

115TH CONGRESS
2D SESSION

S. 2362

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

JANUARY 30, 2018

Mr. REED 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 “Control Your Personal
5 Credit Information Act of 2018”.

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 provides the
 8 consumer reporting agency with affirmative written
 9 consent to furnish the consumer report, after fur-
 10 nishing proper identification under section 610:

11 “(A) An extension of credit pursuant to
 12 subsection (a)(3)(A).

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

15 “(2) ADDITIONAL REPORTS; ELECTION.—After
 16 a consumer has provided affirmative written consent
 17 and furnished proper identification under paragraph
 18 (1) to a consumer reporting agency, the consumer
 19 reporting agency may continue to furnish consumer
 20 reports solely for the purposes of reviewing or col-
 21 lecting on an account described in subparagraphs
 22 (A) and (C) of subsection (a)(3).

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

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

7 “(i) the consumer provides the con-
8 sumer reporting agency affirmative written
9 consent to furnish the consumer report,
10 after furnishing proper identification under
11 section 610; and

12 “(ii) the transaction consists of a firm
13 offer of credit or insurance.

14 “(B) ELECTION.—The consumer may elect
15 to—

16 “(i) have the consumer’s name and
17 addresses included in lists of names and
18 addresses provided by the consumer report-
19 ing agency pursuant to subparagraphs (A)
20 and (C) of subsection (a)(3) in connection
21 with any credit or insurance transaction
22 that is not initiated by the consumer only
23 if—

24 “(I) the consumer provides the
25 consumer reporting agency affirmative

1 written consent to furnish the con-
2 sumer report, after furnishing proper
3 identification under section 610; and

4 “(II) the transaction consists of
5 a firm offer of credit or insurance;
6 and

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

11 “(C) INFORMATION REGARDING INQUIR-
12 IES.—Except as provided in section 609(a)(5),
13 a consumer reporting agency shall not furnish
14 to any person a record of inquiries in connec-
15 tion with a credit or insurance transaction that
16 is not initiated by a consumer.

17 “(4) DISCLOSURES.—

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

22 “(i) a clear and conspicuous disclosure
23 has been made in writing to the consumer
24 at any time before the report is procured
25 or caused to be procured, in a document

1 that consists solely of the disclosure, that
2 a consumer report may be obtained for
3 such purposes; and

4 “(ii) the consumer has authorized in
5 writing the procurement of the consumer
6 report by that person.

7 “(B) AUTHORIZATIONS.—The authoriza-
8 tion described in subparagraph (A)(ii) may be
9 made on the disclosure document provided
10 under subparagraph (A)(i).

11 “(5) RULE MAKING.—Not later than 180 days
12 after the date of enactment of the Control Your Per-
13 sonal Credit Information Act of 2018, the Director
14 of the Bureau shall promulgate regulations that—

15 “(A) implement this subsection;

16 “(B) establish a model form for the disclo-
17 sure document pursuant to paragraph (4) and
18 define the term clear and conspicuous disclo-
19 sure;

20 “(C) establish guidelines that permit con-
21 sumers to provide a single written authorization
22 as required by paragraph (1) for a specific time
23 period for multiple users for the specified pur-
24 pose during that time period;

“(D) require a consumer reporting agency to provide to each consumer a secure, convenient, accessible, and cost-free method by which a consumer may allow or disallow the furnishing of consumer reports pursuant to this subsection; and

“(E) require a consumer reporting agency not later than 2 business days after the date on which a consumer makes an election to revoke the consumer’s inclusion of the consumer’s name and address in lists provided by a consumer reporting agency pursuant to paragraph (3)(B) to implement that election.

“(6) PROHIBITIONS.—

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

“(i) collect any information on a consumer that is not necessary for the purpose 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 consumer reporting agency shall not require a consumer 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 180 days after the date of enactment
7 of the Control Your Personal Credit Infor-
8 mation Act of 2018, the Director of the
9 Bureau shall, after consultation with the
10 Federal Deposit Insurance Corporation,
11 the National Credit Union Administration,
12 and other Federal and State regulators as
13 the Director of the Bureau determines are
14 appropriate, submit to the Committee on
15 Banking, Housing, and Urban Affairs of
16 the Senate and the Committee on Finan-
17 cial Services of the House of Representa-
18 tives recommendations on how to provide
19 consumers greater transparency and per-
20 sonal control over their consumer reports
21 furnished for permissible purposes under
22 subsections (a)(3)(E) and (a)(6).

23 “(ii) REPORT.—The Director of the
24 Bureau shall submit to the Committee on
25 Banking, Housing, and Urban Affairs of

1 the Senate and the Committee on Finan-
2 cial Services of the House of Representa-
3 tives an annual report that includes rec-
4 ommendations on how this subsection may
5 be improved, a description of enforcement
6 actions taken to demonstrate compliance
7 with this subsection, recommendations on
8 how to improve oversight of consumer re-
9 porting agencies and users of consumer re-
10 ports, and any other recommendations con-
11 cerning how consumers may be provided
12 greater transparency and control over their
13 personal information.

14 “(B) GAO.—

15 “(i) STUDY.—The Comptroller Gen-
16 eral of the United States shall conduct a
17 study on what additional protections or re-
18 strictions may be needed to ensure that the
19 information collected in consumer files is
20 secure and does not adversely impact con-
21 sumers.

22 “(ii) REPORT.—Not later than 1 year
23 after the date of enactment of the Control
24 Your Personal Credit Information Act of
25 2018, the Comptroller General of the

1 United States shall submit to the Com-
 2 mittee on Banking, Housing, and Urban
 3 Affairs of the Senate and the Committee
 4 on Financial Services of the House of Rep-
 5 resentatives a report on the results of the
 6 study under clause (i), which shall in-
 7 clude—

8 “(I) to the greatest extent pos-
 9 sible, the presentation of unambiguous
 10 conclusions and specific recommenda-
 11 tions for further legislative changes
 12 needed to ensure that the information
 13 collected in consumer files is secure
 14 and does not adversely impact con-
 15 sumers; and

16 “(II) if no recommendations for
 17 further legislative changes are pre-
 18 sented, a detailed explanation of why
 19 no such changes are recommended.”;

20 (B) by redesignating subsections (f) and
 21 (g) as subsections (d) and (e), respectively; and

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

23 “(f) NO FEES.—No consumer reporting agency may
 24 charge a consumer any fee for any activity pursuant to
 25 this section.”;

1 (2) in section 607(a) (15 U.S.C. 1681e(a)), by
2 inserting “Every consumer reporting agency shall
3 use commercially reasonable efforts to avoid unau-
4 thorized access to consumer reports and information
5 in the file of a consumer maintained by the con-
6 sumer reporting agency, including complying with
7 any appropriate standards established under section
8 501(b) of the Gramm-Leach-Bliley Act (15 U.S.C.
9 6801(b)).” after the end of the third sentence;

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

12 “(b) SCOPE OF DISCLOSURE.—The Director of the
13 Bureau shall promulgate regulations to clarify that any
14 information held by a consumer reporting agency about
15 a consumer shall be disclosed to the consumer when a con-
16 sumer makes a written request, irrespective of whether the
17 information is held by the parent, subsidiary, or affiliate
18 of a consumer reporting agency.”; and

19 (4) in section 610(a)(1) (15 U.S.C.
20 1681h(a)(1)), by striking “section 609” and insert-
21 ing “sections 604 and 609”.

22 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
23 The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.)
24 is amended—

1 (1) in section 603(d)(3) (15 U.S.C.
 2 1681a(d)(3)), in the matter preceding subparagraph
 3 (A), by striking “604(g)(3)” and inserting
 4 “604(e)(3)”;

5 (2) in section 615(d) (15 U.S.C. 1681m(d))—
 6 (A) in paragraph (1)—

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

10 (ii) in subparagraph (E), by striking
 11 “604(e)” and inserting “604(c)(5)(D)”;
 12 and

13 (B) in paragraph (2)(A), by striking
 14 “604(e)” and inserting “604(c)(5)(D)”;

15 (3) in section 625(b)(1)(A) (15 U.S.C.
 16 1681t(b)(1)(A)), by striking “subsection (c) or (e) of
 17 section 604” and inserting “604(c)”.

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