within 60 days after transmittal of the notice required by clause (i), disclose to the consumer the nature of the information upon which the action is based by not later than 30 days after receipt of the request.
- (B) *Action described.* An action referred to in subparagraph (A) is an adverse action described in section 603(k)(1)(A) [§ 1681a], taken in connection with a transaction initiated by the consumer, or any adverse action described in clause (i) or (ii) of section 603(k)(1)(B) [§ 1681a].

- (C) *Information described.* Information referred to in subparagraph (A)
  - (i) except as provided in clause (ii), is information that
    - (I) is furnished to the person taking the action by a person related by common ownership or affiliated by common corporate control to the person taking the action; and
    - (II) bears on the credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living of the consumer; and
  - (ii) does not include
    - (I) information solely as to transactions or experiences between the consumer and the person furnishing the information; or
    - (II) information in a consumer report.
- (c) *Reasonable procedures to assure compliance.* No person shall be held liable for any violation of this section if he shows by a preponderance of the evidence that at the time of the alleged violation he maintained reasonable procedures to assure compliance with the provisions of this section.
- (d) Duties of Users Making Written Credit or Insurance Solicitations on the Basis of Information Contained in Consumer Files
  - (1) *In general.* Any person who uses a consumer report on any consumer in connection with any credit or insurance transaction that is not initiated by the consumer, that is provided to that person under section 604(c)(1)(B) [§ 1681b], shall provide with each written solicitation made to the consumer regarding the transaction a clear and conspicuous statement that
    - (A) information contained in the consumer's consumer report was used in connection with the transaction;
    - (B) the consumer received the offer of credit or insurance because the consumer satisfied the criteria for credit worthiness or insurability under which the consumer was selected for the offer;
    - (C) if applicable, the credit or insurance may not be extended if, after the consumer responds to the offer, the consumer does not meet the criteria used to select the consumer for the offer or any applicable criteria bearing on credit worthiness or insurability or does not furnish any required collateral;
    - (D) the consumer has a right to prohibit information contained in the consumer's file with any consumer reporting agency from being used in

connection with any credit or insurance transaction that is not initiated by the consumer; and

- (E) the consumer may exercise the right referred to in subparagraph (D) by notifying a notification system established under section 604(e) [§ 1681b].

(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 to be simple and easy to understand, as established by the Commission, by rule, in consultation with the Federal banking agencies and the National Credit Union Administration.

*See also 16 CFR Part 642  
16 CFR Part 698 App A  
70 Fed. Reg. 5022 (01/31/05)*

(3) *Maintaining criteria on file.* A person who makes an offer of credit or insurance to a consumer under a credit or insurance transaction described in paragraph (1) shall maintain on file the criteria used to select the consumer to receive the offer, all criteria bearing on credit worthiness or insurability, as applicable, that are the basis for determining whether or not to extend credit or insurance pursuant to the offer, and any requirement for the furnishing of collateral as a condition of the extension of credit or insurance, until the expiration of the 3-year period beginning on the date on which the offer is made to the consumer.

(4) *Authority of federal agencies regarding unfair or deceptive acts or practices not affected.* This section is not intended to affect the authority of any Federal or State agency to enforce a prohibition against unfair or deceptive acts or practices, including the making of false or misleading statements in connection with a credit or insurance transaction that is not initiated by the consumer.

(e) Red Flag Guidelines and Regulations Required

(1) *Guidelines.* The Federal banking agencies, the National Credit Union Administration, and the Commission shall jointly, with respect to the entities that are subject to their respective enforcement authority under section 621--

- (A) establish and maintain guidelines for use by each financial institution and each creditor 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 creditor to establish reasonable policies and procedures for implementing the guidelines established pursuant to subparagraph (A), to identify possible risks to account holders or customers or to the safety and soundness of the institution or customers; and

- (C) prescribe regulations applicable to card issuers to ensure that, if a card issuer receives notification of a change of address for an existing account, and within a short period of time (during at least the first 30 days after such notification is received) receives a request for an additional or replacement card for the same account, the card issuer may not issue the additional or replacement card, unless the card issuer, in accordance with reasonable policies and procedures--
  - (i) 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;
  - (ii) notifies the cardholder of the request by such other means of communication as the cardholder and the card issuer previously agreed to; or
  - (iii) 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 subparagraph (B).

(2) Criteria

- (A) *In general.* 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.
  - (B) *Inactive accounts.* In developing the guidelines required by paragraph (1)(A), the agencies described in paragraph (1) shall consider including reasonable guidelines providing that when a transaction occurs with respect to a credit or deposit account that has been inactive for more than 2 years, the creditor or financial institution shall follow reasonable policies and procedures that provide for notice to be given to a consumer in a manner reasonably designed to reduce the likelihood of identity theft with respect to such account.
- (3) *Consistency with verification requirements.* Guidelines established pursuant to paragraph (1) shall not be inconsistent with the policies and procedures required under section 5318(l) of title 31, United States Code.

(f) 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 the pledging of a portfolio of debt as collateral in connection with a borrowing; 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.

(g) *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.

(h) *Duties of Users in Certain Credit Transactions*

(1) *In general.* Subject to rules prescribed as provided in paragraph (6), if any person uses a consumer report in connection with an application for, or 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 an oral, written, or electronic notice to the consumer in the form and manner required by regulations prescribed in accordance with this subsection.

(2) *Timing.* The notice required under paragraph (1) may be provided at the time of an application for, or a grant, extension, or other provision of, credit or the time of communication of an approval of an application for, or grant, extension, or other provision of, credit, except as provided in the regulations prescribed under paragraph (6).

(3) *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.
- (4) *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.
- (5) *Content and delivery of notice.* A notice under this subsection shall, at a minimum—
- (A) include a statement informing the consumer that the terms offered to the consumer are set based on information from a consumer report;
  - (B) identify the consumer reporting agency furnishing the report;
  - (C) include 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) include 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)).

(6) Rulemaking

- (A) *Rules required.* The Commission and the Board shall jointly prescribe rules.
- (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;
  - (iv) a model notice that may be used to comply with this subsection; and
  - (v) the timing of the notice required under paragraph (1), including the circumstances under which the notice must be provided after the terms offered to the consumer were set based on information from a consumer report.

(7) *Compliance.* A person shall not be liable for failure to perform the duties required by this section if, at the time of the failure, the person maintained reasonable policies and procedures to comply with this section.

(8) Enforcement

(A) *No civil actions.* Sections 616 and 617 shall not apply to any failure by any person to comply with this section.

(B) *Administrative enforcement.* This section shall be enforced exclusively under section 621 by the Federal agencies and officials identified in that section.

**§ 616. Civil liability for willful noncompliance** [15 U.S.C. § 1681n]

(a) *In general.* Any person who willfully fails to comply with any requirement imposed under this title with respect to any consumer is liable to that consumer in an amount equal to the sum of

(1) (A) any actual damages sustained by the consumer as a result of the failure or damages of not less than \$100 and not more than \$1,000; or

(B) in the case of liability of a natural person for obtaining a consumer report under false pretenses or knowingly without a permissible purpose, actual damages sustained by the consumer as a result of the failure or \$1,000, whichever is greater;

(2) such amount of punitive damages as the court may allow; and

(3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

(b) *Civil liability for knowing noncompliance.* Any person who obtains a consumer report from a consumer reporting agency under false pretenses or knowingly without a permissible purpose shall be liable to the consumer reporting agency for actual damages sustained by the consumer reporting agency or \$1,000, whichever is greater.

(c) *Attorney's fees.* Upon a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for purposes of harassment, the court shall award to the prevailing party attorney's fees reasonable in relation to the work expended in responding to the pleading, motion, or other paper.

**§ 617. Civil liability for negligent noncompliance** [15 U.S.C. § 1681o]

(a) *In general.* Any person who is negligent in failing to comply with any requirement imposed under this title with respect to any consumer is liable to that consumer in an amount equal to the sum of

- (1) any actual damages sustained by the consumer as a result of the failure; and
- (2) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

(b) *Attorney's fees.* On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for purposes of harassment, the court shall award to the prevailing party attorney's fees reasonable in relation to the work expended in responding to the pleading, motion, or other paper.

**§ 618. Jurisdiction of courts; limitation of actions** [15 U.S.C. § 1681p]

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.

**§ 619. Obtaining information under false pretenses** [15 U.S.C. § 1681q]

Any person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses shall be fined under title 18, United States Code, imprisoned for not more than 2 years, or both.

**§ 620. Unauthorized disclosures by officers or employees** [15 U.S.C. § 1681r]

Any officer or employee of a consumer reporting agency who knowingly and willfully provides information concerning an individual from the agency's files to a person not authorized to receive that information shall be fined under title 18, United States Code, imprisoned for not more than 2 years, or both.

**§ 621. Administrative enforcement** [15 U.S.C. § 1681s]

- (a) (1) *Enforcement by Federal Trade Commission.* Compliance with the requirements imposed under this title shall be enforced under the Federal Trade Commission Act [15 U.S.C. §§ 41 et seq.] by the Federal Trade Commission with respect to consumer reporting agencies and all other persons subject thereto, except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other government agency under subsection (b) hereof. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement or prohibition imposed under this title shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act [15 U.S.C. § 45(a)] and shall be subject to enforcement by the Federal Trade Commission under section 5(b) thereof [15 U.S.C. § 45(b)] with respect to any consumer reporting agency or person subject to enforcement by the Federal Trade Commission pursuant to this subsection, irrespective of whether

that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act. The Federal Trade Commission shall have such procedural, investigative, and enforcement powers, including the power to issue procedural rules in enforcing compliance with the requirements imposed under this title and to require the filing of reports, the production of documents, and the appearance of witnesses as though the applicable terms and conditions of the Federal Trade Commission Act were part of this title. Any person violating any of the provisions of this title shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act as though the applicable terms and provisions thereof were part of this title.

(2) (A) In the event of a knowing violation, which constitutes a pattern or practice of violations of this title, the Commission may commence a civil action to recover a civil penalty in a district court of the United States against any person that violates this title. In such action, such person shall be liable for a civil penalty of not more than \$2,500 per violation.

(B) In determining the amount of a civil penalty under subparagraph (A), the court shall take into account the degree of culpability, any history of prior such conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(3) Notwithstanding paragraph (2), a court may not impose any civil penalty on a person for a violation of section 623(a)(1) [§ 1681s-2] unless the person has been enjoined from committing the violation, or ordered not to commit the violation, in an action or proceeding brought by or on behalf of the Federal Trade Commission, and has violated the injunction or order, and the court may not impose any civil penalty for any violation occurring before the date of the violation of the injunction or order.

(b) *Enforcement by other agencies.* Compliance with the requirements imposed under this title with respect to consumer reporting agencies, persons who use consumer reports from such agencies, persons who furnish information to such agencies, and users of information that are subject to subsection (d) of section 615 [§ 1681m] shall be enforced under

(1) section 8 of the Federal Deposit Insurance Act [12 U.S.C. § 1818], in the case of

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act [12 U.S.C. §§ 601 et seq., §§ 611 et seq.], by the Board of Governors of the Federal Reserve System; and

- (C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;
- (2) section 8 of the Federal Deposit Insurance Act [12 U.S.C. § 1818], by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;
- (3) the Federal Credit Union Act [12 U.S.C. §§ 1751 et seq.], by the Administrator of the National Credit Union Administration [National Credit Union Administration Board] with respect to any Federal credit union;
- (4) subtitle IV of title 49 [49 U.S.C. §§ 10101 et seq.], by the Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Surface Transportation Board;
- (5) the Federal Aviation Act of 1958 [49 U.S.C. Appx §§ 1301 et seq.], by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that Act [49 U.S.C. Appx §§ 1301 et seq.]; and
- (6) the Packers and Stockyards Act, 1921 [7 U.S.C. §§ 181 et seq.] (except as provided in section 406 of that Act [7 U.S.C. §§ 226 and 227]), by the Secretary of Agriculture with respect to any activities subject to that Act.

The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. §1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. § 3101).

(c) State Action for Violations

- (1) *Authority of states.* In addition to such other remedies as are provided under State law, if the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this title, the State
  - (A) may bring an action to enjoin such violation in any appropriate United States district court or in any other court of competent jurisdiction;
  - (B) subject to paragraph (5), may bring an action on behalf of the residents of the State to recover
    - (i) damages for which the person is liable to such residents under sections 616 and 617 [§§ 1681n and 1681o] as a result of the violation;
    - (ii) in the case of a violation described in any of paragraphs (1) through (3) of section 623(c), damages for which the person would, but for section 623(c) [§ 1681s-2], be liable to such residents as a result of the violation; or
    - (iii) damages of not more than \$1,000 for each willful or negligent violation; and

- (C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.
- (2) *Rights of federal regulators.* The State shall serve prior written notice of any action under paragraph (1) upon the Federal Trade Commission or the appropriate Federal regulator determined under subsection (b) and provide the Commission or appropriate Federal regulator with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Federal Trade Commission or appropriate Federal regulator shall have the right
- (A) to intervene in the action;
  - (B) upon so intervening, to be heard on all matters arising therein;
  - (C) to remove the action to the appropriate United States district court; and
  - (D) to file petitions for appeal.
- (3) *Investigatory powers.* For purposes of bringing any action under this subsection, nothing in this subsection shall prevent the chief law enforcement officer, or an official or agency designated by a State, from exercising the powers conferred on the chief law enforcement officer or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.
- (4) *Limitation on state action while federal action pending.* If the Federal Trade Commission or the appropriate Federal regulator has instituted a civil action or an administrative action under section 8 of the Federal Deposit Insurance Act for a violation of this title, no State may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Commission or the appropriate Federal regulator for any violation of this title that is alleged in that complaint.
- (5) *Limitations on State Actions for Certain Violations*
- (A) *Violation of injunction required.* A State may not bring an action against a person under paragraph (1)(B) for a violation described in any of paragraphs (1) through (3) of section 623(c), unless
    - (i) the person has been enjoined from committing the violation, in an action brought by the State under paragraph (1)(A); and
    - (ii) the person has violated the injunction.
  - (B) *Limitation on damages recoverable.* In an action against a person under paragraph (1)(B) for a violation described in any of paragraphs (1) through (3) of section 623(c), a State may not recover any damages incurred before the date of the violation of an injunction on which the action is based.

(d) *Enforcement under other authority.* For the purpose of the exercise by any agency referred to in subsection (b) of this section of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b) of this section, each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title any other authority conferred on it by law.

(e) Regulatory authority

(1) The Federal banking agencies referred to in paragraphs (1) and (2) of subsection (b) shall jointly prescribe such regulations as necessary to carry out the purposes of this Act with respect to any persons identified under paragraphs (1) and (2) of subsection (b), and the Board of Governors of the Federal Reserve System shall have authority to prescribe regulations consistent with such joint regulations with respect to bank holding companies and affiliates (other than depository institutions and consumer reporting agencies) of such holding companies.

(2) The Board of the National Credit Union Administration shall prescribe such regulations as necessary to carry out the purposes of this Act with respect to any persons identified under paragraph (3) of subsection (b).

(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 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 Commission on consumer complaints received by the agency on identity theft or fraud alerts.

(g) *FTC regulation of coding of trade names.* If the Commission determines that a person described in paragraph (9) 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.

**§ 622. Information on overdue child support obligations** [15 U.S.C. § 1681s-1]

Notwithstanding any other provision of this title, a consumer reporting agency shall include in any consumer report furnished by the agency in accordance with section 604 [§ 1681b] of this title, any information on the failure of the consumer to pay overdue support which

- (1) is provided
  - (A) to the consumer reporting agency by a State or local child support enforcement agency; or
  - (B) to the consumer reporting agency and verified by any local, State, or Federal government agency; and
- (2) antedates the report by 7 years or less.

**§ 623. Responsibilities of furnishers of information to consumer reporting agencies** [15 U.S.C. § 1681s-2]

(a) Duty of Furnishers of Information to Provide Accurate Information

(1) Prohibition

- (A) *Reporting information with actual knowledge of errors.* A person shall not furnish any information relating to a consumer to any consumer reporting agency if the person knows or has reasonable cause to believe that the information is inaccurate.
- (B) *Reporting information after notice and confirmation of errors.* A person shall not furnish information relating to a consumer to any consumer reporting agency if
  - (i) the person has been notified by the consumer, at the address specified by the person for such notices, that specific information is inaccurate; and
  - (ii) the information is, in fact, inaccurate.
- (C) *No address requirement.* A person who clearly and conspicuously specifies to the consumer an address for notices referred to in subparagraph (B) shall not be subject to subparagraph (A); however, nothing in subparagraph (B) shall require a person to specify such an address.
- (D) *Definition.* For purposes of subparagraph (A), the term “reasonable cause to believe that the information is inaccurate” means having specific knowledge, other than solely allegations by the consumer, that would cause a reasonable person to have substantial doubts about the accuracy of the information.

- (2) *Duty to correct and update information.* A person who
- (A) regularly and in the ordinary course of business furnishes information to one or more consumer reporting agencies about the person's transactions or experiences with any consumer; and
  - (B) has furnished to a consumer reporting agency information that the person determines is not complete or accurate, shall promptly notify the consumer reporting agency of that determination and provide to the agency any corrections to that information, or any additional information, that is necessary to make the information provided by the person to the agency complete and accurate, and shall not thereafter furnish to the agency any of the information that remains not complete or accurate.
- (3) *Duty to provide notice of dispute.* If the completeness or accuracy of any information furnished by any person to any consumer reporting agency is disputed to such person by a consumer, the person may not furnish the information to any consumer reporting agency without notice that such information is disputed by the consumer.
- (4) *Duty to provide notice of closed accounts.* A person who regularly and in the ordinary course of business furnishes information to a consumer reporting agency regarding a consumer who has a credit account with that person shall notify the agency of the voluntary closure of the account by the consumer, in information regularly furnished for the period in which the account is closed.
- (5) *Duty to Provide Notice of Delinquency of Accounts*
- (A) *In general.* A person who furnishes information to a consumer reporting agency regarding a delinquent account being placed for collection, charged to profit or loss, or subjected to any similar action shall, not later than 90 days after furnishing the information, notify the agency of the date of delinquency on the account, which shall be the month and year of the commencement of the delinquency on the account that immediately preceded the action.
  - (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 to a consumer reporting agency 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.

#### (6) Duties of Furnishers Upon Notice of Identity Theft-Related Information

- (A) *Reasonable procedures.* A person that furnishes information to any consumer reporting agency shall 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 refurnishing such blocked information.
- (B) *Information alleged to result from identity theft.* If a consumer submits an identity theft report to a person who furnishes information to a consumer reporting agency at the address specified by that person for receiving such reports stating that information maintained by such person that purports to relate to the consumer resulted from identity theft, the person may not furnish such information that purports to relate to the consumer to any consumer reporting agency, unless the person subsequently knows or is informed by the consumer that the information is correct.

#### (7) Negative Information

- (A) Notice to Consumer Required
  - (i) *In general.* If any financial institution that extends credit and regularly and in the ordinary course of business furnishes information to a consumer reporting agency described in section 603(p) furnishes negative information to such an agency regarding credit extended to a customer, the financial institution shall provide a notice of such furnishing of negative information, in writing, to the customer.
  - (ii) *Notice effective for subsequent submissions.* After providing such notice, the financial institution may submit additional negative information to a consumer reporting agency described in section 603(p) with respect to the same transaction, extension of credit, account, or customer without providing additional notice to the customer.
- (B) Time of Notice
  - (i) *In general.* The notice required under subparagraph (A) shall be provided to the customer prior to, or no later than 30 days after,

furnishing the negative information to a consumer reporting agency described in section 603(p).

- (ii) *Coordination with new account disclosures.* If the notice is provided to the customer prior to furnishing the negative information to a consumer reporting agency, the notice may not be included in the initial disclosures provided under section 127(a) of the Truth in Lending Act.
- (C) *Coordination with other disclosures-* The notice required under subparagraph (A)--
  - (i) may be included on or with any notice of default, any billing statement, or any other materials provided to the customer; and
  - (ii) must be clear and conspicuous.
- (D) Model Disclosure
  - (i) *Duty of board to prepare.* The Board shall prescribe a brief model disclosure a financial institution may use to comply with subparagraph (A), which shall not exceed 30 words.
  - (ii) *Use of model not required.* No provision of this paragraph shall be construed as requiring a financial institution to use any such model form prescribed by the Board.
  - (iii) *Compliance using model.* A financial institution shall be deemed to be in compliance with subparagraph (A) if the financial institution uses any such model form prescribed by the Board, or the financial institution uses any such model form and rearranges its format.
- (E) *Use of notice without submitting negative information.* No provision of this paragraph shall be construed as requiring a financial institution that has provided a customer with a notice described in subparagraph (A) to furnish negative information about the customer to a consumer reporting agency.
- (F) *Safe harbor.* A financial institution shall not be liable for failure to perform the duties required by this paragraph if, at the time of the failure, the financial institution maintained reasonable policies and procedures to comply with this paragraph or the financial institution reasonably believed that the institution is prohibited, by law, from contacting the consumer.
- (G) *Definitions.* For purposes of this paragraph, the following definitions shall apply:
  - (i) The term “negative information” means information concerning a customer's delinquencies, late payments, insolvency, or any form of default.
  - (ii) The terms “customer” and “financial institution” have the same meanings as in section 509 Public Law 106-102.

(8) Ability of Consumer to Dispute Information Directly with Furnisher

- (A) *In general.* The Federal banking agencies, the National Credit Union Administration, and the Commission shall jointly prescribe regulations that shall identify the circumstances under which a furnisher shall be required to reinvestigate a dispute concerning the accuracy of information contained in a consumer report on the consumer, based on a direct request of a consumer.
- (B) *Considerations.* In prescribing regulations under subparagraph (A), the agencies shall weigh--
- (i) the benefits to consumers with the costs on furnishers and the credit reporting system;
  - (ii) the impact on the overall accuracy and integrity of consumer reports of any such requirements;
  - (iii) whether direct contact by the consumer with the furnisher would likely result in the most expeditious resolution of any such dispute; and
  - (iv) the potential impact on the credit reporting process if credit repair organizations, as defined in section 403(3) [15 U.S.C. § 1679a(3)], including entities that would be a credit repair organization, but for section 403(3)(B)(i), are able to circumvent the prohibition in subparagraph (G).
- (C) *Applicability.* Subparagraphs (D) through (G) shall apply in any circumstance identified under the regulations promulgated under subparagraph (A).
- (D) *Submitting a notice of dispute-* A consumer who seeks to dispute the accuracy of information shall provide a dispute notice directly to such person at the address specified by the person for such notices that--
- (i) identifies the specific information that is being disputed;
  - (ii) explains the basis for the dispute; and
  - (iii) includes all supporting documentation required by the furnisher to substantiate the basis of the dispute.
- (E) *Duty of person after receiving notice of dispute.* After receiving a notice of dispute from a consumer pursuant to subparagraph (D), the person that provided the information in dispute to a consumer reporting agency shall--
- (i) conduct an investigation with respect to the disputed information;
  - (ii) review all relevant information provided by the consumer with the notice;

- (iii) complete such person's investigation of the dispute and report the results of the investigation to the consumer before the expiration of the period under section 611(a)(1) within which a consumer reporting agency would be required to complete its action if the consumer had elected to dispute the information under that section; and
- (iv) if the investigation finds that the information reported was inaccurate, promptly notify each consumer reporting agency to which the person furnished the inaccurate information of that determination and provide to the agency any correction to that information that is necessary to make the information provided by the person accurate.

(F) Frivolous or Irrelevant Dispute

- (i) *In general.* This paragraph shall not apply if the person receiving a notice of a dispute from a consumer reasonably determines that the dispute is frivolous or irrelevant, including--
  - (I) by reason of the failure of a consumer to provide sufficient information to investigate the disputed information; or
  - (II) the submission by a consumer of a dispute that is substantially the same as a dispute previously submitted by or for the consumer, either directly to the person or through a consumer reporting agency under subsection (b), with respect to which the person has already performed the person's duties under this paragraph or subsection (b), as applicable.
- (ii) *Notice of determination.* Upon making any determination under clause (i) that a dispute is frivolous or irrelevant, the person shall notify the consumer of such determination not later than 5 business days after making such determination, by mail or, if authorized by the consumer for that purpose, by any other means available to the person.
- (iii) *Contents of notice.* A notice under clause (ii) shall include--
  - (I) the reasons for the determination under clause (i); and
  - (II) identification of any information required to investigate the disputed information, which may consist of a standardized form describing the general nature of such information.
- (G) *Exclusion of credit repair organizations.* This paragraph shall not apply if the notice of the dispute is submitted by, is prepared on behalf of the consumer by, or is submitted on a form supplied to the consumer by, a credit repair organization, as defined in section 403(3), or an entity that would be a credit repair organization, but for section 403(3)(B)(i).

(9) *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) Duties of Furnishers of Information upon Notice of Dispute

(1) *In general.* After receiving notice pursuant to section 611(a)(2) [§ 1681i] of a dispute with regard to the completeness or accuracy of any information provided by a person to a consumer reporting agency, the person shall

- (A) conduct an investigation with respect to the disputed information;
- (B) review all relevant information provided by the consumer reporting agency pursuant to section 611(a)(2) [§ 1681i];
- (C) report the results of the investigation to the consumer reporting agency;
- (D) if the investigation finds that the information is incomplete or inaccurate, report those results to all other consumer reporting agencies to which the person furnished the information and that compile and maintain files on consumers on a nationwide basis; and
- (E) if an item of information disputed by a consumer is found to be inaccurate or incomplete or cannot be verified after any reinvestigation under paragraph (1), for purposes of reporting to a consumer reporting agency only, as appropriate, based on the results of the reinvestigation promptly—
  - (i) modify that item of information;
  - (ii) delete that item of information; or
  - (iii) permanently block the reporting of that item of information.

(2) *Deadline.* A person shall complete all investigations, reviews, and reports required under paragraph (1) regarding information provided by the person to a consumer reporting agency, before the expiration of the period under section 611(a)(1) [§ 1681i] within which the consumer reporting agency is required to complete actions required by that section regarding that information.

(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, including any regulations issued thereunder;
- (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; or

(3) subsection (e) of section 615.

(d) *Limitation on enforcement.* The provisions of law described in paragraphs (1) through (3) of subsection (c) (other than with respect to the exception described in paragraph (2) 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.

(e) Accuracy Guidelines and Regulations Required

(1) *Guidelines.* The Federal banking agencies, the National Credit Union Administration, and the 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 integrity 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 integrity 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 assure the accuracy and integrity of information furnished 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.