

116TH CONGRESS
1ST SESSION

S. 2685

To amend the Fair Credit Reporting Act to require that a consumer authorize the release of certain information.

IN THE SENATE OF THE UNITED STATES

OCTOBER 23, 2019

Mr. REED (for himself and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Fair Credit Reporting Act to require that a consumer authorize the release of certain information.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Consumer Credit Con-
5 trol Act of 2019”.

6 **SEC. 2. PERMISSIBLE PURPOSES OF REPORTS.**

7 (a) IN GENERAL.—The Fair Credit Reporting Act
8 (15 U.S.C. 1681 et seq.) is amended—

9 (1) in section 604 (15 U.S.C. 1681b)—

1 (A) by striking subsections (c) through (e)
2 and inserting the following:

3 “(c) CONDITIONS FOR FURNISHING CERTAIN CON-
4 SUMER REPORTS.—

5 “(1) IN GENERAL.—A consumer reporting
6 agency may furnish a consumer report for the fol-
7 lowing purposes only if the consumer reporting agen-
8 cy obtains affirmative informed consent of the con-
9 sumer to furnish the consumer report and the con-
10 sumer reporting agency verifies the identity of the
11 consumer by reviewing the proper identification re-
12 quired under section 610:

13 “(A) An extension of credit pursuant to
14 subsection (a)(3)(A).

15 “(B) The underwriting of insurance pursu-
16 ant to subsection (a)(3)(C).

17 “(2) ADDITIONAL REPORTS; ELECTION.—After
18 the consumer reporting agency obtains affirmative
19 informed consent of the consumer and verifies the
20 identity of the consumer under paragraph (1), the
21 consumer reporting agency may continue to furnish
22 consumer reports solely for the purposes of review-
23 ing or collecting on an account described in subpara-
24 graphs (A) and (C) of subsection (a)(3).

1 “(3) FURNISHING REPORTS IN CONNECTION
2 WITH CREDIT OR INSURANCE TRANSACTIONS THAT
3 ARE NOT INITIATED BY CONSUMER.—

4 “(A) IN GENERAL.—A consumer reporting
5 agency may furnish a consumer report to a per-
6 son in connection with any credit or insurance
7 transaction under subparagraph (A) or (C) of
8 subsection (a)(3) that is not initiated by the
9 consumer only if—

10 “(i) the consumer reporting agency
11 obtains affirmative informed consent of the
12 consumer to furnish the consumer report
13 and the consumer reporting agency verifies
14 the identity of the consumer by reviewing
15 the proper identification required under
16 section 610; and

17 “(ii) the transaction consists of a firm
18 offer of credit or insurance.

19 “(B) ELECTION.—The consumer may elect
20 to—

21 “(i) have the consumer’s name and
22 addresses included in lists of names and
23 addresses provided by the consumer report-
24 ing agency pursuant to subparagraphs (A)
25 and (C) of subsection (a)(3) in connection

1 with any credit or insurance transaction
2 that is not initiated by the consumer only
3 if—

4 “(I) the consumer reporting
5 agency obtains affirmative informed
6 consent of the consumer to furnish
7 the consumer report and the con-
8 sumer reporting agency verifies the
9 identity of the consumer by reviewing
10 the proper identification required
11 under section 610; and

12 “(II) the transaction consists of
13 a firm offer of credit or insurance;
14 and

15 “(ii) revoke at any time the election
16 pursuant to clause (i) to have the con-
17 sumer’s name and address included in lists
18 provided by a consumer reporting agency.

19 “(C) INFORMATION REGARDING INQUIR-
20 IES.—Except as provided in section 609(a)(5),
21 a consumer reporting agency shall not furnish
22 to any person a record of inquiries in connec-
23 tion with a credit or insurance transaction that
24 is not initiated by a consumer.

25 “(4) DISCLOSURES.—

1 “(A) IN GENERAL.—A person may not
2 procure a consumer report for any purpose pur-
3 suant to subparagraphs (D), (F), and (G) of
4 subsection (a)(3) unless—

5 “(i) a simple and easy to understand,
6 as defined in section 1022.54(b) of title
7 12, Code of Federal Regulations, as in ef-
8 fect on the date of enactment of the Con-
9 sumer Credit Control Act of 2019, disclo-
10 sure has been made to the consumer at
11 any time before the report is procured or
12 caused to be procured, that consists solely
13 of the disclosure and the opportunity to
14 provide the consent described in clause (ii),
15 that a consumer report may be obtained
16 for such purposes; and

17 “(ii) the person has obtained affirma-
18 tive informed consent of the consumer for
19 the procurement of the consumer report by
20 that person.

21 “(B) AUTHORIZATIONS.—The consent de-
22 scribed in subparagraph (A)(ii) shall be pro-
23 vided on the disclosure described under sub-
24 paragraph (A)(i).

1 “(5) RULE MAKING.—Not later than 270 days
2 after the date of enactment of the Consumer Credit
3 Control Act of 2019, the Director of the Bureau
4 shall promulgate regulations that—

5 “(A) implement this subsection;

6 “(B) establish a model form for the disclo-
7 sure document pursuant to paragraph (4);

8 “(C) permit consumers to provide affirma-
9 tive informed consent required by paragraph (1)
10 for a specific time period for multiple users for
11 the specified purpose during that time period;

12 “(D) require a consumer reporting agen-
13 cy—

14 “(i) to provide to each consumer a se-
15 cure, convenient, accessible, and cost-free
16 method, including by toll-free telephone or
17 secure electronic means, by which a con-
18 sumer may—

19 “(I) provide or revoke any af-
20 firmative informed consent pursuant
21 to this subsection; and

22 “(II) make or revoke any election
23 pursuant to paragraph (3)(B);

24 “(ii) to implement any provision or
25 revocation of affirmative informed consent

pursuant to this subsection not later than
 1 business day after the date on which a
 consumer provides or revokes affirmative
 informed consent; and

“(iii) to implement any election or
 revocation of any election pursuant to
 paragraph (3)(B) not later than 1 business
 day after the date on which a consumer
 makes or revokes an election; and

“(E) define what constitutes affirmed in-
 formative consent in the manner that provides
 the greatest protection to consumers.

“(6) PROHIBITIONS.—

“(A) IN GENERAL.—The method described
 in paragraph (5)(D) shall not be used to—

“(i) collect any information on a con-
 sumer that is not necessary for the pur-
 pose of the consumer to allow or disallow
 the furnishing of consumer reports; or

“(ii) advertise any product or service.

“(B) NO WAIVER.—In the offering of a
 method described in paragraph (5)(D), a con-
 sumer reporting agency shall not require a con-
 sumer to waive any rights nor indemnify the

1 consumer reporting agency from any liabilities
2 arising from the offering of such method.

3 “(7) REPORTS.—

4 “(A) CFPB.—

5 “(i) RECOMMENDATION.—Not later
6 than 270 days after the date of enactment
7 of the Consumer Credit Control Act of
8 2019, the Director of the Bureau shall,
9 after consultation with the Federal Deposit
10 Insurance Corporation, the National Credit
11 Union Administration, the Consumer Advi-
12 sory Board, and other Federal and State
13 regulators as the Director of the Bureau
14 determines are appropriate, submit to the
15 Committee on Banking, Housing, and
16 Urban Affairs of the Senate and the Com-
17 mittee on Financial Services of the House
18 of Representatives recommendations on
19 how to provide consumers greater trans-
20 parency and personal control over their
21 consumer reports furnished for permissible
22 purposes under subsections (a)(3)(E) and
23 (a)(6).

24 “(ii) REPORT.—The Director of the
25 Bureau shall submit to the Committee on

1 Banking, Housing, and Urban Affairs of
2 the Senate and the Committee on Finan-
3 cial Services of the House of Representa-
4 tives an annual report that includes—

5 “(I) recommendations on how
6 this subsection may be improved;

7 “(II) a description of efforts to
8 educate consumers of their rights
9 under this subsection;

10 “(III) a description of enforce-
11 ment actions taken to demonstrate
12 compliance with this subsection;

13 “(IV) recommendations on how
14 to improve oversight of consumer re-
15 porting agencies and users of con-
16 sumer reports; and

17 “(V) any other recommendations
18 concerning how consumers may be
19 provided greater transparency and
20 control over their personal informa-
21 tion.

22 “(B) GAO.—

23 “(i) STUDY.—The Comptroller Gen-
24 eral of the United States shall conduct a
25 study on what additional protections or re-

1 stricter may be needed to ensure that the
2 information collected in consumer files is
3 secure and does not adversely impact con-
4 sumers.

5 “(ii) REPORT.—Not later than 1 year
6 after the date of enactment of the Con-
7 sumer Credit Control Act of 2019, the
8 Comptroller General of the United States
9 shall submit to the Committee on Banking,
10 Housing, and Urban Affairs of the Senate
11 and the Committee on Financial Services
12 of the House of Representatives a report
13 on the results of the study under clause
14 (i), which shall include—

15 “(I) to the greatest extent pos-
16 sible, the presentation of unambiguous
17 conclusions and specific recommenda-
18 tions for further legislative changes
19 needed to ensure that the information
20 collected in consumer files is secure
21 and does not adversely impact con-
22 sumers; and

23 “(II) if no recommendations for
24 further legislative changes are pre-

1 sented, a detailed explanation of why
2 no such changes are recommended.”;

3 (B) by redesignating subsections (f) and
4 (g) as subsections (d) and (e), respectively; and

5 (C) by adding at the end the following:

6 “(f) NO FEES.—No consumer reporting agency may
7 charge a consumer any fee for any activity pursuant to
8 or as a result of this section.”;

9 (2) in section 607(a) (15 U.S.C. 1681e(a))—

10 (A) in the third sentence, by striking
11 “make a reasonable effort” and inserting “use
12 commercially reasonable efforts”; and

13 (B) by inserting “Every consumer report-
14 ing agency shall use commercially reasonable ef-
15 forts to avoid unauthorized access to consumer
16 reports and information in the file of a con-
17 sumer maintained by the consumer reporting
18 agency, including complying with any appro-
19 priate standards established under section
20 501(b) of the Gramm-Leach-Bliley Act (15
21 U.S.C. 6801(b)).” after the end of the third
22 sentence;

23 (3) in section 609 (15 U.S.C. 1681g), by strik-
24 ing subsection (b) and inserting the following:

1 “(b) SCOPE OF DISCLOSURE.—The Director of the
 2 Bureau shall promulgate regulations to clarify that any
 3 disclosure required by subsection (a) shall be made to the
 4 consumer when a consumer makes a request, irrespective
 5 of whether the information required to be disclosed is held
 6 by the parent, subsidiary, or affiliate of a consumer re-
 7 porting agency.”; and

8 (4) in section 610(a)(1) (15 U.S.C.
 9 1681h(a)(1))—

10 (A) by inserting “, implementing the provi-
 11 sion or revocation of any affirmative informed
 12 consent, or implementing any election or rev-
 13 ocation of any election” after “disclosures”; and

14 (B) by striking “section 609” and insert-
 15 ing “sections 604 and 609”.

16 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
 17 The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.)
 18 is amended—

19 (1) in section 603(d)(3) (15 U.S.C.
 20 1681a(d)(3)), in the matter preceding subparagraph
 21 (A), by striking “604(g)(3)” and inserting
 22 “604(e)(3)”;

23 (2) in section 605A (15 U.S.C. 1681e–1)—

24 (A) by striking subsections (i) and (j); and

1 (B) by redesignating subsection (k) as sub-
 2 section (i);

3 (3) in section 615(d) (15 U.S.C. 1681m(d))—
 4 (A) in paragraph (1)—

5 (i) in the matter preceding subpara-
 6 graph (A), by striking “604(c)(1)(B)” and
 7 inserting “604(c)(3)(A)(ii)”; and

8 (ii) in subparagraph (E), by striking
 9 “604(e)” and inserting “604(c)(5)(D)”;
 10 and

11 (B) in paragraph (2)(A), by striking
 12 “604(e)” and inserting “604(c)(5)(D)”; and

13 (4) in section 625(b)(1) (15 U.S.C.
 14 1681t(b)(1))—

15 (A) in subparagraph (A), by striking “sub-
 16 section (c) or (e) of section 604” and inserting
 17 “604(c)(3)”;

18 (B) in subparagraph (I), by adding “or” at
 19 the end;

20 (C) by striking subparagraph (J); and

21 (D) by redesignating subparagraph (K) as
 22 subparagraph (J).

23 (c) APPLICABILITY.—The amendments made by sub-
 24 sections (a) and (b) shall apply to a consumer report, as

1 defined in section 603 of the Fair Credit Reporting Act
2 (15 U.S.C. 1681a), furnished after the earlier of—

3 (1) the date on which the rules issued by the
4 Bureau of Consumer Financial Protection under
5 subsection (c)(5) of section 604 of the Fair Credit
6 Reporting Act, as amended by subsection (a) of this
7 section, require compliance; and

8 (2) the date that is 18 months after the date
9 of enactment of this Act.

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