I believe that the provisions in this legislation will go a long ways towards helping our consumers fight identity theft. This legislation is long overdue, and I urge all of my colleagues to support this bill and help protect American consumers against the threat of identity theft. Please support this legislation to help our consumers and protect against identity theft.

The CHAIRMAN. The Committee will rise informally.

The SPEAKER pro tempore (Mr. ISAKSON) assumed the Chair.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

## FAIR AND ACCURATE CREDIT TRANSACTIONS ACT OF 2003

The Committee resumed its sitting.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from the First State of Delaware (Mr. CASTLE), a valuable member of the Committee on Financial Services.

Mr. CASTLE. Mr. Chairman, I thank the distinguished chairman of the committee and both the ranking member from Massachusetts for this good piece of legislation. Obviously I support the bill before us.

This bipartisan legislation passed the House Committee on Financial Services by a vote of 61 to 3 in July of this year. We do not have a lot of votes with those kinds of numbers in it, an overwhelming endorsement which should obviously be noted by all of us.

The legislation is a good, bipartisan bill. It is a result of six hearings, nearly 100 witnesses and months of deliberations. Through this very thorough process, the Committee on Financial Services has produced a bill that will protect the financial privacy and access to credit for all consumers, and it will help our economic recovery by ensuring businesses have access to accurate information which provides prompt credit to American consumers.

As my colleagues know, one of the forces that has helped sustain our economy in recent years is consumer spending. A critical factor in enabling American consumers to purchase products when they need them and want them is our strong system of consumer credit. That system is supported by the Fair Credit Reporting Act which ensures the factual information is available on which to base the extension of credit. Virtually every business in this Nation and every consumer that has ever used credit depends on this system.

One of my constituents, Michael Uffner, president, chairman and CEO of AutoTeam Delaware, testified before the committee this year. Mike Uffner stressed the importance of access to accurate credit information to serve customers in a timely and fair manner. Americans want to be able to walk into an automobile showroom and purchase an automobile that day based on a prompt approval of a loan based on their credit.

In December, the national uniform consumer protection standards in the Fair Credit Reporting Act will expire. Without this legislation, there would be no national standards for consumer protections and credit availability. This will negatively affect consumer access to credit and the economy as a whole. A failure to pass this legislation would mean higher costs to consumers, who will be paying more for their credit without this legislation. In today's economy, in which we rely on instant credit available to us across the country, we need to have this legislation. This is uniformity, not a state-by-sate issue; and as Congress we must protect the consumers.

Mr. Chairman, again, I want to express my strong support for this bill and urge my colleagues on both sides of the aisle to join the 63 bipartisan members of the House Committee on Financial Services who worked together to craft the bill to protect consumers and give confidence to businesses. This is a proper step to ensure that all of our constituents have access to fair and reasonable credit information.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI), the second-ranking member of the committee, the ranking member of our Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, and one of the leaders in shaping this legislation.

(Mr. KANJORSKI asked and was given permission to revise and extend his remarks.)

Mr. KANJORSKI. Mr. Chairman, I rise in strong support of H.R. 2622, the Fair and Accurate Credit Transactions Act of 2003.

If we fail to extend the expiring provisions of the Fair Credit Reporting Act before the end of this year, conflicting State laws could place financial institutions in a difficult compliance position, and the current efficiencies in obtaining credit could significantly decrease. We would, moreover, create more difficulties for our already-struggling economy. For example, according to a recent report commissioned by the Financial Services Roundtable, the loss of national uniform credit reporting standards would produce a 2 percent drop in the gross domestic product of this Nation.

The Fair Credit Reporting Act in its 1996 amendments, in my view, have created a nationwide consumer credit system that works increasingly well. This law has expanded access to credit, lowered the price of credit, and accelerated decisions to grant credit. One reason that the law works so well is the establishment of the uniform system that preempts States from enacting miscellaneous and potentially conflicting requirements regarding credit reporting.

As my colleagues may recall, Mr. Chairman, I strongly supported creating these preemptions in the 102nd, 103rd and 104th Congresses. I also believe that we should extend them now. I do not, however, think that they should be made permanent. Consequently, I will offer an amendment later today to address this issue.

In addition to extending the expiring preemptions of State law, H.R. 2622 will make a number of important improvements in current law with respect to consumer protection. These provisions, among other things, will improve the accuracy of and correction process for credit reports and establish strong privacy protections for consumers' sensitive medical information.

Furthermore, identity theft is a growing problem in our country. A recent report by the Federal Trade Commission found that 27.3 million Americans have been victims of identity theft in the last 5 years. I am, therefore, particularly pleased that H.R. 2622 includes several provisions designed to combat these crimes and aid consumers.

Mr. Chairman, I think this legislation is a high mark for this Congress, and I want to compliment the gentleman from Ohio (Mr. OXLEY), chairman of the committee; the gentleman from Massachusetts (Mr. FRANK), the ranking member of the committee; the gentleman from Alabama (Mr. BACHUS), the chairman of the Subcommittee of the Financial Institutions and Consumer Credit; and the gentleman from Vermont (Mr. SANDERS), our ranking member on that subcommittee.

This legislation is a perfect example that good, spirited, bipartisan activity can accomplish much for this Congress and for this Nation. We have worked to try and work out all the efforts of so many individuals who would like favoritism or special interest reports and, in fact, have worked for the common good of both industry and the consumer; and I think, Mr. Chairman, we have accomplished that.

So I congratulate my several Members that I mentioned and the full committee and this Congress. This is an extraordinarily successful piece of legislation that we should be proud of on a bipartisan basis.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. ISAKSON).

Mr. ISAKSON. Mr. Chairman, I thank the chairman for yielding me the time, and I want to commend the gentleman from Ohio (Mr. OXLEY), the chairman, and the gentleman from Massachusetts (Mr. FRANK), the ranking member, for the outstanding work they have done on a bill that is critical to American business and enterprise and American consumers.

I want to particularly thank the chairman for incorporating within the

manager's amendment a provision that directs the FTC and the Treasury to promulgate rules and regulations for an orderly implementation and transition to the free credit reports called for in section 501.

Mr. Chairman, the Fair Credit Reporting Act is critical to business in America. Identity theft and the protection of consumers from identity theft is critical, but time is also critical.

By allowing the provision of free credit reports without an orderly transition for their seeking and a safe way for them to be sought could spike demand on the crediting reporting agencies and delay the reports of credit on those consumers seeking credit. For example, 2 weeks ago when home loans spiked in one day by a half a percent, a delay in the receipt of a credit report by a prospective home buyer seeking a mortgage could have cost them 10, 20, $50,000 over the life of the loan.

I encourage the chairman to continue work with the Members and then later as this is implemented with the FTC to ensure that we have a safe way for the free credit report to be sought specifically either by the Internet or in writing, and secondly, for us to manage the flow so that the spikes in those requests do not damage the timeliness with which paying customers seeking credit in this country can receive an orderly report on their credit.

The committee is doing America's consumers and the consistency of credit reporting in this country a great service by the bill. I commend the chairman for the manager's amendment, and I intend to support the bill fully.

Mr. KANJORSKI. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman very much for yielding me the time, and I rise to add my appreciation to the chairman of this committee and the ranking member. The chairman and the ranking member have truly evidenced the importance of the Committee on Financial Services and its bipartisan effort. These are issues I believe that really cross partisan lines and, more particularly, impact the humanity of those who may be facing some of the disasters that may come through the lack of fair credit reporting and as well the whole issue of identity theft.

I thank both the ranking member and the chairman of the subcommittees that were relevant to this particular legislation; and I rise to support it and to highlight a particular aspect of the legislation that I am very proud of, and I want to congratulate the committee for its astuteness and wisdom on this very important issue.

Title VI, protecting employees' misconduct and investigation, tracks the legislation that I cosponsored along with the gentleman from Texas (Mr. SESSIONS), the gentleman from Massachusetts (Mr. FRANK), and other Members of this body that frankly deals with a question that is minute maybe but is large in terms of the needs that it covers.

The legislation was called the Civil Rights and Employee Investigation Clarification Act, and I am very delighted that title VI in this legislation really responds to the concerns that are raised, and that is, that the Fair Credit Reporting Act, as interpreted by the Federal Trade Commission, sometimes impedes investigations of workplace misconduct.

Mr. Chairman, in particular, it deals with or undermines or did undermine the ability of employers to use experienced, outside organizations or individuals to investigate allegations of drug use or sales, violence, sexual harassment, other types of harassment, employment discrimination, job safety and health violations, as well as criminal activity, including theft, fraud, embezzlement, sabotage or arson, patient or elder abuse, child abuse and other types of misconduct related to employment. This was not the intention of the Fair Credit Reporting Act, but by its interpretation this is what occurred.

Employers have been advised by agencies and courts to utilize such experienced outside organizations and individuals in many cases to assure compliance with civil rights laws and other laws, as well as written workplace policies. That was crafted in order to give privacy to the employees and to the relationships that would help cure the problem so that there was a bridge or a firewall between the employers and the employees that might be caught up in the malfeasance or might be caught up in providing some insight in how do we correct these problems.

Employees and consumers are put at risk because the Fair Credit Reporting Act frustrates or impedes employers in their efforts to maintain a safe and productive workforce and to create that firewall in order to protect those who would tell and those who would help remedy versus those who were creating the problem.

This is an important piece of legislation, and title VI is particularly important in creating that firewall to ensure that not only do we have fair credit reporting, not only do we provide a protection for those suffering from identity theft, but we also provide the opportunity for truth and clarity in making sure that we have safe workforces and using the right kind of talent to do so.

Mr. Chairman, I rise in support of the Fair and Accurate Credit Transactions Act of 2003 (''FACT Act''), only insofar as its adoption includes the full and unamended text of Title VI: ''Protecting Employee Misconduct Investigations.''

OVERBROAD PROVISION

On April 5, 1999, the Federal Trade Commission (FTC) issued an opinion letter (the Vail letter), which stated that if an employer used experienced outside organizations to investigate employee misconduct, the investigation must comply with the notice and disclosure requirements of the Fair Credit Reporting Act (FCRA). Because it is virtually impossible to conduct an investigation while complying with these requirements, and because employers and investigators face unlimited liability, including punitive damages, for failing to comply with FCRA, the Vail letter effectively deters employers from using experienced and objective outside organizations to investigate workplace misconduct. Yet, in many cases, an employer must do so in order to comply with obligations under other laws. Thus, the Vail letter often places employers in the untenable position of having to choose between two legal obligations.

FCRA REQUIREMENTS

The pertinent FCRA requirements include:

(1) Notice to the consumer (in this case, the employee) of the investigation;

(2) The employee's consent prior to the investigation;

(3) A description of the nature and scope of the proposed investigation, if the employee requests it;

(4) A release of a full, un-redacted investigative report to the employee; and

(5) Notice to the employee of his or her rights under FCRA prior to taking any adverse employment action.

Any mistake in compliance with these or any of the FCRA's other numerous technical requirements may expose employers and investigators to unlimited liability for compensatory and punitive damages.

However, Title VI of H.R. 2622, remedies this problem without tampering with FCRA's consumer credit protections. Title VI of H.R. 2622 is an incorporation of a bill that I cosponsored, along with Representatives SESSIONS, BAKER, PAUL, MOORE, SHAYS, FRANK, and ROYCE, H.R. 1543, to amend the FCRA to exempt certain communications from the definition of ''consumer report,'' and for other purposes.

The Vail letter places many businesses in an extremely difficult position. While an employer may avoid running afoul of Vail by performing the investigation itself, there are many instances where a company has no choice but to use an outside investigator. For example, the technical nature of the alleged misconduct may require an expert investigator, such as where the misconduct involves securities fraud. In other instances, such as corporate governance cases, the investigation may involve misconduct by a high-level official and outside objectivity is necessary. In other cases, the employer may simply lack the resources to conduct an in-house investigation. Even where outside investigators are not necessary, they may be preferred. Indeed, both the courts and administrative agencies have strongly encouraged employers to use experienced outside organizations to investigate suspected workplace violence, employment discrimination and harassment, securities violations. theft or other workplace misconduct. As Assistant Attorney General James K. Robinson said in his May 4, 2000 Congressional Testimony, ''[t]he Department [of Justice] and other agencies often strongly encourage companies, as part of their compliance programs to retain outsider counsel to conduct certain internal investigations, on the theory that an outsider is less subject to retaliation or intimidation by supervisors or co-workers and is less likely to be biased by concerns for the company's business with existing or future customers.''

While the letter impacts all businesses, it is particularly damaging to small and medium sized companies that do not have the in-house resources to conduct their own investigations. Even the FTC has recognized that ''there is considerable tension between [the FCRA requirements] and certain public policy aims of statutes and regulations that, directly or indirectly compel or encourage investigations of various forms of workplace misconduct . . . [and the situation is] particularly troubling for small employers.''

Although the FTC recognizes the problem it, nonetheless, has refused to reverse its position and rescind the letter, claiming that a legislative fix is necessary. Title VI of H.R. 2622 is that legislative fix. It remedies the problems created by FTC's letter by excluding employment investigations that are not for the purpose of investigating the employee's credit worthiness from the FCRA requirements. The bill is essentially a narrow technical correction that does not tamper with FCRA protections for any investigations into credit-worthiness. In addition, the bill does not leave those suspected of misconduct without protection: it still requires that employers who take adverse action against an employee based on information from an investigation provide the employee with a summary of the nature and substance of any investigative report.

BENEFITS OF H.R. 2622

This bill, along with an intact Title VI exclusion of workplace investigations, will preserve the continuity of our credit system and will include comprehensive identity theft, dispute resolution, and credit report accuracy provisions. Additionally, this legislation proposes to take the important step of providing all Americans with access to a free credit report every year in order to empower consumers to take control of their financial records.

This legislation will prove crucial to the protection of consumers from the dangers of identity theft, the fastest growing white-collar crime in America. The following important steps toward protecting our consumers from identity theft are proposed within relevant provisions:

Creating a duty for furnishers to investigate change of addresses, which can be indicators of identity theft;

Creating a multi-level fraud alert system for victims of identity theft to protect their credit information;

Requiring all credit and debit card receipts to be truncated to protect these valuable identifiers;

Providing a summary of rights for all potential victims of identity theft;

Allowing consumers to block all credit information resulting from identity theft;

Establishing ''Red Flag'' procedures so that government regulators may help furnishers to eradicate identity theft before it occurs (preventative); and

Requiring a study on how technology can help solve identity theft.

In addition, this legislation will take steps to improve dispute resolution procedures and improve the accuracy of credit reports. The legislation proposes to take the following steps towards these goals:

Require a reasonable reinvestigation of disputes and requires a prompt reinvestigation;

Require CRA's and furnishers to reconcile differences in addresses on requests;

Prevent repollution of data that is a result of identity theft; and

Require credit reports to disclose contact information of furnishers to resolve disputes.

This legislation will also provide consumers with more access than ever before to their credit information in order to empower these consumers with the information to protect themselves. The legislation proposes to create this access by:

Providing free credit reports annually to all consumers; and

Disclosing credit scores for a reasonable fee, as well as important factors that make the score.

Finally, this legislation also contains important provisions to protect medical information that is present in financial services' systems and provide for confidentiality of medical data in all credit reports.

Taken together, the above ''facts'' as to the FACT Act will protect the privacy rights of Americans; however, in crafting this bill, the Committee on Financial Services failed to put a limitation on the scope of the notice and disclosure requirements with respect to investigations into workplace misconduct. In 1999 and 2000, the Federal Trade Commission (FTC) issued several staff opinion letters which concluded that if an employer hires an experienced and objective outside organization to investigate suspected workplace misconduct, i.e., sexual or racial harassment, workplace violence, theft, fraud, SEC violations, or other improprieties, the investigation would qualify as a ''consumer report'' subject to the Fair Credit Reporting Act (FCRA). As such, employers and the investigators hired by them to handle alleged harassment cases would be subject to the cumbersome and over-reaching notice and disclosure requirements of FCRA.

Mr. Chairman and Ranking Member, I therefore support this bill only insofar as it is accepted with the inclusion of Title VI in its entirety and as drafted.

□ 1515

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. KELLY), the chairwoman of the Subcommittee on Oversight and Investigations of the Committee on Financial Services.

Mrs. KELLY. Mr. Chairman, I thank the gentleman for yielding me this time, and I want to applaud both the chairman and the ranking member of the Committee on Financial Services for acting on this important legislation with the kind of thoroughness and deliberation that they did take.

The legislation before us, the FACT Act, is the result of half a dozen hearings, 75 witnesses, and months of deliberation by my colleagues from both sides of the aisle. The construction of the legislation is the permanent reauthorization of the Fair Credit Reporting Act, or the FCRA. It has provided a national uniform reporting system that has effectively lowered the cost of credit and increased choices and convenience for consumers across the country.

In our hearings, we heard extensive testimony from many diverse witnesses with different interests. But there was a common message that the FCRA has lowered the cost of credit and helped fuel our economy. And this extension of low-cost credit has created new opportunities for populations who have never before had access to credit. That is why this legislation has overwhelming bipartisan support.

The Fair Credit Reporting Act has also helped address other important security provisions, such as combating identity theft and the blocking of terrorist financing under the USA PATRIOT Act, both issues which I have held a number of hearings on in my oversight subcommittee. Combating identity theft and drying up terrorist financing requires the collaborative effort of law enforcement and regulatory agencies, consumers and financial institutions, all with access to appropriate information.

FCRA improves our ability to combat identity theft and help law enforcement officials track down illicit money under the PATRIOT Act. The information sharing under this legislation is essential to protecting the American people by detecting suspicious activity and weeding out wrongdoers.

The national reform standards under FCRA have also facilitated the financial institution's ability to utilize additional authentications and identity verifications to protect consumer security. And the increased protections incorporated in this legislation are critically important in enabling victims to correct the damage to their credit histories created by identity thefts. This legislation will further help law enforcement combat financial fraud and track down criminals and terrorists. It adds new protections that are important to achieving these goals.

We have also made other important improvements to the FCRA in order to protect the sanctity of privacy of the American people throughout the credit-granting process. I believe that medical information of consumers should be kept private and does not need to be shared or distributed to others by creditors listed on credit reports. Individuals should know their personal medical information belongs to them and is not released for other purposes, whether it is for the credit-granting process or employee background checks. And we have done this with our legislation by coding this information.

Mr. Chairman, I would like to thank the gentleman from North Carolina (Mr. WATT) and the gentleman from Arkansas (Mr. ROSS) for working with me on an amendment in full committee that will protect the medical information of individuals without disrupting access to low-cost credit and the security of information. By allowing consumers to benefit from reporting the financial aspects of their transactions to credit bureaus while maintaining the sanctity of their medical privacy, this legislation is a real win for Americans.

Mr. Chairman, I strongly support this legislation. It is crucial to the economy and the security of the American people. I thank the chairman for addressing these important issues, and I urge my colleagues to vote for this legislation.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. HINOJOSA), another diligent member of the committee who made a great contribution to this bill.

Mr. HINOJOSA. Mr. Chairman, I am an original cosponsor of the Fair and Accurate Credit Transactions Act, and I support it strongly. H.R. 2622, known as the FACT Act, provides for a strong national credit system. It preserves consumers access to affordable credit, enhances consumer protections, and will ensure that Hispanics will continue to have access to credit.

From the beginning of this process, my new Democrat colleagues and I have been deeply involved in crafting this bipartisan bill, which passed the Committee on Financial Services by a 61 to 3 vote. The bill preserves the continuity of our credit system and includes comprehensive identity theft, dispute resolution, and credit report accuracy provisions that will increase and strengthen people's control over their own financial records.

Identity theft is one of the fastest growing white collar crimes in the United States, especially in my State of Texas. This legislation, H.R. 2622, will help reduce those crimes and help the victims of identity theft regain their identity and restore their credit. The FACT Act addresses all these important issues and more. It will benefit consumers in our economy, and it will help improve financial literacy in the United States.

I commend my Republican colleagues, especially the chairman, the gentleman from Ohio (Mr. OXLEY), and the subcommittee chairman, the gentleman from Alabama (Mr. BACHUS), for working with us in a bipartisan manner to develop this legislation. I also applaud the ranking member, the gentleman from Massachusetts (Mr. FRANK), and another ranking member, the gentleman from Vermont (Mr. SANDERS), for guiding us through this process.

Finally, Mr. Chairman, I want to give special thanks to the gentlewoman from Oregon (Ms. HOOLEY), the gentleman from Kansas (Mr. MOORE), and the other 10 new Democrats who worked so diligently to compromise and help us forge this bipartisan compromise. I strongly encourage my colleagues to support this important legislation, H.R. 2622.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 5 minutes to the gentleman from Alabama (Mr. BACHUS), the author of this important legislation and the chairman of the Subcommittee on Financial Institutions and Consumer Credit.

Mr. BACHUS. Mr. Chairman, I thank the chairman of the committee, the gentleman from Ohio (Mr. OXLEY), for yielding me this time and who was certainly instrumental in making this a priority and in allowing the committee to take as much time as it did to consider this issue, because it was an important issue.

We have received a statement from the Executive Office of the President, which arrived here today, concerning this legislation; and I want to read from it. It says the administration strongly supports House passage of H.R. 2622. The bill includes many of the administration's proposed consumer protections, including new tools to help fight identity theft. The national credit reporting system has proven critical to the resilience of consumer spending and the overall economy.

That is one thing we heard over and over, that the national credit reporting system was essential to maintain the overall economy and consumer spending. So I am pleased that Chairman OXLEY has received this important endorsement from the President.

It has been said that I was the author of this legislation, and, in fact, I would sort of like to claim that, but it is truly a bipartisan bill. We had a blueprint to start with, however, on our ID theft provision, and I would like to recognize at this time and thank the gentleman from Ohio (Mr. LATOURETTE) for all his work on identifying the theft provision that needed to be in this legislation.

Actually, he introduced, with the gentlewoman from Oregon (Ms. HOOLEY), the original number of provisions which were taken and put in this bill verbatim. So we did not have to start from scratch. It was a big help that we had a bipartisan bill that the gentleman from Ohio and the gentlewoman from Oregon had worked on. What he brought to the table from the start was a piece of legislation that has since evolved over time, been updated, and I think improved with the help of consumers and the industries and the administration and Members of this Congress to serve as a valuable protection against identity theft, and I commend him on that.

I want to run over some of those protections if time permits. Here are some of the important consumer protection tools. It allows consumers to place fraud alerts in their credit reports to prevent identity thieves from opening accounts in their names, including a special provision to protect active duty military personnel, who we found, sadly, had been particularly susceptible to ID theft. It allows consumers to block fraudulent information from being given to a credit bureau and from being reported by a credit bureau if that information results from identity theft. It provides ID theft victims with a summary of their rights. It gives consumers the right to see not only their credit reports but their credit scores.

Now, that is an important new right which will help people. And I think there was unanimous agreement on this from industry, from consumers, and Members of Congress. This will actually help people save money with lower interest rates. One estimate I have read is $21 billion in savings in home mortgages alone.

It restricts access to consumer-sensitive health information. That is something people said: we do not want our health information to be shared without our permission. It empowers consumers by making it easier to limit unsolicited marketing offers. And it ensures improved accuracy of credit report procedures. It is very important that the information that is shared between creditors and credit bureaus is accurate. It provides consumers with a one-call-for-all protection by requiring credit bureaus to share consumer calls on ID theft, including reporting fraud alerts with other credit bureaus. One call does it all. Important suggestion.

With that, Mr. Chairman, I would also like to commend Wayne Abernathy, Assistant Secretary of the Treasury, and Secretary of Treasury Snow. And once again, I wish to commend the chairman, the gentleman from Ohio (Mr. LATOURETTE), the gentleman from Massachusetts (Mr. FRANK), and all of the 58 cosponsors of this original legislation.

Mr. HINOJOSA. Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 2 minutes to my good friend, the gentleman from the great Buckeye State of Ohio (Mr. LATOURETTE), a former prosecutor, and one of the real leaders in the identity theft provisions, along with the gentlewoman from Oregon (Ms. HOOLEY).

(Mr. LATOURETTE asked and was given permission to revise and extend his remarks.)

Mr. LATOURETTE. Mr. Chairman, I thank both the gentleman from Ohio (Mr. OXLEY) and the gentleman from Alabama (Mr. BACHUS) for their very kind words.

Mr. Chairman, when I travel back to Ohio, I have to admit that folks up there are not telling me how important it is that we reauthorize the Fair Credit Reporting Act. They are not telling me how this legislation helped them drive home the new minivan the same day they went to the dealership, or how the convenience of the national credit granting system allowed them to charge a trip with the kids to Disneyland on their MasterCard. What is ironic, Mr. Chairman, is that this lack of interest from the average American consumer demonstrates to me very clearly that the amendments the Congress passed in 1996 to create the national credit system that we all take for granted today is working exceptionally well and it is a perfect illustration of why we need to support this legislation.

The bill before us today not only makes that system of the national standard for our country, but it also, as has been mentioned, tackles the problem of identity theft. During the committee's extensive hearing process on this legislation, we heard from a number of experts on the issue. We also heard from a number of victims. One of them came from my hometown, a woman by the name of Maureen Mitchell. And it was the severity of Maureen's case that inspired me to

work with my friend, the gentlewoman from Oregon (Ms. HOOLEY), who has really been dogged in the pursuit of this part of the legislation for years, and my hat's off to the gentlewoman from Oregon.

It was the severity of that case, and, basically, she and her husband had their identities stolen, and they racked up $100,000 in bills. In Chicago, the thieves went and got $45,000 in loans in the span of 2 hours, and they were horrified to learn that they were the ''proud owners'' of two sport utility vehicles that they, of course, did not purchase.

Anytime the Congress debates the issue of preempting State law, we have to question whether or not the Federal Government knows better than the States on how to pass a law that affects our citizens. When the question relates to access to credit and identity theft, I strongly believe the answer is in this legislation. Creating a set of uniform national standards will benefit people across the economic spectrum and is the perfect vehicle to fight the crime of identity theft.

I would urge my colleagues on both sides of the aisle to think of all the times we take for granted the ability to gain fast access to credit in our day-to-day activities. As a parent, it was terrifying when my daughter got her first credit card in the mail. But when that envelope arrived and she proudly stuck that piece of plastic in her wallet, she began building a credit history that will one day allow her to buy a home or take that vacation to Disneyland.

□ 1530

Mr. Chairman, I would like to thank very much the gentleman from Ohio (Chairman OXLEY), the gentleman from Massachusetts (Mr. FRANK), and the gentleman from Alabama (Chairman BACHUS) for this nice piece of legislation.

Mr. Chairman, when I travel back home to Madison, Ohio, I'll admit it—the folks up there aren't telling me how important reauthorizing the Fair Credit Reporting Act is to them. They're not telling me how this legislation helped them drive a new minivan home the same day they went to the dealership, or how the convenience of our national credit granting system allowed them to charge a trip with the kids to Disneyland on their Matercard. What's ironic, Mr. Chairman, is that this lack of interest from average American consumers demonstrates to me very clearly that the amendments Congress passed in 1996 to create the national credit system that we all take for granted today is working exceptionally well, and is a perfect illustration of why we need to support this legislation.

The bill before us today not only makes that system the national standard for our country, but also tackles the issue of identity theft. During the Committee's extensive hearing process on this legislation, we heard from a number of experts on this issue, and we also heard the testimony of a number of victims, one of whom—Maureen Mitchell—is from my hometown. The severity of Maureen's case is what inspired me in the 106th Congress to work with my friend Congresswoman DARLEEN HOOLEY to draft what have now become the critical ID theft provisions in the bill before us today. To give you some idea of the enormity and extent of the Mitchell family's identity theft saga, all told, Maureen and her husband Ray have been victimized to the tune of well over $100,000. Their identities have been used to apply in a two-hour period for $45,000 worth of personal loans at three different banks in Chicago. And they are the ''owners'' of two luxury Sport Utility Vehicles that they never purchased.

Any time Congress debates the issue of pre-empting State law, we have to question whether or not the Federal Government knows better than the States how to pass a law that affects our citizens. When the question relates to access to credit and identity theft, I strongly believe that the answer is in this legislation: creating a set of uniform national standards will benefit people across the economic spectrum, and is the perfect vehicle to fight the crime of identity theft.

That said, it would be wrong of us to tie consumers and industry down with very specific operating guidelines and regulations. It would be foolish to believe that there is one cure-all that will completely prevent cases of identity theft, but with the options and flexibility provided by this legislation, consumers, creditors, and law enforcement will be able to stay ahead of the identity thieves as they find new technologies and methods of carrying out this crime.

Again, I urge my colleagues on both sides of the aisle to consider all the times we take for granted the ability to get fast access to credit in our day-to-day activities. As a parent, yes, it was a terrifying thing when my oldest daughter got her first credit card. But what that envelope arrived in the mail and she proudly stuck that piece of plastic in her wallet, she began building a credit history that will one day allow her to buy a home and take that vacation to Disneyland with her family. With the Fair Credit Reporting Act set to expire at the end of the year, this Congress is in a unique position to have a tremendous impact on every American consumer. If we do not act today and support this legislation, we will be denying future generations of Americans the same financial luxuries we have all enjoyed for the last eight years.

Finally, I would like to thank Chairman OXLEY and Subcommittee Chairman BACHUS for their strong leadership on this legislation.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume to engage in a colloquy with the chairmen of the full committee and the subcommittee.

Mr. Chairman, as part of this colloquy, I would say to my friends the chairmen of the full committee and subcommittee that many Members are concerned about the scope of the preemption that was just referred to, particularly with regards to identity theft.

So I want to clarify with the author of the bill, the committee chairman, what we are intending and how we have underscored that intention in the manager's amendment which will be coming forward.

Does this bill or this amendment allow the preemption of any State law on identity theft, such as limits on Social Security number use, criminal penalties for identity theft perpetrators, or other identity theft protections that are not specific subject matters addressed by this bill.

Mr. OXLEY. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Chairman, the answer is no. The Member from Massachusetts is correct. The identity theft protections in this bill amend section 605 of the Fair Credit Reporting Act. The uniform standard for section 605 is contained in section 624(b)(1)(e) which states that, ''No requirement or prohibition may be imposed under the laws of any State with respect to any subject matter regulated under section 605.''

The section goes on to describe section 605 saying that it relates to information contained in consumer reports, and now to identity theft prevention. That means that 605 is the section for identity theft protections, but the uniform standard requirement is still limited to the subject matters that our provisions actually address such as investigating address changes, fraud alerts, truncating credit card account numbers, blocking bad credit information, establishing red flag guidelines for identity theft prevention, and reconciling address changes.

State identity theft laws that address different issues such as limiting Social Security number use or criminal penalties on identity theft perpetrators are not preempted. We have agreed with the gentleman from Massachusetts (Mr. FRANK) to clarify this in the manager's amendment to underscore in the uniform standards provision that describes section 605 that it only relates to the specific identity theft prevention subjects covered and not to other identity theft issues outside of the subject matters covered in the uniform standard.

Mr. BACHUS. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Alabama.

Mr. BACHUS. Mr. Chairman, I would like to affirm the understanding between the gentleman from Ohio (Mr. OXLEY) and the gentleman from Massachusetts (Mr. FRANK).

In this bill we built upon the amendments that the gentleman from Ohio (Mr. LATOURETTE) and the gentlewoman from Oregon (Ms. HOOLEY) had first offered along with the gentleman from New York (Mr. ACKERMAN) and also the gentleman from Massachusetts (Mr. FRANK) to flesh out existing uniform standards.

The bill of the gentleman from Ohio (Mr. LATOURETTE) and the gentlewoman from Oregon (Ms. HOOLEY) that we used as our base text expanded on the uniform standards for identity theft. But in that bill, as in ours, there is no intent to go beyond the specific subjects identified in the bill.

So, for example, we do create uniform standards for opening new credit accounts when there are allegations of potential identity theft under our fraud alert and blocking provisions. Because you need a consistent rule that consumers and businesses can rely on when there has been a fraud alert, when there has been an allegation of identity theft. We do not address other subject matters that are not covered such as limits on Social Security number use or criminal penalties for identifying theft perpetrators.

These are issues that we expect the States to continue to work out solutions to. Hopefully we can return to work on those ourselves with Members like the gentleman from Florida (Mr. SHAW) or the gentleman from Arizona (Mr. SHADEGG), the gentleman from California (Mr. OSE), the gentleman from Illinois (Mr. EMANUEL). And I think the gentlewoman from Oregon (Ms. HOOLEY) also wants to address some of those issues. Many of them will have to be addressed either in the Committee on Ways and Means or in the Committee on the Judiciary. And they have valid concerns, but it is just from a jurisdictional standpoint.

Mr. FRANK of Massachusetts. Reclaiming my time, I thank the gentleman from Alabama (Mr. BACHUS). Let me say I appreciate the affirmations from both gentlemen.

Mr. Chairman, let me say now, I want to transition from the colloquy where we were in agreement as to what it says to express my view that I think even with these agreements the bill is, with regard to some existing law in California and elsewhere, more preemptive than it needs to be.

I recognize the value of this colloquy in making clear what those limits are. The gentlewoman from California (Ms. WATERS) who has been very concerned about this and who, indeed, alerted me to it earlier, and I unfortunately did not pay as much attention as I should have at the time, she is concerned and I share her concerns, so she will be pursuing this further.

So I just want to say while I am pleased to have this colloquy and to have these understandings, my own personal view, which I realize is not shared by the gentleman of Ohio (Mr. OXLEY) and the gentleman from Alabama (Mr. BACHUS) is that even with these understandings, there is more preemptive language here than need be. I intend to work with the gentleman from California and other Californians in various ways to try and further reduce that preemption.

Mr. BACHUS. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Alabama.

Mr. BACHUS. Mr. Chairman, just to make a clarification, it has been said that this bill will preempt the new California legislation.

Mr. FRANK of Massachusetts. Mr. Chairman, let me take back my time. There were two different California issues here. Of course, one would not expect California to settle for only one controversy. The gentleman from Alabama (Mr. BACHUS) is correctly alluding to the future issue of so-called SB1. But what the gentleman from California had identified to me before that had passed was preemption of existing California where it predates the recent enactment. And that is the concern that I was alluding to.

Mr. BACHUS. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Alabama.

Mr. BACHUS. Mr. Chairman, as we have said, we need a national standard just like we need a national interstate highway system or other national uniform standards. California saw fit, when they passed this law, to exempt local statutes.

Mr. FRANK. Mr. Chairman, I will have to take back my time. I have one more speaker. The gentleman is again talking about the language going forward in SB1. The gentlewoman from Los Angeles and I are now addressing a different set of laws, laws that had already been on the books prior to that, laws passed subsequent to 1996, some of which I think are unnecessarily preempted, although this colloquy has helped.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART), a valuable member of our committee from the Keystone State.

Ms. HART. Mr. Speaker, I rise in support of the FACT Act, the Fair and Accurate Credit Transactions Act. Fortunately, today we appear to have bipartisan support of the Act, and it is for a clear reason, our credit system in the United States is the envy of the world. Our uniform national standards have helped to make the United States a world leader, and have continued to spur on our economy, even in times that have been difficult in the last year or so.

The bill makes these national standards that have been in effect permanent. This is important to ensure continuity in our credit system, and also to maintain continued access to the best credit markets in the world. This is especially important because two-thirds of our economy depends very heavily on consumer spending. Consumers will not spend without access to credit, and to get access to credit, consumers and lenders need consistent, uniform standards for credit reports. Broader access is the result. National and worldwide access is also the result.

According to the Federal Reserve Board, in fact, since the Fair Credit Reporting Act was enacted, the overall percentage of families with general purpose credit cards increased from 16 to 73 percent and the largest increase was among lower-income families.

Homeownership levels have also grown approximately 10 percent, again with low income and minority families receiving the largest gains.

According to some estimates, these improvements have saved consumers nearly $100 billion annually. Many of my colleagues have mentioned the benefits also regarding fighting identity theft. This bill allows each consumer to get a copy of their credit report annually, and that will help to avoid a lot of the problems we have been having with ID theft and use of credit by those not authorized. It helps the consumer to identify charges that are not theirs, it helps to identify and clear them from the credit report keeping the consumers' credit clear.

Every year a consumer would have access to a free copy of that credit report, see their credit scores which help them understand whether they are going to be able to get access to a mortgage or new credit.

Finally, I ask my colleagues to support this Act because it will create continuity, it will continue the dynamic American system, and it will help us keep access to safe credit and flexibility for the American consumer.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 3 minutes to the gentleman from Vermont (Mr. SANDERS), the ranking member of the subcommittee who worked very hard to make the bill better, but still obviously has some concerns with it. But from the consumer standpoint, the gentleman worked as hard as anyone.

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding me this time.

Unfortunately, I rise in opposition to this legislation. While this bill does include important consumer protection provisions, such as the provision that I and other members of the committee fought for, which would provide free annual credit reports to consumers who request them, and would also allow consumers to receive more information about their credit scores identical to a very good law in the State of California, there are major flaws in this legislation.

For a start, even in terms of that pro-consumer provision, we are not quite sure when that will go into effect, and I fear it will not go into effect as soon as it should.

Secondly, I think the major concern that I and consumer organizations all across this country have is that this legislation would permanently preempt the States from passing stronger consumer protection laws in order to aggressively punish identity thieves and to improve the accuracy of consumers' credit reports.

I may be the conservative on the committee, but it has long been my belief when we are dealing with an issue of protecting consumer rights, we cannot take away the ability of the States to pass stronger consumer protection laws. I find it very ironic from day one of this discussion that conservatives who have told us over and over again how much they dislike the big bad Federal Government stepping on States' rights, in fact have brought that provision into this legislation.

So if the State of Vermont or the State of California or the State of Ohio wants to go further in this area, well, my goodness, that big bad Federal Government, which we have heard so much about, is able to say sorry, you cannot do it. Attorneys general, governors, State legislators, you cannot do that, and I think that is wrong.

During the course of the debate on the committee, there was a very interesting discussion over an amendment that I and the gentleman from Alabama (Mr. BACHUS) brought forth which deals with the issue of what I call credit card switch and bait, and I will be bringing forth an amendment to win support of it. It is not included in this bill, and it should be.

Mr. Chairman, what is going on in this country is that people who pay off their credit card debts on time every single month nonetheless are seeing huge increases in the interest rates that they are paying. How does that happen? It happens because maybe 3 years ago they took out a loan which is still outstanding, or maybe they had an emergency medical bill and they had to borrow money, and arbitrarily the credit card company has determined they are a greater financial risk and their rates can double or triple. I think that is wrong.

This bill has some positive provisions, but we can do much better, and I would urge a ''no'' vote on it.

□ 1545

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Chairman, I thank the gentleman for yielding me this time. I rise in strong support of this carefully balanced legislation. I want to compliment the authors and the committee chairman for doing what I think is a superb bill that will in fact help consumers across America. Indeed, I think this is a key component in protecting our credit structure and enabling Americans to get the credit that they need. I am very pleased that the legislation does what it does.

Importantly, as the author of our Nation's first identity theft legislation, I am very pleased with the provisions in this bill that deal with identity theft. It makes some important strides in improving our fight against identity theft. For example, the bill requires that anytime a transaction is made and information is transmitted using a credit card number, that number has to be truncated so that someone who wants to steal your identity by grabbing ahold of your credit card number will not have the full number. While some companies currently do that, not all do. This will protect them very much.

There are a number of other key provisions dealing with the issue of identity theft, and that is a critical issue because, for example, it was just reported last week that in America last year, 10 million people became the victims of identity theft. Those individuals themselves, as individuals, suffered $5 billion in damages. But on top of that, businesses in America sustained $47 billion of losses as a result of identity theft. And so the ID theft provisions in this bill I think are very, very important. But it could go further.

The General Accounting Office testified in July of this year that Social Security numbers are often the identifier of choice among individuals seeking false identities; and perhaps to the shock and amazement of people in this room and across the country, just last month, an organization engaged in consumer advocacy, to prove that Social Security numbers are too available, purchased the Social Security number of Attorney General John Ashcroft and CIA Director George Tenet off the Internet for a mere $26. The problem is that Social Security numbers are too available.

In 2002, the FBI testified that possession of someone else's Social Security number is key to laying the groundwork to take over that individual's identity and obtain a driver's license, loans, credit cards, and merchandise. It is also key to taking over an individual's existing account and wiring money from the account, charging expenses to an existing credit line, writing checks on the account or simply withdrawing money.

It is absolutely critical that this Congress this year enact legislation to prohibit the purchase and sale of Social Security numbers in a fashion that allows identity thieves to get ahold of those numbers. This legislation does not yet do that. Hopefully, either in an amendment yet offered this afternoon or in the conference committee, we can do that. There is bipartisan support for this idea. I know the gentleman from Illinois (Mr. EMANUEL) on the other side supports doing it as well as a number of others. I have been helped by many, including the gentleman from Massachusetts. We can deal with this problem, but we must do so in legislation that will pass this year. Anyone who blocks that legislation or seeks to keep it from happening and happening very, very quickly, I think, is doing a disservice to the victims of identity theft across this country.

It is important to note that the second greatest concern of Americans when it comes to privacy is that their identity might be stolen by an identity thief and that they might be victimized by that and undergo that pain. Again, I would reiterate that this is very important legislation. It goes a long way toward stopping identity theft. It can go a little further if we prohibit the purchase and sale of Social Security numbers.

I urge my colleagues to vote for the legislation.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. CROWLEY), one of those who had a major input into this bill.

Mr. CROWLEY. Mr. Chairman, first I want to take this opportunity to thank the gentleman from Ohio (Mr. OXLEY) and the gentleman from Massachusetts (Mr. FRANK), as well as the gentleman from Alabama (Mr. BACHUS) and the gentleman from Vermont (Mr. SANDERS), for their work together in what I believe is truly a bipartisan effort and manner to craft, in my opinion, a well-balanced bill, understanding that there is a deadline looming in the not-too-distant future as pertains to many of these issues.

This bill ensures the continued flow of credit for American consumers by allowing for the permanent protection of credit availability. Our economy and our credit-granting industry should not have to continually look over its shoulder at potentially burdensome regulations, regulations that could hinder the availability of credit for millions of Americans. But this legislation is not just about protecting consumer credit options. It is about protecting consumers' identity and their health information. This bill strengthens the rules to protect consumers from identity theft.

The Committee on Financial Services, which I am a member of, heard from a woman who originally lived in my district, someone who I grew up just seven doors away from. Her name was Maureen Sullivan. Now it is Maureen Mitchell. She grew up in Woodside, Queens, New York, who was a victim herself, and her husband, of identity theft. It cost her not only money but it cost her an enormous amount of time, not to mention mental anguish. This quite frankly happens all too often in this country. This bill addresses many of these issues and works for increased protections for honest Americans and honest people. Most importantly, this bill ensures the strict prohibition of medical and health information from being used in the credit-granting or denial process. No longer can the information used in hospitals and in doctors' offices be used to decide one's creditworthiness.

I want to urge my colleagues to vote in favor of this legislation. Once again I want to thank the chairman and the ranking member for all their good and honest work on what I think is a worthy piece of legislation.

Mr. OXLEY. Mr. Chairman, I yield 1 minute to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Chairman, let me say this. The body just heard from the gentleman from Arizona. He actually introduced in the 104th Congress the very first legislation dealing with identity theft. It was the Identity Theft and Deterrence Act, which had criminal penalties in it. Before most Americans, even most Members of Congress, knew of this problem, he knew about it.

We do have a continuing concern about Social Security numbers. If we are going to truncate them, this is a great example of why we need a uniform standard. We cannot have one

State truncating them into six numbers, another State into five numbers where we could not interchange them. I would encourage the gentleman from Arizona to continue to work with the Committee on Ways and Means in dealing with this problem, because it is something that we need to address in identity theft. I applaud and commend him for his effort and encourage him to continue with it.

The CHAIRMAN. Without objection, the gentleman from North Carolina (Mr. WATT) will control the time of the gentleman from Massachusetts (Mr. FRANK).

There was no objection.

Mr. WATT. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas (Mr. MOORE), a valued member of the committee who was chairman of the Democratic task force on this bill.

Mr. MOORE. Mr. Chairman, I thank the gentleman from North Carolina for yielding me this time. I also want to thank the gentleman from Ohio (Mr. OXLEY), the gentleman from Massachusetts (Mr. FRANK), also the gentleman from Vermont (Mr. SANDERS), and the gentleman from Alabama (Mr. BACHUS) for the great work that they did on this bill. I rise in strong support of this bill which passed out of committee 61 to 3. That is almost unheard of in this body where there is so much contentiousness, it seems, way too often. I think people out in the country wonder what is going on here. I think this is a splendid example of our ability to work together for something to benefit the American people and for business in this country.

I ask my colleagues to vote in support of the bill that is going to come up on the floor today because it does assure the availability of reasonably priced consumer credit to consumers, which is going to enhance their ability to purchase things that they want in the future as well as to protect our economy and business in this country.

I think it is very, very important that we pass this legislation intact. It increases consumer awareness of their rights. It protects against identity theft. It expands consumer access to credit information and gives a free credit report annually to consumers in this country. There are a number of consumer protections that the gentleman from Vermont and others worked for that are now built into this bill and if this bill is adopted will become in fact permanent.

I urge my colleagues and all the Members of this body to vote in support of this bill.

Mr. WATT. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. EMANUEL) who has had such a tremendous impact on this bill, particularly the medical privacy portions of the bill. He has been a stalwart.

Mr. EMANUEL. Mr. Chairman, I would like to thank my colleague from North Carolina for his kind words. I would like to also congratulate the gentleman from Ohio (Mr. OXLEY), the gentleman from Massachusetts (Mr. FRANK), the gentleman from Alabama (Mr. BACHUS), the gentleman from Vermont (Mr. SANDERS), and the gentleman from California (Mr. OSE) for cosponsoring our amendment that deals with medical information and blacking out that information. This is a landmark bill that will help American consumers by giving them important new rights and protections.

Our economy benefits from a national credit reporting system like no other in the world, and this legislation strikes the right balance by safeguarding consumers while also ensuring continued access to our instant credit system. Medical information should have no place in employment decisions or credit determinations, and corporate affiliates should not be able to share it. This information deserves the strongest protection under the law, but beyond that it is important that we give consumers back some control over who can and cannot use this information. In fact, a recent Gallup poll showed 95 percent of consumers are worried that their health providers or insurers may be sharing their private medical information with others. Beyond this concern, however, they fear losing more control every day over sensitive medical information.

No longer will we ask whether you opt in or opt out. Your medical information, medical information in your family from here forward is blacked out. It protects you in the most sensitive area. It blacks out the use of medical information in the credit-granting process. It establishes strict limits on the use of medical information for employment purposes. It blacks out the indiscriminate sharing of medical information among corporate affiliates. It blacks out the use of medical information to create individualized or aggregate lists based on consumers' payment transactions for medical products; creates a new and higher standard for reporting by credit reporting agencies to others who have requested information; and establishes strict limits on the reuse of medical information.

This is both good for consumers and good for business. In a typical way when you have a win-win situation, it will also in my view garner great bipartisan support. Again I want to close by thanking the chairman and the ranking member for having a bill that brings together business interests and consumer interests not only throughout the bill but also in this particular area, by blacking out medical information and giving consumers again control over their own lives.

Mr. WATT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in 1996, or when the original fair credit reporting bill was passed, which I do think was 1996, there was quite a bit of controversy about whether the Federal Government should be the controlling entity with respect to these kinds of credit issues. You had your classic States rights versus Federal Government debate. That has been much less of a debate this time because over time we have come to realize that commerce, both intrastate and interstate, is substantially impacted by the availability of credit. Just about everybody is using credit in commerce. Nobody is paying cash anymore, or seldom are people paying cash. So the argument about whether the Federal Government has a legitimate role in this fair credit process kind of has gone by the board over the years and was less of an issue in this debate and gave the committee in my estimation the opportunity to focus on really creating a comprehensive kind of approach to dealing with credit in this country, dealing with some of the problems that people face when credit reporting agencies get the wrong information, dealing with identity theft and medical privacy, and the whole range of issues that can come into play when a credit transaction is about to take place.

□ 1600

I think the gentleman from Ohio (Chairman OXLEY) and the gentleman from Massachusetts (Mr. FRANK) have done just a magnificent job of hearing all of the input from all of the different sides and coming together on a bill that came out of committee with not unanimous support, but virtually unanimous support.

Now, there are some things that may be tweaked between the committee process and the floor, and there might be some need to change one or two things that have been agreed upon, but there are some amendments that I think could have a negative effect on this kind of bipartisan agreement that has characterized this bill.

So I hope that as we go forward into the amendment process, all of us will remember how hard we worked to keep this a bipartisan bill, to deliver a bill to the Senate that had just broad-based support so they would not sit there and not do anything and let the authorization run out. We need to maintain this bill in its current form as much as possible, unless the Chair and ranking member have agreed to amendments. I hope that my colleagues will keep that in mind.

Mr. Chairman, it is time for us to pass this bill, move it over to the Senate, and hope that they will produce a product that will keep credit available to people in this country on a set of fair and equitable rules.

Mr. Chairman, I yield the balance of my time to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Chairman, I want to thank the gentleman from North Carolina for taking over for me temporarily and for his very effective leadership throughout the deliberations on this bill.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. OXLEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in only 1 minute it will be difficult to thank everybody, but let me try. First, the chairman of the subcommittee, the gentleman from Alabama (Mr. BACHUS), who has shown enormous leadership, the main sponsor of this bill. He held over eight hearings with over 100 witnesses. The gentleman from North Carolina is right, everybody who wanted to be heard on this bill was heard, sometimes more than once.

I would like to express thanks to the gentleman from Massachusetts (Mr. FRANK) for his leadership and direction and for helping us all along the way; to the gentlewoman from Oregon (Ms. HOOLEY), and to the gentleman from Ohio (Mr. LATOURETTE), particularly on their efforts on identity theft; and to the gentlewoman from Illinois (Mrs. BIGGERT) for her contributions as well. It is a real honor roll of members on our committee.

Frankly, over the last 2½ years, our committee has established a pretty solid record of bipartisan cooperation and production, whether it was the Sarbanes-Oxley bill, or whether it was tourism risk insurance, and the list goes on. This, I think, is one more addition to that honor roll. For that I am extremely grateful to the members of the committee on both sides of the aisle. We have been clearly blessed with a cooperation, and I think it will be reflected in the final vote.

Mr. HOYER. Mr. Chairman, I urge all my colleagues to support this legislation—the Fair and Accurate Credit Transactions of 2003—which provides a national uniform standard on how consumer reporting agencies and other financial services entities may access and use consumer financial and medical data.

But before I discuss the substance of the underlying bill, I want to compliment the Chairman and Ranking Member of the Financial Services Committee (Mr. OXLEY and Mr. FRANK), who worked together in crafting this bipartisan legislation, which I believe will be passed by an overwhelming margin today.

This, Mr. Chairman, is how our legislative process should work. The Chairman and Ranking Member identified a need. They held hearings. And they crafted the bipartisan solution on the Floor today that is, nonetheless, open to amendment.

Mr. Chairman, the advent of the Internet and the Information Revolution has been a terrific boon for the American consumer. Millions have received quick credit decisions on financing a new car, on obtaining a credit card, and on taking out or refinancing a mortgage. This has clearly facilitated many of the most important financial decisions consumer make, and strengthened our economy.

However, it also illustrates the need for national uniform standards for financial information. And that is what this bill addresses.

Under this legislation, consumers can receive a free annual credit report that will disclose their credit score. In addition, the Act gives consumers new options for disputing and correcting inaccuracies in their credit reports, encourages prompt investigations of such disputes, and establishes new requirements to prevent corrected errors from being reintroduced into a credit report.

The Act also includes provisions to combat identify theft. A recent Federal Trade Commission survey indicated that more than 27 million Americans have been victims of identity theft in the last five years, including nearly 10 million people in the last year alone.

H.R. 2622 permits consumers to more easily place ''fraud alerts'' on their consumer reports; to require credit reporting agencies to block (or omit) information that is confirmed to have resulted from an identity theft, as long as the consumer has filed a police report concerning the ID theft; and to prohibit retailers from printing the expiration date and more than the last five digits of a consumer's credit or debit card number on electronic receipts.

Finally, the Act greatly expands the protections in the Fair Credit Reporting Act that govern the sharing and use of sensitive medical records and information, as well as information pertaining to medical-related payments and debts. These provisions will prohibit consumer reporting agencies from including medical information in a consumer's credit report unless the medical information is directly relevant to the consumer's attempts to obtain employment or credit and the consumer has explicitly consented to the release of the information.

Mr. Chairman, this legislation is not only substantively important, it is timely. As my colleagues may know, Congress must reauthorize the Fair Credit Reporting Act before the preemptions expire on December 31, 2003.

I urge my colleagues to vote for this legislation.

Mr. GILLMOR. Mr. Chairman, I rise today in strong support of H.R. 2622, the Fair and Accurate Credit Transactions Act of 2003. Passage of this important legislation is essential to maintaining our current national credit reporting system. As Federal Reserve Board Chairman Alan Greenspan make clear to the Financial Services Committee in his testimony, if we do not act to extend the uniform national standard for consumer protections governing credit transactions first established in the Fair Credit Reporting Act ''we will have great difficulty in maintaining the level of consumer credit currently available.''

H.R. 2622 maintains the free flow of credit reporting information to lenders and other financial services providers while also creating powerful new consumer protections. Consumers will have the authority to place fraud alerts in their credit reports, preventing identity thieves from using their information and keeping negative information resulting from fraudulent activity from being reported to a credit bureau.

The Fair and Accurate Credit Transactions Act will also allow consumers to access annually a free copy of their credit score and credit report identifying the key factors affecting their credit worthiness with recommendations on ways to improve their score. A provision I authored in H.R. 2622 will also improve the transparency of credit scoring systems by mandating that if the number of credit enquiries on a consumer's account negatively affects their score it must be disclosed in their consumer report. This ensures the consumer and their prospective lenders are fully informed. This important requirement will allow conscientious consumers to shop around for the best rates on loans or mortgages without unknowingly harming their credit.

I would like to thank Financial Services Committee Chairman OXLEY and Subcommittee Chairman BACHUS for their hard work on this issue and urge my colleagues to join me in voting for this vital legislation. The consumer benefits afforded by our national credit system are too important to our nation's economy to be left at risk.

Mr. ACKERMAN. Mr. Chairman, I rise today in support of H.R. 2622, the Fair and Accurate Credit Transactions Act. Over the past several months, the Financial Services Committee has held numerous hearings, in addition to the subcommittee and full committee markup of this legislation. As a member of the committee, I am proud to have played a role in crafting this important legislation which achieves a number of goals important to consumers, as well as to the financial industry.

This legislation extends the expiring provisions of the Fair Credit Reporting Act, allows consumers to receive free annual credit reports, and protects consumers' sensitive medical information.

I am particularly pleased with the provisions that help consumers prevent and correct inadequacies in their credit reports. The bill provides that when a financial institution reports negative information, such as a consumer's delinquencies, the institution must notify the consumer of this in writing. This is a win-win for all parties involved. Financial institutions will stand a greater chance of collecting their money sooner if the consumer is warned that being reported to the credit bureau is imminent. A notice in writing stating you will be reported to the credit bureaus for this delinquency and that this will affect your credit rating is strong motivation for most consumers. For the consumer who wants to protect and improve his credit rating, this is essential information. For the consumer whose identity has been stolen, this may be a vital notification.

I have greatly appreciated the opportunity to collaborate with Chairman OXLEY, Ranking Member FRANK and their excellent staffs, all my colleagues on the Financial Services Committee, and representative of both the financial services industry and consumer groups to develop this historic bipartisan legislation. I ask my colleagues to join with me in supporting H.R. 2622.

Mr. BEREUTER. Mr. Chairman, this Member rises today to express his support for H.R. 2622, the Fair and Accurate Credit Transactions Act of 2003 (FACT Act). This important legislation permanently extends those provisions in the Fair Credit Reporting Act (FCRA) which relate to the preemption of State laws. These provisions in the FCRA are set to expire on December 31, 2003. The FCRA is the Federal law which governs the furnishing of reports on the credit worthiness of consumers.

This Member would like to thank the distinguished gentleman from Alabama (Mr. BACHUS), the Chairman of the House Financial Services Subcommittee on Financial Institutions and Consumer Credit, for introducing this important legislation. Furthermore, this Member would like to thank both the distinguished gentleman from Ohio (Mr. OXLEY), the Chairman of the House Financial Services Committee, and the distinguished gentleman from Massachusetts (Mr. FRANK), the Ranking Member of this Committee, for their support in bringing this measure to the House floor.

This legislation, H.R. 2622, is essential since it ensures the continuity of the nationwide credit system while providing important consumer protections. This Member supports this legislation for many reasons. However, he would like to focus on the following three reasons.

First, this legislation provides for a free credit report annually for consumers. Typically, credit reporting agencies charge consumers up to $9 for the disclosure of the information in their credit files. Under current law, a consumer may receive a free consumer report from a reporting agency only under certain circumstances, such as when a consumer receives a notice of an adverse action by a reporting agency. The FACT Act would provide for a free credit report annually for consumers for any reason. This Member believes that this provision will promote consumer awareness of a person's credit history as well as provide an opportunity for the consumer to correct any inaccurate information on one's credit report.

Second, this legislation provides important provisions to curb identity theft. To illustrate the need for these provisions, the Federal Trade Commission (FTC) released a survey at the beginning of September of this year which showed that a staggering 27.3 million Americans had been victims of identity theft in the last 5 years, including 9.9. million people in the last year alone. This bill provides the following consumer protection tools against identity theft: Allows consumers to place ''fraud alerts'' in their credit reports to prevent identity thieves from opening accounts in their names; allows consumers to block information from being given to a credit reporting agency and from being reported by this agency if such information results from identity theft; and prohibits furnishers of credit information from forwarding to reporting agencies information on a consumer if the furnisher has substantial doubts as to its accuracy.

Lastly, this bill continues the Federal preemption of State laws as it relates to the corporate affiliate sharing of financial information. During the consideration of the 1996 amendments to the FCRA, this Member authored a provision, which was signed into law, that required a consumer opt-out nontransactional is shared among corporate affiliates. Examples of nontransaction information include data from a consumer credit report and information on an application such as a consumer's income or assets. This provision on consumer notice is very important as it was the first consumer ''opt out'' on the sharing of financial information that this Member is aware of that was signed into Federal law.

In conclusion, for the reasons stated above and many others, this Member encourages his colleagues to support H.R. 2622.

Mr. CASTLE. Mr. Chairman, I rise today to express my strong support for the Fair and Accurate Credit Transactions Act of 2003. This bipartisan legislation passed the House Financial Services Committee by a vote of 61–3 in July 2003. An overwhelming endorsement which should be noted today.

This legislation is a good bipartisan bill, it is the result of six hearings, nearly 100 witnesses, and months of deliberations. Through this very thorough process, the Financial Services Committee has produced a bill that will protect the financial privacy and access to credit for all consumers. Furthermore, it will help our economic recovery by ensuring that businesses have access to accurate information which provides prompt credit to American consumers.

As my colleagues know, one of the forces that has helped sustain our economy in recent years is consumer spending. A critical factor in enabling American consumers to purchase products when they need them and want them, is our strong system of consumer credit. That system is supported by the Fair Credit Reporting Act, which insures that factual information is available on which to base the extension of credit. Virtually every business in this Nation, and every consumer that has ever used credit, depends on this system.

One of my constituents, Michael Uffner, President, Chairman and CEO, of Auto Team Delaware, testified before the House Financial Services Committee this year. Mike Uffner stressed importance of access to accurate credit information to serve customers in a timely and fair manner. Americans want to be able to walk into an automobile showroom and purchase an automobile that day based on a prompt approval of a loan based on their credit.

In December, the national uniform consumer protection standards in the Fair Credit Reporting Act will expire. Without this legislation, there would be no national standards for consumer protections and credit availability. This will negatively affect consumer access to credit and the economy as a whole. A failure to pass this legislation means higher costs to consumers, who will be paying more for their credit without this legislation. In today's economy, rely on instant credit, available to us across the country. There is uniformity, this is not a state by state issue, as Congress we must protect consumers.

This legislation has a number of consumer protections, it helps protect consumer credit while providing access to greater opportunities of credit nationwide. This legislation provides consumers with the tools they need to fight identity theft and to ensure the accuracy of their credit reports.

Mr. Chairman, again, I want to express my strong support for this bill and urge my colleagues on both sides of the aisle to join the 61 bipartisan members of the House Financial Services Committee who worked together to craft this bill to protect consumers and give confidence to businesses. This is a proper step to ensure that all of our constituents have access to fair and reasonable credit and information.

Mr. SCHIFF. Mr. Chairman, I rise today to support the two amendments offered by my colleagues from California, Representatives SHERMAN, LEE, and WATERS which would protect California's consumer protection laws from being preempted by the base bill being debated today. First, let me express my appreciation to my colleagues who serve on the Financial Services Committee for bringing to this Floor such a strong bipartisan bill. H.R. 2622 is important legislation which is necessary to ensure the effectiveness of our nation's credit reporting system.

It is true, this legislation will extend consumer protections currently not afforded to millions of Americans. This is not true, however, for Californians. The California Legislature, with overwhelming bipartisan and consumer support, has adopted progressive and effective financial privacy laws which afford California residents the most far reaching consumer protections in the nation.

Under California law, Californians can correct erroneous credit reporting through the filing of police reports, can request a fraud alert to be posted on their personal credit reports, have access to contact information for those who placed information on their credit report, and have the right to remove their names from credit card solicitation lists furnished by credit bureaus.

Most recently, California adopted legislation which requires financial institutions to obtain a consumer's affirmative consent before sharing information with most third parties and prevents, except under certain circumstances, the affiliate sharing of a consumer's nonpublic personal information.

Should this legislation be adopted in its current form and without these amendments, perhaps fifteen consumer protections, including those which I have just listed, will be preempted. As I said, while many Americans will enjoy additional consumer protections through the adoption of H.R. 2622, Californian's will lose many of the consumer protections which they have come to depend on.

We should not punish Californians for adopting far reaching consumer protections. In fact we should learn form California's example and extend these protections to the rest of the nation. And while this legislation will help millions of Americans it will be detrimental to all Californians.

All Members should support the amendments offered by Representatives SHERMAN, LEE and WATERS to ensure the protection of California law and protect a state's right to enact and enforce effective consumer protection laws. However, should these amendments not be agreed to today, I urge my colleagues to ensure that this issue is corrected in the House—Senate Conference Committee on this legislation.

Finally, H.R. 2622 is necessary and important legislation which would only be made better with the adoption of these amendments.

Mr. RUPPERSBERGER. Mr. Chairman, I have interest in a company that does business with a financial institution that one way or another might be impacted by this legislation, so I have decided to vote present on H.R. 2622, the Fair & Accurate Credit Transactions Act and the accompanying amendments on September 10, 2003. This includes all roll call votes starting at #495 until the end of the consideration of this measure. It also includes any motion to recommit and final passage on H.R. 2622, the Fair & Accurate Credit Transaction Act.

I do support the efforts of this legislation in combating identity theft and applaud authors of this measure.

Mr. OXLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered read.

The text is the amendment in the nature of a substitute is as follows:

H.R. 2622

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

*(a) SHORT TITLE.—This Act may be cited as the ''Fair and Accurate Credit Transactions Act of 2003''.*

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



**SEC. 2. DEFINITIONS.**

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

''(r) RESELLER.—The term 'reseller' means a consumer reporting agency that—

''(1) assembles and merges information contained in the database of another consumer reporting agency or multiple consumer reporting agencies concerning any consumer for purposes of furnishing such information to any third party, to the extent of such activities; and

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

''(s) OTHER DEFINITIONS.—

''(1) BOARD; CREDIT; CREDITOR; CREDIT CARD.—The terms 'Board', 'credit', 'creditor', and 'credit card' have the same meanings as in section 103 of the Truth in Lending Act.

''(2) COMMISSION.—The term 'Commission' means the Federal Trade Commission.

''(3) DEBIT CARD.—The term 'debit card' means any card issued by a financial institution to a consumer for use in initiating electronic fund transfers (as defined in section 903(6) of the Electronic Fund Transfer Act) from the account (as defined in such Act) of the consumer at such financial institution for the purpose of transferring money between accounts or obtaining money, property, labor, or services.

''(4) ELECTRONIC FUND TRANSFER.—The term 'electronic fund transfer' has the same meaning as in section 903 of the Electronic Fund Transfer Act.

''(5) FEDERAL BANKING AGENCY.—The term 'Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

''(6) IDENTITY THEFT.—The term 'identity theft' means a fraud committed using another person's identifying information, subject to such further definition as the Commission and the Board may prescribe, jointly, by regulation.

''(7) POLICE REPORT.—The term 'police report' means a copy of any official valid report filed by a consumer with any appropriate Federal, State, or local government law enforcement agency, or any comparable official government document that the Board and the Commission shall jointly prescribe in regulations, that is subject to a criminal penalty for false statements.''.

**SEC. 3. EFFECTIVE DATES.**

(a) IN GENERAL.—Except as provided in subsections (b) and (c)—

(1) before the end of the 2-month period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System and the Federal Trade Commission shall jointly prescribe regulations in final form establishing effective dates for each provision of this Act (except as otherwise specified); and

(2) the regulations prescribed under paragraph (1) shall establish effective dates that are as early as possible while allowing a reasonable time for the implementation of the provisions of this Act, but in no case shall the effective date be later than 10 months after the date of issuance of such regulations in final form.

(b) IMMEDIATE EFFECTIVE DATE.—The following provisions shall take effect on the date of the enactment of this Act:

(1) Title I.

(2) Section 201.

(3) Section 609(d)(1) of the Fair Credit Reporting Act (as added by the amendment in section 204(a)).

(4) Section 305.

(5) Section 505.

(6) Section 506.

(7) Title VI.

(c) EFFECTIVE DATE FOR PROTECTION OF MEDICAL INFORMATION IN THE FINANCIAL SYSTEM.—Section 701 shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act, except that paragraph (2) of section 604(g) of the Fair Credit Reporting Act (as added by section 701) shall take effect on the later of—

(1) the end of the 90-day period beginning on the date the regulations required under paragraph (5)(B) of such section 604(g) (as added by section 701) are prescribed in final form; or

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

## TITLE I—UNIFORM NATIONAL CONSUMER PROTECTION STANDARDS

**SEC. 101. UNIFORM NATIONAL CONSUMER PROTECTION STANDARDS MADE PERMANENT.**

Section 624(d) of the Fair Credit Reporting Act (15 U.S.C. 1681t(d)) is amended—

(1) by striking ''Subsections (b) and (c)'' and all that follows through ''do not affect any settlement,'' and inserting ''Subsections (b) and (c) do not affect any settlement,''; and

(2) by striking ''Consumer Credit Reporting Reform Act of 1996'' and all that follows through the period at the end of paragraph (2) and inserting ''Consumer Credit Reporting Reform Act of 1996.''.

## TITLE II—IDENTITY THEFT PREVENTION

**SEC. 201. INVESTIGATING CHANGES OF ADDRESS AND INACTIVE ACCOUNTS.**

(a) IN GENERAL.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended by inserting after subsection (f), the following new subsection:

''(g) 'RED FLAG' PATTERNS OF POSSIBLE IDENTITY THEFT.—

''(1) INVESTIGATION OF CHANGES OF ADDRESS.—The Federal banking agencies and the National Credit Union Administration, in carrying out the responsibilities of such agencies and Administration under subsection (k), shall jointly prescribe regulations for credit card and debit card issuers to ensure that, if any such issuer receives a request for an additional or replacement card for an existing account within a short period of time after the issuer has received notification of a change of address for the same account, the issuer will follow reasonable policies and procedures that require, as appropriate, that the issuer not issue the additional or replacement card unless the issuer—

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

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

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

''(2) INACTIVE ACCOUNTS.—The Federal banking agencies and the National Credit Union Administration, in carrying out the responsibilities of such agencies and Administration under subsection (k), shall consider including, as a possible 'red flag' pattern, 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 depository 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.''.

(b) CLERICAL AMENDMENTS.—

(1) The heading for section 605 of the Fair Credit Reporting Act is amended to read as follows:

**''§ 605. Requirements relating to information contained in consumer reports and to identity theft prevention.''.**

(2) The table of sections for title VI of the Consumer Credit Protection Act is amended by striking the item relating to section 605 and inserting the following new item:

''605. Requirements relating to information contained in consumer reports and to identity theft prevention.''.

(3) Section 624(b)(1)(E) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)(1)(E)) is amended

by inserting ''and to identity theft prevention'' after ''consumer reports''.

**SEC. 202. FRAUD ALERTS.**

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

''(i) ONE-CALL FRAUD ALERTS.—

''(1) INITIAL ALERTS.—Upon the direct request of a consumer, or an individual acting on behalf of or as a personal representative of a consumer, who asserts, in good faith, a suspicion that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, a consumer reporting agency described in section 603(p) shall, if the agency maintains a file on the consumer who is making the request and has a reasonable belief that the agency knows the identity of the consumer—

''(A) include a fraud alert in the file of that consumer for a period of not less than 90 days beginning on the date of such request, unless the consumer specifically requests that such fraud alert be removed before the end of such period;

''(B) disclose to the consumer that the consumer may request a free copy of the file of the consumer and provide the consumer, upon request, a free disclosure of the consumer's file (as described in section 609(a)) within 3 business days after such request;

''(C) for 2 years after the date of such request, exclude the consumer from any list of consumers prepared by the agency and provided to any third party to offer credit or insurance to the consumer as part of a transaction that was not initiated by the consumer, unless the consumer subsequently requests that such exclusion be rescinded before the end of such period; and

''(D) refer the information regarding the fraud alert to each of the other consumer reporting agencies described in section 603(p), as required under section 621(f)(1).

''(2) EXTENDED ALERTS.—Upon the direct request of a consumer, or an individual acting on behalf of or as a personal representative of a consumer, who contacts a consumer reporting agency described in section 603(p) to report details of an identity theft and submits evidence that provides the agency with reasonable cause to believe that such identity theft has occurred, the agency shall, if the agency maintains a file on the consumer who is making the request and has a reasonable belief that the agency knows the identity of the consumer—

''(A) include a fraud alert in the file of that consumer and provide an opportunity for the consumer to extend the alert for a period of up to 7 years from the date of such request, unless the consumer subsequently requests that such fraud alert be removed before the end of such period;

''(B) provide the consumer with the option of including more complete information in the consumer's file, including a telephone number or some other reasonable means of communication that any person who requests the consumer's report may utilize for authorization before establishing a new credit plan in the name of the consumer; and

''(C) provide the consumer with at least 2 free disclosures of the information described in section 609(a) during the 12-month period beginning on the date of such request.

''(3) ACTIVE DUTY ALERTS.—Upon the direct request of an active duty military consumer, or an individual acting on behalf of or as a personal representative of an active duty military consumer, who contacts a consumer reporting agency described in section 603(p), the agency shall, if the agency maintains a file on the consumer who is making the request and has a reasonable belief that the agency knows the identity of the consumer—

''(A) include an active duty alert in the file of that consumer during a period of not less than 12 months beginning on the date of the request, unless the consumer requests that such active duty alert be removed before the end of such period;

''(B) for 2 years after the date of such request, exclude the consumer from any list of consumers prepared by the agency and provided to any third party to offer credit or insurance to the consumer as part of a transaction that was not initiated by the consumer, unless the consumer subsequently requests that such exclusion be rescinded before the end of such period; and

''(C) refer the information regarding the active duty alert to each of the other consumer reporting agencies described in section 603(p), as required under section 621(f)(1).

''(4) PROCEDURES.—Each consumer reporting agency described in section 603(p) shall establish policies and procedures to comply with the obligations of paragraphs (1), (2), and (3), including procedures that allow consumers to request initial, extended, or active duty alerts in a simple and easy manner, including by telephone.

''(5) NOTICE TO USERS.—No person who obtains any information that includes a fraud alert under this section from a file of any consumer from a consumer reporting agency may establish a new credit plan in the name of the consumer for a person other than the consumer without utilizing reasonable policies and procedures described in paragraph (9).

''(6) REFERRALS OF FRAUD ALERTS.—Each consumer reporting agency described in section 603(p) that receives a referral of a fraud alert from another such agency pursuant to paragraph (1)(D) or (3)(C) shall follow the procedures required under subparagraphs (A), (B), and (C) of paragraph (1), in the case of a referral under paragraph (1)(D), and subparagraphs (A) and (B), in the case of a referral under paragraph (3)(C), as if the agency received the request from the consumer directly.

''(7) DUTY OF RESELLER TO RECONVEY ALERT.—A reseller that is notified of the existence of a fraud alert in a consumer's consumer report shall communicate to each person procuring a consumer report with respect to such consumer the existence of a fraud alert in effect for such consumer.

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

''(9) FRAUD ALERT.—

''(A) DEFINITION.—For purposes of this subsection, the term 'fraud alert' means, at a minimum, a statement—

''(i) in the file of a consumer that the consumer may be a victim of fraud, including identity theft, or is a consumer described in paragraph (3); and

''(ii) that is transmitted in a manner that facilitates a clear and conspicuous view of the statement by any person requesting such file.

''(B) OTHER INFORMATION.—A fraud alert shall include information that notifies all prospective users of a consumer report on the consumer to which the alert relates that the consumer does not authorize establishing any new credit plan in the name of the consumer, unless the user utilizes reasonable policies and procedures to form a reasonable belief that the user knows the identity of the person for whom such new plan is established, which may include obtaining authorization or preauthorization of the consumer at a telephone number designated by the consumer or by such other reasonable means agreed to.

''(10) OTHER DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

''(A) ACTIVE DUTY MILITARY CONSUMER.—The term 'active duty military consumer' means a consumer in military service who—

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

''(ii) is assigned to service away from the consumer's usual duty station.

''(B) NEW CREDIT PLAN.—The term 'new credit plan' means a new account under an open end credit plan (as defined in section 103(i) of this Act) or a new credit transaction not under an open end credit plan.''.

**SEC. 203. TRUNCATION OF CREDIT CARD AND DEBIT CARD ACCOUNT NUMBERS.**

(a) IN GENERAL.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended by inserting after subsection (k) (as added by section 206 of this title) the following new subsection:

''(l) TRUNCATION OF CREDIT CARD AND DEBIT CARD ACCOUNT NUMBERS.—

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

''(2) LIMITATION.—This section shall apply only to receipts that are electronically printed, and shall not apply to transactions in which the sole means of recording the person's credit card or debit card number is by handwriting or by an imprint or copy of the card.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply after the end of—

(1) the 3-year period beginning on the date of the enactment of this Act, with respect to any cash register or other machine or device that electronically prints receipts for credit card or debit card transactions that is in use before January 1, 2005; and

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

**SEC. 204. SUMMARY OF RIGHTS OF IDENTITY THEFT VICTIMS.**

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

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

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

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

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 624(b)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)(3)) is amended by striking ''section 609(c)'' and inserting ''subsection (c) or (d) of section 609''.

***SEC. 205. BLOCKING OF INFORMATION RESULTING FROM IDENTITY THEFT.***

*Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended by inserting after subsection (i) (as added by section 202 of this title) the following new subsection:*

*''(j) BLOCK OF INFORMATION RESULTING FROM IDENTITY THEFT.—*

*''(1) BLOCK.—Except as provided in paragraph (3), a consumer reporting agency shall block the reporting of any information in the file of a consumer that the consumer identifies as information that resulted from an alleged identity theft and confirms is not information relating to any transaction by the consumer not later than 5 business days after the date of receipt by such agency of—*

*''(A) appropriate proof of the identity of a consumer;*

*''(B) a police report evidencing the claim of the consumer of identity theft;*

*''(C) the identification of the information by the consumer; and*

*''(D) confirmation by the consumer that the information is not information relating to any transaction by the consumer.*

*''(2) NOTIFICATION.—A consumer reporting agency shall promptly notify the furnisher of information identified by the consumer under paragraph (1)—*

*''(A) that the information may be a result of identity theft;*

*''(B) that a police report has been filed;*

*''(C) that a block has been requested under this subsection; and*

*''(D) of the effective date of the block.*

*''(3) AUTHORITY TO DECLINE OR RESCIND.—*

*''(A) IN GENERAL.—A consumer reporting agency may decline to block, or may rescind any block, of consumer information under this subsection if the consumer reporting agency reasonably determines that—*

*''(i) the information was blocked in error or a block was requested by the consumer in error;*

*''(ii) the information was blocked, or a block was requested by the consumer, on the basis of a misrepresentation of fact by the consumer relevant to the request to block; or*

*''(iii) the consumer knowingly obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions, or the consumer should have known that the consumer obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions.*

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

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

*''(4) EXCEPTIONS.—*

*''(A) VERIFICATION COMPANIES.—This subsection shall not apply to—*

*''(i) a check services company, which issues authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payments; or*

*''(ii) a deposit account information service company, which issues reports regarding account closures due to fraud, substantial overdrafts, automated teller machine abuse, or similar negative information regarding a consumer, to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution.*

*''(B) RESELLERS.—*

*''(i) NO RESELLER FILE.—This subsection shall not apply to a consumer reporting agency if the consumer reporting agency—*

*''(I) is a reseller;*

*''(II) is not, at the time of the request of the consumer under paragraph (1), otherwise furnishing or reselling a consumer report concerning the information identified by the consumer; and*

*''(III) informs the consumer, by any means, that the consumer may report the identity theft to the Commission to obtain consumer information regarding identity theft.*

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

*''(I) the consumer, in accordance with the provisions of paragraph (1), identifies, to a consumer reporting agency, information in the file of the consumer that resulted from identity theft; and*

*''(II) the consumer reporting agency is a reseller of the identified information.*

*''(iii) NOTICE.—In carrying out its obligation under clause (ii), the reseller shall promptly provide a notice to the consumer of the decision to block the file. Such notice shall contain the name, address, and telephone number of each consumer reporting agency from which the consumer information was obtained for resale.*

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

***SEC. 206. ESTABLISHMENT OF PROCEDURES FOR DEPOSITORY INSTITUTIONS TO IDENTIFY POSSIBLE INSTANCES OF IDENTITY THEFT.***

*(a) IN GENERAL.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended by inserting after subsection (j) (as added by section 205 of this title) the following new subsection:*

*''(k) 'RED FLAG' GUIDELINES REQUIRED.—*

*''(1) IN GENERAL.—The Federal banking agencies and the National Credit Union Administration, in consultation with the Commission, shall jointly establish and maintain guidelines for use by insured depository institutions in identifying patterns, practices, and specific forms of activity that indicate the possible existence of identity theft with respect to accounts, and update such guidelines as often as necessary.*

*''(2) REGULATIONS.—The Federal banking agencies and the National Credit Union Administration, in consultation with the Commission, shall jointly prescribe regulations requiring insured depository institutions to establish and adhere to reasonable policies and procedures for implementing the guidelines established pursuant to paragraph (1) to identify possible risks to customer accounts or to the safety and soundness of the institutions.*

*''(3) CONSISTENCY WITH VERIFICATION REQUIREMENTS.—Policies and procedures established pursuant to paragraph (2) shall not be inconsistent with, or duplicative of, the policies and procedures required under section 5318(l) of title 31, United States Code.*

*''(4) INSURED DEPOSITORY INSTITUTION DEFINED.—For purposes of this subsection, the term 'insured depository institution'—*

*''(A) has the meaning given to such term in section 3 of the Federal Deposit Insurance Act; and*

*''(B) includes an insured credit union (as defined in section 101 of the Federal Credit Union Act).''.*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the end of the 1-year period beginning on the date of the enactment of this Act.*

***SEC. 207. STUDY ON THE USE OF TECHNOLOGY TO COMBAT IDENTITY THEFT.***

*(a) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study of the use of biometrics and other similar technologies to reduce the incidence and costs of identity theft by providing convincing evidence of who actually performed a given financial transaction.*

*(b) CONSULTATION.—The Secretary of the Treasury shall consult with Federal banking agencies, the Federal Trade Commission, and representatives of financial institutions, credit reporting agencies, Federal, State, and local government agencies that issue official forms or means of identification, State prosecutors, law enforcement agencies, and the biometric industry and other representatives of the general public, in formulating and conducting the study required by subsection (a).*

*(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Treasury for fiscal year 2004 such sums as may be necessary to carry out the provisions of this section.*

*(d) REPORT REQUIRED.—Before the end of the 180-day period beginning on the date of the enactment of this Act, the Secretary shall submit a report to Congress containing the findings and conclusions of the study required under subsection (a), together with such recommendations for legislative or administrative actions as may be appropriate.*

***TITLE III—IMPROVING RESOLUTION OF CONSUMER DISPUTES***

***SEC. 301. COORDINATION OF CONSUMER COMPLAINT INVESTIGATIONS.***

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

*''(f) COORDINATION OF CONSUMER COMPLAINT INVESTIGATIONS.—*

*''(1) IN GENERAL.—The consumer reporting agencies described in section 603(p) shall develop and maintain procedures for the referral, to each such agency, of any consumer complaint received by any such agency alleging any identity theft or requesting a block or a fraud alert.*

*''(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.''.*

***SEC. 302. NOTICE OF DISPUTE THROUGH RESELLER.***

*(a) REQUIREMENT FOR REINVESTIGATION OF DISPUTED INFORMATION UPON NOTICE FROM A RESELLER.—Section 611(a) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)(1)(A)) is amended—*

*(1) in subparagraph (A) of paragraph (1)—*

*(A) by striking ''If the completeness'' and inserting ''Subject to subsection (e), if the completeness'';*

*(B) by inserting '', or indirectly through a reseller,'' after ''notifies the agency directly''; and*

*(C) by inserting ''or reseller'' before the period at the end of such subparagraph;*

*(2) in subparagraph (A) of paragraph (2)—*

*(A) by inserting ''or a reseller'' after ''dispute from any consumer''; and*

*(B) by inserting ''or reseller'' before the period at the end of such subparagraph; and*

*(3) in subparagraph (B) of paragraph (2), by inserting ''or the reseller'' after ''from the consumer''.*

*(b) REINVESTIGATION REQUIREMENT APPLICABLE TO RESELLERS.—Section 611 of the Fair*

Credit Reporting Act (15 U.S.C. 1681i) is amended by adding at the end the following new subsection:

''(e) REINVESTIGATION REQUIREMENT APPLICABLE TO RESELLERS.—

''(1) EXEMPTION FROM GENERAL REINVESTIGATION REQUIREMENT.—Except as provided in paragraph (2), a reseller shall be exempt from the requirements of this section.

''(2) ACTION REQUIRED UPON RECEIVING NOTICE OF A DISPUTE.—If a reseller receives a notice from a consumer of a dispute concerning the completeness or accuracy of any item of information contained in a consumer report on such consumer produced by the reseller, the reseller shall, within 5 business days of receiving the notice and free of charge—

''(A) determine whether the item of information is incomplete or inaccurate as a result of an act or omission of the reseller; and

''(B) if—

''(i) the reseller determines that the item of information is incomplete or inaccurate as a result of an act or omission of the reseller, correct the information in the consumer report or delete it; or

''(ii) if the reseller determines that the item of information is not incomplete or inaccurate as a result of an act or omission of the reseller, convey the notice of the dispute, together with all relevant information provided by the consumer, to each consumer reporting agency that provided the reseller with the information that is the subject of the dispute.

''(3) RESELLER REINVESTIGATIONS.—No provision of this subsection shall be construed as prohibiting a reseller from conducting a reinvestigation of a consumer dispute directly.''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The heading for paragraph (2)(B) of section 611(a) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)(2)(B)) is amended by striking ''FROM CONSUMER''.

**SEC. 303. REASONABLE REINVESTIGATION REQUIRED.**

Section 611(a)(1)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)(1)(A)) is amended by striking ''shall reinvestigate free of charge'' and inserting ''shall, free of charge, conduct a reasonable reinvestigation to determine whether the disputed information is inaccurate''.

**SEC. 304. DUTIES OF FURNISHERS OF INFORMATION.**

(a) IN GENERAL.—Section 623(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)) is amended—

(1) in paragraph (1)(A), by striking ''knows or consciously avoids knowing that the information is inaccurate'' and inserting ''knows or has reasonable cause to believe that the information is inaccurate'';

(2) in paragraph (1)—

(A) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(B) by inserting after subparagraph (A), the following new subparagraph:

''(B) REASONABLE PROCEDURES TO ENSURE ACCURACY.—A person that regularly furnishes information relating to consumers to a consumer reporting agency described in section 603(p) shall maintain reasonable procedures designed to ensure that the information furnished is accurate.''; and

(C) by adding at the end the following new subparagraph:

''(F) DEFINITION.—For purposes of subparagraph (A), the term 'reasonable cause to believe that the information is inaccurate' means, based on the procedures described in subparagraph (B), has knowledge, other than solely allegations by the consumer, that would cause a reasonable person to have substantial doubts about the accuracy of the information.''; and

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

''(6) ABILITY OF CONSUMER TO DISPUTE INFORMATION DIRECTLY WITH FURNISHER.—

''(A) IN GENERAL.—A consumer may dispute directly with a person the accuracy of information that—

''(i) is contained in a consumer report on the consumer prepared by a consumer reporting agency described in section 603(p); and

''(ii) was provided by the person to that consumer reporting agency in accordance with paragraph (1)(B).

''(B) SUBMITTING A NOTICE OF DISPUTE.—A consumer who seeks to dispute the accuracy of information with a person under subparagraph (A) 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; and

''(ii) explains the basis for the dispute.

''(C) DUTY OF PERSON AFTER RECEIVING NOTICE OF DISPUTE.—After receiving a notice of dispute from a consumer pursuant to subparagraph (B), the person that provided the information in dispute to a consumer reporting agency referred to in subparagraph (A) 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 thereafter report correct information to each consumer reporting agency described in section 603(p) to which the person furnished the inaccurate information.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 621(c)(5)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681s(c)(5)(A)) is amended by striking ''section 623(a)(1)'' and inserting ''paragraph (1) or (6) of section 623(a)''.

(2) The heading for section 621(c)(5) of the Fair Credit Reporting Act (15 U.S.C. 1681s(c)(5)) is amended by striking ''VIOLATION OF SECTION 623(a)(1)'' and inserting ''CERTAIN VIOLATIONS OF SECTION 623(a)''.

**SEC. 305. PROMPT INVESTIGATION OF DISPUTED CONSUMER INFORMATION.**

(a) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System and the Federal Trade Commission shall jointly study the extent to which, and the manner in which, consumer reporting agencies and furnishers of consumer information to consumer reporting agencies are complying with the procedures, time lines, and requirements under the Fair Credit Reporting Act for the prompt investigation of the disputed accuracy of any consumer information, the completeness of the information provided to consumer reporting agencies, and the prompt correction or deletion, in accordance with such Act, of any inaccurate or incomplete information or information that cannot be verified.

(b) REPORT REQUIRED.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System and the Federal Trade Commission shall jointly submit a progress report to the Congress on the results of the study required under subsection (a).

(c) RECOMMENDATIONS.—The report under subsection (b) shall include such recommendations as the Board and the Commission jointly determine to be appropriate for legislative or administrative action to ensure that—

(1) consumer disputes with consumer reporting agencies over the accuracy or completeness of information in a consumer's file are promptly and fully investigated and any incorrect, incomplete, or unverifiable information is corrected or deleted immediately thereafter;

(2) furnishers of information to consumer reporting agencies maintain full and prompt compliance with the duties and responsibilities established under section 623 of the Fair Credit Reporting Act; and

(3) consumer reporting agencies establish and maintain appropriate internal controls and management review procedures for maintaining full and continuous compliance with the procedures, time lines, and requirements under the Fair Credit Reporting Act for the prompt investigation of the disputed accuracy of any consumer information and the prompt correction or deletion, in accordance with such Act, of any inaccurate or incomplete information or information that cannot be verified.

(d) DEFINITIONS.—For purposes of this section, the terms ''consumer'', ''consumer report'', and ''consumer reporting agency'' have the same meaning as in the Fair Credit Reporting Act.

## TITLE IV—IMPROVING ACCURACY OF CONSUMER RECORDS

**SEC. 401. RECONCILING ADDRESSES.**

Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended by inserting after subsection (g) (as added by section 201 of this Act) the following new subsection.

''(h) NOTICE OF DISCREPANCY.—

''(1) IN GENERAL.—If a person has requested a consumer report relating to a consumer from a consumer reporting agency described in section 603(p), the request includes an address for the consumer that substantially differs from the addresses in the file of the consumer, and the agency provides a consumer report in response to the request, the consumer reporting agency shall notify the requester of the existence of the discrepancy.

''(2) REGULATIONS.—

''(A) REGULATIONS REQUIRED.—The Federal banking agencies and the National Credit Union Administration shall jointly prescribe regulations providing guidance regarding reasonable policies and procedures a user of a consumer report should employ when such user has received a notice of discrepancy under paragraph (1).

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

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

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

**SEC. 402. PREVENTION OF REPOLLUTION OF CONSUMER REPORTS.**

Section 623(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)(1)) is amended by inserting after subparagraph (D) (as so redesignated by section 304(2)(A)) the following new subparagraph:

''(E) INFORMATION ALLEGED TO RESULT FROM IDENTITY THEFT.—If a consumer submits a police report to a person who furnishes information to a consumer reporting agency that states 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.''.

***SEC. 403. NOTICE BY USERS WITH RESPECT TO FRAUDULENT INFORMATION.***

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

*''(e) NOTICE OF FRAUDULENT INFORMATION RELATING TO IDENTITY THEFT.—If an agent acting as a debt collector (as defined in title VIII) of a person who furnishes information to any consumer reporting agency uses information contained in a consumer report on any consumer and learns that any such information so used is the result of identity theft or otherwise is fraudulent, the agent shall—*

*''(1) if such information—*

*''(A) originated from the person for whom the debt collector is acting as agent, notify the person of the fraudulent information; or*

*''(B) originated from a person other than the person for whom the debt collector is acting as agent, notify the consumer reporting agency (that provided the consumer report) of the fraudulent information, either directly or through the person for whom the debt collector is acting as agent; and*

*''(2) upon the request of the consumer, provide the consumer with all information which the consumer would be entitled to receive if the information related to the consumer other than by reason of identity theft.''.*

***SEC. 404. DISCLOSURE TO CONSUMERS OF CONTACT INFORMATION FOR USERS AND FURNISHERS OF INFORMATION IN CONSUMER REPORTS.***

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

*(1) in paragraph (2), by inserting '', including addresses of the sources, and (if provided by the sources of information) the telephone numbers identified for customer service for the sources of information'' after ''sources of information'' the 1st place such term appears in such paragraph; and*

*(2) in paragraph (3)(B) by striking clause (ii) and inserting the following new clause:*

*''(ii) the address and (if provided) the telephone numbers identified for customer service of the person.''.*

***SEC. 405. FTC STUDY OF THE ACCURACY OF CONSUMER REPORTS.***

*(a) STUDY REQUIRED.—Until the final report is submitted under subsection (b)(2), the Federal Trade Commission shall conduct an ongoing study of the accuracy and completeness of information contained in consumer reports prepared or maintained by consumer reporting agencies and methods for improving the accuracy and completeness of such information.*

*(b) BIENNIAL REPORTS REQUIRED.—*

*(1) INTERIM REPORTS.—The Federal Trade Commission shall submit an interim report to the Congress on the study conducted under subsection (a) at the end of the 6-month period beginning on the date of the enactment of this Act and biennially thereafter for 8 years.*

*(2) FINAL REPORT.—The Federal Trade Commission shall submit a final report to the Congress on the study conducted under subsection (a) at the end of the 2-year period beginning on the date the final interim report is submitted to the Congress under paragraph (1).*

*(3) CONTENTS.—Each report submitted under this subsection shall contain a detailed summary of the findings and conclusions of the Commission with respect to the study required under subsection (a) and such recommendations for legislative and administrative action as the Commission may determine to be appropriate.*

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

***SEC. 501. FREE REPORTS ANNUALLY.***

*(a) FREE REPORTS ANNUALLY FROM NATIONWIDE CONSUMER REPORTING AGENCIES.—Section 612 of the Fair Credit Reporting Act (15 U.S.C. 1681j) is amended by adding at the end the following new subsection:*

*''(e) FREE ANNUAL DISCLOSURE.—Upon the direct request of the consumer, a consumer reporting agency described in section 603(p) shall make all disclosures pursuant to section 609 once during any 12-month period without charge to the consumer.''.*

*(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 612(c) of the Fair Credit Reporting Act (15 U.S.C. 1681j(c)) is amended by inserting ''that is not a consumer reporting agency described in section 603(p)'' after ''consumer reporting agency''.*

***SEC. 502. DISCLOSURE OF CREDIT SCORES.***

*(a) STATEMENT ON AVAILABILITY OF CREDIT SCORES.—Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended by adding at the end the following new paragraph:*

*''(6) If the consumer requests the credit file and not the credit score, a statement that the consumer may request and obtain a credit score.''.*

*(b) DISCLOSURE OF CREDIT SCORES.—Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended by inserting after subsection (d) (as added by section 204 of this Act) the following new subsection:*

*''(e) DISCLOSURE OF CREDIT SCORES.—*

*''(1) IN GENERAL.—Upon the consumer's request for a credit score, a consumer reporting agency shall supply to a consumer a statement indicating that the information and credit scoring model may be different than the credit score that may be used by the lender, and a notice which shall include the following information:*

*''(A) The consumer's current credit score or the consumer's most recent credit score that was previously calculated by the credit reporting agency for a purpose related to the extension of credit.*

*''(B) The range of possible credit scores under the model used.*

*''(C) All the key factors that adversely affected the consumer's credit score in the model used, the total number of which shall not exceed four, subject to paragraph (9).*

*''(D) The date the credit score was created.*

*''(E) The name of the person or entity that provided the credit score or credit file upon which the credit score was created.*

*''(2) DEFINITIONS.—For purposes of this section, the following definitions shall apply:*

*''(A) CREDIT SCORE.—The term 'credit score'—*

*''(i) means a numerical value or a categorization derived from a statistical tool or modeling system used by a person who makes or arranges a loan to predict the likelihood of certain credit behaviors, including default (and the numerical value or the categorization derived from this analysis may also be referred to as a 'risk predictor' or 'risk score'); and*

*''(ii) does not include—*

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

*''(II) any other elements of the underwriting process or underwriting decision.*

*''(B) KEY FACTORS.—The term 'key factors' means all relevant elements or reasons adversely affecting the credit score for the particular individual listed in the order of their importance based on their effect on the credit score.*

*''(3) TIMEFRAME AND MANNER OF DISCLOSURE.—The information required by this subsection shall be provided in the same timeframe and manner as the information described in subsection (a).*

*''(4) APPLICABILITY TO CERTAIN USES.—This subsection shall not be construed so as to compel a consumer reporting agency to develop or disclose a score if the agency does not—*

*''(A) distribute scores that are used in connection with residential real property loans; or*

*''(B) develop scores that assist credit providers in understanding a consumer's general credit behavior and predicting the future credit behavior of the consumer.*

*''(5) APPLICABILITY TO CREDIT SCORES DEVELOPED BY ANOTHER PERSON.—*

*''(A) IN GENERAL.—This subsection shall not be construed to require a consumer reporting agency that distributes credit scores developed by another person or entity to provide a further explanation of them, or to process a dispute arising pursuant to section 611, except that the consumer reporting agency shall provide the consumer with the name and address and website for contacting the person or entity who developed the score or developed the methodology of the score.*

*''(B) EXCEPTION.—This paragraph shall not apply to a consumer reporting agency that develops or modifies scores that are developed by another person or entity.*

*''(6) MAINTENANCE OF CREDIT SCORES NOT REQUIRED.—This subsection shall not be construed to require a consumer reporting agency to maintain credit scores in its files.*

*''(7) COMPLIANCE IN CERTAIN CASES.—In complying with this subsection, a consumer reporting agency shall—*

*''(A) supply the consumer with a credit score that is derived from a credit scoring model that is widely distributed to users by that consumer reporting agency in connection with residential real property loans or with a credit score that assists the consumer in understanding the credit scoring assessment of the credit behavior of the consumer and predictions about the future credit behavior of the consumer; and*

*''(B) a statement indicating that the information and credit scoring model may be different than that used by the lender.*

*''(8) REASONABLE FEE.—A consumer reporting agency may charge a reasonable fee for providing the information required under this subsection.*

*''(9) USE OF ENQUIRIES AS A KEY FACTOR.—If a key factor that adversely affects a consumer's credit score consists of the number of enquiries made with respect to a consumer report, that factor shall be included in the disclosure pursuant to paragraph (1)(C) without regard to the numerical limitation in such paragraph.''.*

*(c) DISCLOSURE OF CREDIT SCORES BY CERTAIN MORTGAGE LENDERS.—Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended by inserting after subsection (e) (as added by subsection (b) of this section) the following new subsection:*

*''(f) DISCLOSURE OF CREDIT SCORES BY CERTAIN MORTGAGE LENDERS.—*

*''(1) IN GENERAL.—Any person who makes or arranges loans and who uses a consumer credit score as defined in subsection (e) in connection with an application initiated or sought by a consumer for a closed end loan or establishment of an open end loan for a consumer purpose that is secured by 1 to 4 units of residential real property (hereafter in this subsection referred to as the 'lender') shall provide the following to the consumer as soon as reasonably practicable:*

*''(A) INFORMATION REQUIRED UNDER SUBSECTION(e).—*

*''(i) IN GENERAL.—A copy of the information identified in subsection (e) that was obtained from a consumer reporting agency or was developed and used by the user of the information.*

*''(ii) NOTICE UNDER SUBPARAGRAPH (D).—In addition to the information provided to it by a third party that provided the credit score or scores, a lender is only required to provide the notice contained in subparagraph (D).*

*''(B) DISCLOSURES IN CASE OF AUTOMATED UNDERWRITING SYSTEM.—*

*''(i) IN GENERAL.—If a person who is subject to this section uses an automated underwriting system to underwrite a loan, that person may satisfy the obligation to provide a credit score by disclosing a credit score and associated key factors supplied by a consumer reporting agency.*

''(ii) NUMERICAL CREDIT SCORE.—However, if a numerical credit score is generated by an automated underwriting system used by an enterprise, and that score is disclosed to the person, the score shall be disclosed to the consumer consistent with subparagraph (C).

''(iii) ENTERPRISE DEFINED.—For purposes of this subparagraph, the term 'enterprise' shall have the same meaning as in paragraph (6) of section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

''(C) DISCLOSURES OF CREDIT SCORES NOT OBTAINED FROM A CONSUMER REPORTING AGENCY.—A person subject to the provisions of this subsection who uses a credit score other than a credit score provided by a consumer reporting agency may satisfy the obligation to provide a credit score by disclosing a credit score and associated key factors supplied by a consumer reporting agency.

''(D) NOTICE TO HOME LOAN APPLICANTS.—A copy of the following notice, which shall include the name, address, and telephone number of each consumer reporting agency providing a credit score that was used:

''''NOTICE TO THE HOME LOAN APPLICANT

''''In connection with your application for a home loan, the lender must disclose to you the score that a consumer reporting agency distributed to users and the lender used in connection with your home loan, and the key factors affecting your credit scores.

''''The credit score is a computer generated summary calculated at the time of the request and based on information a consumer reporting agency or lender has on file. The scores are based on data about your credit history and payment patterns. Credit scores are important because they are used to assist the lender in determining whether you will obtain a loan. They may also be used to determine what interest rate you may be offered on the mortgage. Credit scores can change over time, depending on your conduct, how your credit history and payment patterns change, and how credit scoring technologies change.

''''Because the score is based on information in your credit history, it is very important that you review the credit-related information that is being furnished to make sure it is accurate. Credit records may vary from one company to another.

''''If you have questions about your credit score or the credit information that is furnished to you, contact the consumer reporting agency at the address and telephone number provided with this notice, or contact the lender, if the lender developed or generated the credit score. The consumer reporting agency plays no part in the decision to take any action on the loan application and is unable to provide you with specific reasons for the decision on a loan application.

''''If you have questions concerning the terms of the loan, contact the lender.'.

''(E) ACTIONS NOT REQUIRED UNDER THIS SUBSECTION.—This subsection shall not require any person to do any of the following:

''(i) Explain the information provided pursuant to subsection (e).

''(ii) Disclose any information other than a credit score or key factor, as defined in subsection (e).

''(iii) Disclose any credit score or related information obtained by the user after a loan has closed.

''(iv) Provide more than 1 disclosure per loan transaction.

''(v) Provide the disclosure required by this subsection when another person has made the disclosure to the consumer for that loan transaction.

''(F) NO OBLIGATION FOR CONTENT.—

''(i) IN GENERAL.—Any person's obligation pursuant to this subsection shall be limited solely to providing a copy of the information that was received from the consumer reporting agency.

''(ii) LIMIT ON LIABILITY.—No person has liability under this subsection for the content of that information or for the omission of any information within the report provided by the consumer reporting agency.

''(G) PERSON DEFINED AS EXCLUDING ENTERPRISE.—As used in this subsection, the term 'person' does not include an enterprise (as defined in paragraph (6) of section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992).

''(2) PROHIBITION ON DISCLOSURE CLAUSES NULL AND VOID.—

''(A) IN GENERAL.—Any provision in a contract that prohibits the disclosure of a credit score by a person who makes or arranges loans or a consumer reporting agency is void.

''(B) NO LIABILITY FOR DISCLOSURE UNDER THIS SUBSECTION.—A lender shall not have liability under any contractual provision for disclosure of a credit score pursuant to this subsection.''.

(d) INCLUSION OF KEY FACTOR IN CREDIT SCORE INFORMATION IN CONSUMER REPORT.—Section 605(d) of the Fair Credit Reporting Act (15 U.S.C. 1681c(d)) is amended—

(1) by striking ''DISCLOSED.—Any consumer reporting agency'' and inserting ''DISCLOSED.—

''(1) TITLE 11 INFORMATION.—Any consumer reporting agency''; and

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

''(2) KEY FACTOR IN CREDIT SCORE INFORMATION.—Any consumer reporting agency that furnishes a consumer report that contains any credit score or any other risk score or predictor on any consumer shall include in the report a clear and conspicuous statement that a key factor (as defined in section 609(e)(2)(B)) that adversely affected such score or predictor was the number of enquiries, if such a predictor was in fact a key factor that adversely affected such score.''.

**SEC. 503. SIMPLER AND EASIER METHOD FOR CONSUMERS TO USE NOTIFICATION SYSTEM.**

(a) IN GENERAL.—Section 604(e)(5)(A)(i) of the Fair Credit Reporting Act (15 U.S.C. 1681b(e)(5)(A)(i)) is amended by inserting ''in a simple and easy manner and'' after ''notify the agency,''.

(b) SIMPLIFIED NOTICE AND RESPONSE FORMAT FOR USERS.—Section 615(d) of the Fair Credit Reporting Act (15 U.S.C. 1681m(d)) is amended—

(1) by redesignating paragraphs (2), (3), and (4), as paragraphs (3), (4) and (5); and

(2) by inserting after paragraph (1) the following new paragraph:

''(2) SIMPLE AND EASY NOTIFICATION.—Any statement given the consumer under paragraph (1)(E) shall be in a simple and easy to understand format and shall describe the simple and easy method established under section 604(e)(5)(A)(i) for the consumer to respond.''.

**SEC. 504. REQUIREMENT TO DISCLOSE COMMUNICATIONS TO A CONSUMER REPORTING AGENCY.**

(a) IN GENERAL.—Section 623(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)) is amended by inserting after paragraph (6) (as added by section 304(3)) the following new paragraph:

''(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.

''(G) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

''(i) NEGATIVE INFORMATION.—The term 'negative information' means information concerning a customer's delinquencies, late payments, insolvency, or any form of default.

''(ii) CUSTOMER; FINANCIAL INSTITUTION.—The terms 'customer' and 'financial institution' have the same meaning as in section 509 of the Gramm-Leach-Bliley Act.''.

(b) MODEL DISCLOSURE FORM.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System shall adopt the model disclosure required under the amendment made by subsection (a) after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

**SEC. 505. STUDY OF EFFECTS OF CREDIT SCORES AND CREDIT-BASED INSURANCE SCORES ON AVAILABILITY AND AFFORDABILITY OF FINANCIAL PRODUCTS.**

(a) STUDY REQUIRED.—The Federal Trade Commission, in consultation with the Office of Fair Housing and Equal Opportunity of the Department of Housing and Urban Development, shall conduct a study of—

(1) the effects of the use of credit scores and credit-based insurance scores on the availability and affordability of financial products and services, including credit cards, mortgages, auto loans, and property and casualty insurance;

(2) the degree of causality between the factors considered by credit score systems and the quantifiable risks and actual losses experienced by

*businesses, including the extent to which, if any, each of the factors considered or otherwise taken into account by such systems are accurate predictors of risk or loss, and where the means square error of a scoring model's predictions are considered in the evaluation of accuracy;*

*(3) the extent to which, if any, the use of credit scoring models, credit scores and credit-based insurance scores result in disparate impact by geography, income, ethnicity, race, color, religion, national origin, age, sex or marital status, and creed, including the extent to which the consideration or lack of consideration of certain factors by credit scoring systems could result in disparate effects and the extent to which, if any, the use of underwriting systems relying on these models could achieve comparable results through the use of factors with less disparate impact; and*

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

*(b) PUBLIC PARTICIPATION.—The Commission shall seek public input about the prescribed methodology and research design of the study required in subsection (a).*

*(c) REPORT REQUIRED.—*

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

*(2) CONTENTS OF REPORT.—The report submitted under paragraph (1) shall include the findings and conclusions of the Commission, together with such recommendations for legislative or administrative action as the Commission may determine to be necessary to ensure that credit and credit-based insurances score are used appropriately and fairly to avoid disparate effects.*

*(d) CREDIT SCORE DEFINED.—For purposes of this section, the term ''credit score'' means a numerical value or a categorization derived from a statistical tool or modeling system used to predict the likelihood of certain credit or insurance behaviors, including default.*

***SEC. 506. GAO STUDY ON DISPARATE IMPACT OF CREDIT SYSTEM.***

*(a) STUDY REQUIRED.—The Comptroller General shall conduct a study of the credit system to determine the extent to which, if any, discrimination exists with regard to the availability and the terms of credit which has a disparate impact on the basis of race, color, income and education level, geographic location, age, sex, sexual orientation, national origin, or marital status and the nature of any such discriminatory effect.*

*(b) REPORT REQUIRED.—Before the end of the 2-year period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress on the findings and conclusions of the Comptroller General pursuant to the study conducted under subsection (a), together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.*

***SEC. 507. ANALYSIS OF FURTHER RESTRICTIONS ON OFFERS OF CREDIT OR INSURANCE.***

*(a) IN GENERAL.—The Board of Governors of the Federal Reserve System shall conduct a study of—*

*(1) the ability of consumers to avoid receiving written offers of credit or insurance in connection with transactions not initiated by the consumer; and*

*(2) the potential impact any further restrictions on providing consumers with such written offers of credit or insurance would have on consumers.*

*(b) REPORT.—The Board of Governors of the Federal Reserve System shall submit a report summarizing the results of the study required under subsection (a) to the Congress no later than 12 months after the date of the enactment of this Act, together with such recommendatioons for legislative or administrative action as the Board may determine to be appropriate.*

*(c) CONTENT OF REPORT.—The report described in subsection (b) shall address the following issues:*

*(1) The current statutory or voluntary mechanisms that are available to a consumer to notify lenders and insurance providers that the consumer does not wish to receive written offers of credit or insurance.*

*(2) The extent to which consumers are currently utilizing existing statutory and voluntary mechanisms to avoid receiving offers of credit or insurance.*

*(3) The benefits provided to consumers as a result of receiving written offers of credit or insurance.*

*(4) Whether consumers incur significant costs or are otherwise adversely affected by the receipt of written offers of credit or insurance.*

*(5) Whether further restricting the ability of lenders and insurers to provide written offers of credit or insurance to consumers would affect—*

*(A) the cost consumers pay to obtain credit or insurance;*

*(B) the availability of credit or insurance;*

*(C) consumers' knowledge about new or alternative products and services;*

*(D) the ability of lenders or insurers to compete with one another; and*

*(E) the ability to offer credit or insurance products to consumers who have been traditionally underserved.*

***SEC. 508. STUDY ON THE NEED AND THE MEANS FOR IMPROVING FINANCIAL LITERACY AMONG CONSUMERS.***

*(a) STUDY REQUIRED.—The Comptroller General shall conduct a study to assess the extent of consumers' knowledge and awareness of credit reports, credit scores, and the dispute resolution process, and on methods for improving financial literacy among consumers.*

*(b) FACTORS TO BE INCLUDED.—The study required under subsection (a) shall include the following issues:*

*(1) The number of consumers who view their credit reports.*

*(2) Under what conditions and for what purposes do consumers primarily obtain a copy of their consumer report (such as for the purpose of ensuring the completeness and accuracy of the contents, to protect against fraud, in response to an adverse action based on the report, or in response to suspected identity theft) and approximately what percentage of the total number of consumers who obtain a copy of their consumer report do so for each such primary purpose.*

*(3) The extent of consumers' knowledge of the data collection process.*

*(4) The extent to which consumers know how to get a copy of a consumer report.*

*(5) The extent to which consumers know and understand the factors that positively or negatively impact credit scores.*

*(c) REPORT REQUIRED.—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress on the findings and conclusions of the Comptroller General pursuant to the study conducted under subsection (a), together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate, including recommendations on methods for improving financial literacy among consumers.*

***SEC. 509. DISCLOSURE OF INCREASE IN APR UNDER CERTAIN CIRCUMSTANCES.***

*Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended by inserting after subsection (f) (as added by section 502(c) of this title) the following new subsection:*

*''(g) DISCLOSURE TO CONSUMER.—*

*''(1) IN GENERAL.—The ability of a credit card issuer to increase any annual percentage rate applicable to a credit card account, or to remove or increase any introductory annual percentage rate of interest applicable to such account, for reasons other than actions or omissions of the card holder that are directly related to such account shall be clearly and conspicuously disclosed to the consumer by the credit card issuer in any disclosure or statement required to be made to the consumer under this title in connection with a credit card solicitation that is not initiated by the consumer.*

*''(2) REGULATIONS AND MODEL STATEMENTS.—The Board, in consultation with the Federal banking agencies and the National Credit Union Administration, shall develop such guidelines in regulations as necessary to assure that the information to be disclosed to consumers pursuant to paragraph (1) is clearly and conspicuously provided in a prominent location in any credit card solicitation that is not initiated by the consumer, and shall include model disclosure statements to be used by credit card issuers in making the disclosures required to be provided to the consumer by paragraph (1).''.*

## *TITLE VI—PROTECTING EMPLOYEE MISCONDUCT INVESTIGATIONS*

***SEC. 601. CERTAIN EMPLOYEE INVESTIGATION COMMUNICATIONS EXCLUDED FROM DEFINITION OF CONSUMER REPORT.***

*(a) IN GENERAL.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended by inserting after subsection (p) the following new subsection:*

*''(q) EXCLUSION OF CERTAIN COMMUNICATIONS FOR EMPLOYEE INVESTIGATIONS.—*

*''(1) COMMUNICATIONS DESCRIBED IN THIS SUBSECTION.—A communication is described in this subsection if—*

*''(A) but for subsection (d)(2)(D), the communication would be a consumer report;*

*''(B) the communication is made to an employer in connection with an investigation of—*

*''(i) suspected misconduct relating to employment; or*

*''(ii) compliance with Federal, State, or local laws and regulations, the rules of a self-regulatory organization, or any preexisting written policies of the employer;*

*''(C) the communication is not made for the purpose of investigating a consumer's credit worthiness, credit standing, or credit capacity; and*

*''(D) the communication is not provided to any person except—*

*''(i) to the employer or an agent of the employer;*

*''(ii) to any Federal or State officer, agency, or department, or any officer, agency, or department of a unit of general local government;*

*''(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) SELF-REGULATORY ORGANIZATION DEFINED.—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.''.*

*(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 603(d)(2)(D) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(D)) is amended by inserting ''or (q)'' after ''subsection (o)''.*

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

***SEC. 701. PROTECTION OF MEDICAL INFORMATION IN THE FINANCIAL SYSTEM***

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

*''(g) PROTECTION OF MEDICAL INFORMATION.—*

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

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

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

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

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

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

*''(2) LIMITATION ON CREDITORS.—Except as permitted pursuant to paragraph (3)(C) or regulations prescribed under paragraph (5)(A), a creditor shall not obtain or use medical information pertaining to a consumer in connection with any determination of the consumer's eligibility, or continued eligibility, for credit.*

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

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

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

*''(C) as otherwise determined to be necessary and appropriate, by regulation or order and subject to paragraph (6), by the 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 paragraphs (1) or (3) shall not disclose such information to any other person except as necessary to carry out the purpose for which the information was initially disclosed, or as otherwise permitted by statute, regulation, or order.*

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

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

*''(B) FINAL REGULATIONS REQUIRED.—The Federal banking agencies and the National Credit Union Administration shall prescribe the regulations required under subparagraph (A) in final form before the end of the 6-month period beginning on the date of the 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.''.*

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

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

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

*''(3) RESTRICTION ON SHARING OF MEDICAL INFORMATION.—Except for information or any communication of information disclosed as provided in section 604(g)(3), the exclusions in paragraph (2) shall not apply with respect to information disclosed to any person related by common ownership or affiliated by corporate control if—*

*''(A) the information is medical information; or*

*''(B) the information is an individualized list or description based on a consumer's payment transactions for medical products or services, or an aggregate list of identified consumers based on payment transactions for medical products or services.''.*

***SEC. 702. CONFIDENTIALITY OF MEDICAL CONTACT INFORMATION IN CREDIT REPORTS.***

*(a) DUTIES OF MEDICAL INFORMATION FURNISHERS.—Section 623(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)) is amended by inserting after paragraph (7) (as added by section 504(a)) the following new paragraph:*

*''(8) 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 the purposes of this title and shall notify the agency of such status.''.*

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

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

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

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

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

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

*(e) FTC REGULATION OF CODING OF TRADE NAMES.—Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended by inserting after subsection (f) (as added by section 301 of this Act) the following new subsection:*

*''(g) FTC REGULATION OF CODING OF TRADE NAMES.—If the Commission determines that a person described in paragraph (8) of section 623(a) has not met the requirements of such paragraph, the Commission shall take action to ensure the person's compliance with such paragraph, which may include issuing model guidance or prescribing reasonable policies and procedures as necessary to ensure that such person complies with such paragraph.''.*

*(f) TECHNICAL AND CONFORMING AMENDMENTS.—Section 604(g) of the Fair Credit Reporting Act (15 U.S.C. 1681b(g)) (as amended by section 701) is amended—*

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

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

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

The CHAIRMAN. No amendment to that amendment shall be in order except those printed in the designated place in the CONGRESSIONAL RECORD and pro forma amendments for the purposes of debate. Amendments printed in the RECORD may be offered only by the Member who caused it to be printed or his designee and shall be considered read.

Are there amendments to the bill?

AMENDMENT NO. 17 OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 17 offered by Mr. OXLEY:

Page 7, after line 9, insert the following new subsection:

(d) CRITERIA FOR ORDERLY IMPLEMENTATION OF FREE ANNUAL CREDIT REPORT PROVISION.—

(1) IN GENERAL.—In developing the regulations and effective dates under subsection (a) (and subject to the time limits in paragraph (2) and subsection (a)), the Federal Trade Commission and the Board of Governors of the Federal Reserve System shall provide a systematic approach for implementing the amendment made by section 501 that allows for an orderly transition to the consumer report distribution system required by the amendment in a manner that—

(A) does not temporarily overwhelm consumer reporting agencies with requests for disclosures of consumer reports beyond their capacity to deliver; and

(B) does not deny creditors, other users, and consumers access to consumer credit reports on a time-sensitive basis for specific purposes, such as home purchases or suspicions of identity theft, during the transition period.

(2) PROHIBITION ON EXTENSION OF EFFECTIVE DATE.—

(A) ONE-TIME AUTHORIZATION.—The Federal Trade Commission and the Board of Governors of the Federal Reserve System may exercise the authority provided under paragraph (1) only once during the 2-month period referred to in subsection (a)(1).

(B) EXTENSION OF EFFECTIVE DATE PROHIBITED.—No provision of this subsection shall be construed as extending, or authorizing the Federal Trade Commission or the Board of Governors of the Federal Reserve System to extend, the 2-month period referred to in subsection (a)(1) or the 10-month period referred to in subsection (a)(2) relating to the requirements imposed on consumer reporting agencies by the amendment made by section 501.

Page 10, strike line 12 and insert ''inserting '(and to specific identity theft prevention subjects covered)' after''.

Page 20, line 7, insert ''a summary of rights, or other disclosure, that is the same as or substantially similar to'' after ''with''.

Page 20, after line 14, insert the following new subsection:

(c) EFFECTIVE DATE.—Paragraph (2) of section 609(d) of the Fair Credit Reporting Act (as added by subsection (a) of this section) shall apply after the end of the 60-day period beginning on the date the model summary of rights is prescribed in final form by the Federal Trade Commission pursuant to paragraph (1) of such section and in accordance with section 3(a) of this Act.

Page 27, line 4, strike '', or duplicative of,''.

Page 28, line 4, strike ''credit'' and insert ''consumer''.

Page 28, strike line 7 and insert ''the biometric industry, and the''.

Page 28, line 8, strike the comma after ''public''.

Page 32, line 11, insert '', using an address or a notification mechanism specified by the consumer reporting agency for such notices'' before the period.

Page 35, beginning on line 25, strike ''thereafter report correct information to'' and insert ''notify''.

Page 36, line 3, strike the period, the closing quotation marks, and the second period and insert ''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.''.

Page 36, after line 3, insert the following new subparagraph:

''(D) FRIVOLOUS OR IRRELEVANT DISPUTE.—

''(i) IN GENERAL.—The requirements of 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 under this paragraph 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.''.

Page 56, line 16, insert before the closing quotation marks the following new sentence: ''This paragraph shall not apply to a person described in subsection (j)(4)(A)(i), but only to the extent that such person is engaged in activities described in such subsection.''.

Page 60, line 16, insert ''or the financial institution reasonably believed that the institution is prohibited, by law, from contacting the consumer'' before the period.

Page 73, strike line 6 and all that follows through line 14, and insert the following new subparagraph:

''(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)).

Page 75, line 8, strike ''purpose'' and insert ''purposes''.

Page 75, line 21, insert ''(and which shall include permitting actions necessary for administrative verification purposes)'' after ''needs''.

Mr. OXLEY. Mr. Chairman, I am pleased to offer this manager's amendment, which reflects extensive negotiations with the committee's ranking minority member, the gentleman from Massachusetts (Mr. FRANK), to resolve issues that arose when the committee marked up this legislation in July. The amendment makes largely technical and conforming changes to legislation that the committee overwhelmingly approved by a vote of 61 to 3.

First, the amendment clarifies that while the new consumer protections against identity theft create uniform standards preempting State laws on the same specific subjects, the bill does not preempt subject matters that are outside the scope of those new provisions, such as limits on Social Security number use or criminal penalties for identity theft perpetrators. This approach assures that the strong new identity theft protections we establish in this legislation are applied uniformly across the country, while leaving undisturbed those State statutes that address subjects not covered by the bill's identity theft provisions.

Second, the amendment includes language responsive to concerns raised by several members at the Committee on Financial Services's markup of the FACT Act relating to the new furnisher reinvestigation duties imposed by section 304 of the bill.

Specifically, the manager's amendment gives furnishers the same right to reject frivolous or irrelevant disputes brought by consumers that credit bureaus have under existing law, including disputes already submitted to and resolved by the furnisher or a credit bureau. The furnisher is required to provide the consumer whose dispute it rejects as frivolous or irrelevant with a notice stating the reasons for that determination and identifying any information required to investigate the disputed information.

Third, the manager's amendment gives direction to the Federal regulators who are required to promulgate regulations establishing effective dates for various provisions of the bill to take into account the need for an orderly transition to a system in which consumers will be able to request a free credit report annually, to avoid overwhelming the credit bureaus and impeding their ability to satisfy time-sensitive requests for reports within the 2- to 12-month effective date provided in the legislation.

Let me again thank the ranking member, the gentleman from Massachusetts (Mr. FRANK), for the cooperative spirit in which he and his staff have worked with us since the committee's markup to make these important improvements to what was an already outstanding piece of legislation. I urge all of my colleagues to support the amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I support this amendment. It is better than we got. It is not all I want, but it improves the bill, as is appropriate for this particular form of a non-controversial amendment in a technical way. It embodies some improvement in the situation vis-a-vis the retroactive California preemption that was embodied in the colloquy.

The colloquy that the gentleman from Alabama and the gentleman from Ohio and I had is really an explanation of what is in this particular manager's amendment, I think it will improve the bill, and I urge it be adopted.

The CHAIRMAN. The question occurs on the amendment offered by the gentleman from Ohio (Mr. OXLEY).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT NO. 8 OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Ms. WATERS:

Page 7, line 15, insert ''(a) IN GENERAL.—'' before ''Section''.

Page 7, after line 24, insert the following new subsection:

(b) SPECIFIC EXCEPTIONS.—Section 624 of the Fair Credit Reporting Act (15 U.S.C. 1681t) is amended by adding at the end the following new subsection:

''(e) SPECIFIC EXCEPTIONS.—Subsections (b) and (c) shall not apply to—

''(1) the California Financial Information Privacy Act (division 1.2 of the California Financial Code, as in effect after June 30, 2004); or

''(2) the Consumer Credit Reporting Agencies Act of California (sections 1785.1 through 1785.36 of the California Civil Code).''.

Ms. WATERS. Mr. Chairman, first let me say that the gentleman from Ohio (Chairman OXLEY) and the ranking member, the gentleman from Massachusetts (Mr. FRANK), worked very, very hard to get a bipartisan bill to bring everybody together, along with the gentleman from Alabama (Mr. BACHUS). I think everybody put their best foot forward on this legislation, and I am just sorry that I am not able to support the bill simply because I have to protect California.

I think there was a misunderstanding somewhere along the way. I made lot of inquiries about whether or not post-1996 legislation or laws were protected in this bill. I was led to believe that they were protected, but now I find that they were not protected, and what we stand to do is literally undo or preempt much of the good consumer legislation that has been produced in my State. So I must object to the permanent preemption provisions that are proposed in this bill, the Fair and Accurate Credit Transaction Act.

I believe that the States should be free to adopt more extensive consumer protections than those that are provided in this Fair Credit Reporting Act. I believe that the national standards contained in the Fair Credit Reporting Act should be the floor, not a ceiling, on the protections available to consumers. States should have the right to provide additional protections.

I will ask my colleagues on both sides of the aisle, do any of you know what the next major consumer problem will be in the year 2010? In 1996, when the amendment to the Fair Credit Reporting Act was established, identity theft was not even on the radar. We had never even heard of identity theft. The idea that someone would violate a person by stealing their identity and accessing their financial records was not an issue we were familiar with. Now it is the fastest growing consumer complaint to the FTC, with over 200,000 complaints in 2002 alone.

As Californians, our laws on such emerging consumer issues as identify theft represent the gold standard in consumer protection, and that is why I am asking for support on an amendment to carve out all of California laws enacted since the passage of 1996 amendments to the Fair Credit Reporting Act from preemption provisions contained in the bill.

There has been an attempt, well, I do not know what happened, but, again, there was a misunderstanding, and I was misled. All of the consumer protections that were enacted after 1996, with the exception of California Civil Code 1785.25(a) regarding furnishers, are preemptable. So, I have a long list.

For example, let me tell you what is preempted. Consumer reporting agencies must disclose the names and addresses of all sources of information used in Consumer Reports. That is California law, now preempted if this passes.

California also requires consumer reporting agencies to, with a reasonable degree of certainty, match at least three categories of identifying information within the consumer's file with the information provided by a retailer. The categories of identifying information may include the consumer's first and last name, month and date of birth, driver's license number, place of employment, current residence, previous residence, or Social Security number. This effectively reduces a successful attempt at identity theft and reduces the chances for mistaken identity.

Another preemption, a consumer has the right to receive his or her credit score, the key factors in any related information. Another preemption.

A consumer would be able to have a security freeze placed on his or her credit report by making a request in writing by certified mail with a consumer credit reporting agency. A security freeze prohibits the consumer reporting agency from releasing the consumer's credit report or any information from it without the expressed authorization of the consumer. It would preempt it.

Upon receipt from a victim of identity theft of a police report or valid investigative report, a consumer reporting agency must provide a victim of identity theft with up to 12 copies of their credit report during a consecutive 12-month period free of charge. It is very hard to straighten up this identity theft. Sometimes it takes 3 to 4 years. But if you are getting that credit report every month and you can compare what has been taken off, what has been left on, where the mistakes are, you can wind out of this thing.

With strong consumer protections, Federal preemption of States would not be necessary because Federal law would be the floor, rather than the ceiling.

Then, again, as all of you are aware, this past August, California signed into law SB1, which provides strong consumer protections that should be the law of the land. You are going to hear more about this in an amendment additional to mine that will be presented.

But, again, let me just say that whatever the mistakes were, I should have been involved in the manager's amendment to correct these problems. I have not been placed in there. So I do not know what we are going to do, but I ask my colleagues to please consider what has been done here.

Mr. OXLEY. Mr. Chairman, I ask unanimous consent that debate on this amendment and any amendments thereto be limited to 20 minutes, equally divided and controlled by the proponent and opponent.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. SHERMAN. Reserving the right to object, the gentleman's unanimous consent applies to this one amendment?

Mr. OXLEY. Mr. Chairman, if the gentleman will yield, yes.

Mr. SHERMAN. Mr. Chairman, I withdraw my reservation of objection.

Mr. FRANK of Massachusetts. Mr. Chairman, reserving the right to object, because this came afterwards, what happens to the 5 minutes just used? Is it subsequent to the 5 minutes the gentlewoman just used?

Mr. OXLEY. Mr. Chairman, if the gentleman will yield, that is fine with me.

Mr. FRANK of Massachusetts. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. The unanimous consent request is that further debate on this amendment be limited to 20 minutes.

Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The gentlewoman from California (Ms. WATERS) will control 10 minutes and a Member in opposition will control 10 minutes.

Mr. OXLEY. Mr. Chairman, I designate the gentleman from Alabama (Mr. BACHUS) to control the 10 minutes on this side.

The CHAIRMAN. The gentleman from Alabama will control the time in opposition.

Ms. WATERS. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Chairman, I want to acknowledge that the gentlewoman from California is absolutely correct. She did call to my attention during this discussion on this bill the potential problem that she learned about of a retroactive preemption. I missed it. I made a mistake in this case. She was correct and we should have spotted it. I think it is incorrect.

I want to make clear we are talking about two separate issues here on the preemption. There is the preemption prospectively of what is known as SB1. That is not what is at issue here. There will be a second amendment on that.

This has to do with laws that were passed by California subsequent to 1996 that were not subject to preemption at the time that would now be retroactively preempted. I think that is a mistake.

I should note that the gentlewoman read a list of preemptions. In many of the cases I acknowledge what is preemptive does provide some protection. In other words, it is not a case where there is a preemption, all protections are wiped out. In some cases, the protections are functionally equal. In other cases, they may be somewhat different. But these are laws that had been on the books in California. My view was that this bill ought to go forward with the existing preemptions, with some new consumer protections. It was not my intention to extend the preemptions. Through failure to spot

the meaning of some particular words, I must concede that this happened.

□ 1615

I regret that. We have tried in conversations to undo it. We have in the manager's amendment undone some of it, but not enough of it. But as I said, there are still some of the sections preempted and are replaced by other protections, so it is not a case where there will be no protections at all; but it does seem to me still that there are some rollbacks of California law that were unnecessary.

So as a matter of fairness to California, I do not think we should have been preempting without full knowledge.

Now, I do not mean to say that anybody did anything inappropriate. I should have been clearer about what was happening and we simply failed to spot the meaning of four words; that sometimes happens. I support the gentlewoman's amendment. I think the California laws are substantively wise, but that is not the primary point. My primary point is that we should not be here retroactively preempting what a State has done. That is very different than the future of SB1. We will talk about that later.

So I strongly support the gentlewoman's amendment; and throughout this process, because this bill is a long way from being sent to the President, I will continue to do what I can. She is correct, she and the other gentlewoman from California who serves on the committee called this to our attention, they deserved a better response than they got; and I will do everything I can now to correct the error that we made.

Mr. BACHUS. Mr. Chairman, I rise in opposition to the amendment, and I yield myself such time as I may consume.

Mr. Chairman, let me first stress that the legislation before us on which we are having an amendment by the gentlewoman from California now, and we will have one from the gentleman from Vermont which will follow that, I first want to say to them that there are many important consumer protections in this bill: free credit report, fraud alerts, the one-call-does-it-all, protecting of health information. And I want to commend both of the gentlewomen for their participation in that. So I do want to say that several of their suggestions, several of the things that they advocated are in this legislation.

To the gentlewoman from California, I rise in opposition to disregarding a national uniform standard in the case of, and this amendment covers two different acts; one of them because the act before us simply does not address a lot of the Gramm-Leach-Bliley things that this legislation did not address. I think this Congress will, at some point, take up a review of those things. The second one does deal with ID theft; it is the California legislation that was just passed.

This legislation before us today, if it passes, Californians will have important new protections in ID theft cases. And I think we all, no matter how we feel about the gentlewoman's amendment, I hope we can all agree on that. We do think that this amendment really strikes at the essence of this bill; and that is a broad, uniform standard where what is done in California meets the test of what is done in Alabama, and what is done in Alabama meets the test of what is done in Ohio. If we apply different standards to fraud alerts, if we require different standards of credit reporting agencies or reports, there is so much interaction here between States. It simply drives up the expense, when California, representing a fourth of this Nation, can impose its own standards on a national issue in which, on a daily basis, millions of transactions are crossing State lines.

Mr. Chairman, I reserve the balance of my time.

Ms. WATERS. Mr. Chairman, I yield myself 1 minute to explain to the gentleman that this is not an imposition on the rest of the country; this is a carve-out for California. This is a protection for what we have already done. We have protections in the law from 1996; and what we are saying is, you should not have national standards that are less than what we have produced in California. I have tried to protect that. I thought that I had. And as our ranking member said, a mistake was made. We thought, based on the representations of everybody, that it had been protected. And now I am here with an amendment that simply says, leave California alone and allow the better consumer laws to stand in California. Do not preempt these laws with standards that are less than what we have in California.

Mr. BACHUS. Mr. Chairman, will the gentlewoman yield?

Ms. WATERS. I yield to the gentleman from Alabama.

Mr. BACHUS. Mr. Chairman, is the gentlewoman talking about cases in identity theft? Is that what we are talking about?

Ms. WATERS. No. As the ranking member tried to explain, there are two different issues here today.

The CHAIRMAN. The time of the gentlewoman has expired.

Mr. BACHUS. Mr. Chairman, I yield the gentlewoman 1 minute of my remaining time.

Ms. WATERS. Mr. Chairman, there are two different issues here. When we did this work in committee, we thought that we had protected the consumer laws that were made in California after 1996; and everybody, all of our staff people, everybody thought so, on both sides of the aisle.

Mr. BACHUS. As to identity theft?

Ms. WATERS. No. I just read a number of them a few minutes ago in my presentation that had to do with some other laws, with credit reports and some other kinds of things.

Mr. BACHUS. Well, the amendment deals with two specific acts.

Ms. WATERS. Yes.

Mr. BACHUS. One of those acts was just passed by the California legislature in the past few days.

Ms. WATERS. Yes. That is the latter part. That is the latter part of this amendment. But the amendment that I am speaking to now is the one where I said consumer reporting agencies must disclose the names and addresses of all sources of information. California requires consumer reporting agencies to, with a reasonable degree of certainty, match at least three categories identifying information. I read a list of items that had been preempted that none of us thought had been preempted, and I am trying to carve out for California and put them back in.

Mr. BACHUS. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from Alabama (Mr. BACHUS) has 6 minutes remaining; the gentlewoman from California (Ms. WATERS) has 6 minutes remaining.

Ms. WATERS. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, first let me just say I do rise in strong support of the Waters amendment to protect Californians', Californians' mind you, financial privacy laws and identity theft provisions. I applaud my colleague from California for her leadership on this issue, for identifying a mistake that was made, and really for just trying to correct it in a very rational way. That is what this amendment does. It corrects a mistake that was made. This bill is a bipartisan bill. We all wanted to support it; but coming from California, the gentlewoman has figured out a way that we should support this, and it would be a win-win for all of us.

The FTC, Mr. Chairman, reported on September 3 that 27.3 million Americans have been victims of identity theft in the last 5 years, including 9.91 million people, or 4.6 percent of the population in the last year alone. Now, these are epidemic levels, and we must do everything we can do to prevent identity theft and to help the victims of this horrendous crime. That is why this amendment is so important. It would preserve very important California laws on identity theft. These are California laws.

Let us be clear. If we do not adopt the Waters amendment today, Californians will lose vital identity theft provisions currently provided in California law. Victims of identity theft will lose the right to a free monthly credit report. Victims of identity theft will lose the protection of California's law providing the right to correct a credit report with a police report. Victims of identity theft will lose the protections of California's law requiring credit bureaus to place a fraud alert within 5 business days of receipt of a request from the consumer. And the list continues. In total, seven existing California laws would be wiped out by this bill and another four will probably be

eliminated. It really simply defies logic to kill these existing California protections for the victims of identity theft when we are facing a growing identity theft crisis in our State.

Again, I thank the gentlewoman for her leadership. I thank her for offering this fix to this very important bill, and I hope that we all can support this correction of a major error that was made.

Mr. BACHUS. Mr. Chairman, I yield myself such time as I may consume.

What this amendment does, first of all, it addresses two things; one is SB1 that was just passed in California. And as to affiliate-sharing, that is what is preempted by this legislation. But the present preemption, what we are doing is, we are taking a preemption that presently exists in the law and we are extending it as of January 1. So SB1 as to affiliate-sharing, you cannot do that today in California. You would be, if FCRA was not renewed.

Now, the second component that you have here is California's version of FCRA. And what that would do, the Waters amendment would not only allow California to change its law on an ongoing basis, but beyond what we grandfathered today, and we are grandfathering some of those protections, but it would also resurrect certain laws that are preempted today.

Now, as to a uniform standard, and I want to go back to what we posed to Treasury and what their response was in testimony before our committee, why should uniform national standards be extended to include matters that are designed to help fight identity theft? Why should not States be able to adopt stricter anti-ID theft measures?

Now, since that time, in the manager's amendment, we have allowed a lot of those as long as they do not affect the operation of the FCRA, and the answer that we got from the Federal Reserve, from the Treasury, from the FTC was that it would literally cost millions of dollars; that it is important to have national uniform standards for identity theft prevention measures.

For example, section 202 of the act calls for the development of a national fraud alert system. This requires the credit reporting agencies that operate on a nationwide basis to allow consumers to place various types of alerts in their credit reports when they are victims of identity theft. Now, we require certain things to go into those alerts. If California requires other things, then a company doing business in Ohio or Alabama or New York would not only have to comply with that law, they would have to comply with the California law if they had customers or consumers in California. Merchants dealing with California consumers would not only have to comply with the national law, they would have to worry about the law in all 50 other States with credit reports.

□ 1630

We would have a gradual erosion and chipping away of our national system. And we took volumes and volumes of testimony how the person most penalized by this would be the consumers in paying higher interest rates, also in being a less effective national standard. We would also discourage people from using the National Uniform Credit System to report and to furnish information if they thought they not only had to comply with a national law but a California law.

Finally, philosophically, when California is able to basically define what FCRA will be, then California imposes its will on the national policy. And we have to have a national policy. We have representatives of California here. In fact, probably one-fifth of this body is made up of California representatives, or one-sixth. They participated in this.

I anticipate that when this final vote is taken, the vast majority, as in committee, of Californians will vote for this legislation. But we simply cannot allow any State to dictate how this system will operate in Alabama, Ohio, New York or to impose additional requirements and costs on consumers in California or Massachusetts or other States. Simply put, this amendment, it sounds good but it strikes at the very efficiency, the cost efficiency, of our national credit reporting system. It bogs it down.

I will conclude with this: California recognized this when they preempted the law of several large cities in California who had attempted to impose their own standards simply by saying we cannot. The cost of cities and counties imposing their own standard would be prohibited. California ought to see that that logic also applies on a national level.

Governor Davis, I believe, initially bought into this. Initially when this legislation, some of this legislation was proposed, he did not sign it. He did not support it. He is now facing a recall in a few weeks, but I am not sure that is the time to judge what ought to be done in the middle of a politically expedient campaign.

Mr. Chairman, I reserve the balance of my time.

Ms. WATERS. Mr. Chairman, how much time is remaining?

The CHAIRMAN. The gentlewoman from California (Ms. WATERS) has 4 minutes remaining. The gentleman from Alabama's (Mr. BACHUS) time has expired.

Ms. WATERS. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont (Mr. SANDERS).

(Mr. SANDERS asked and was given permission to revise and extend his remarks.)

Mr. SANDERS. Mr. Chairman, I thank the gentlewoman for yielding me time.

California may have one-sixth of the Members in this body, Vermont does not. I am it and I rise in strong support of the Waters amendment.

The issue of preemption was hotly debated in the Committee on Financial Services, and on one side of that issue was virtually every consumer organization in America. Groups like the Consumer Federation of America, the U.S. Public Interest Research Group, Consumers Union, and many others. And some of us in the committee supported these consumer organizations, making the point that the gentlewoman from California (Ms. WATERS) just made. That in the nature of our government, we are the United States of America, there are 50 States in our country. And sometimes one State does something really good and a whole lot of other States learn from that State. And that is one of the reasons that we have a creative form of government with a lot of ideas that are flowing.

On the other side of that debate, of course, were the credit card companies and the banks. And let us be clear, they do not want strong consumer protection. They are the people who are charging individuals in this country 25 percent interest rates on their credit cards. They do not want to see governors and legislatures and attorneys general stand up strongly and protect consumers. So what ends up happening is that we have a national bill which has admittedly some good provisions in it, but at the same time, it takes away the ability of 50 States to go further.

So the gentlewoman from California (Ms. WATERS), the gentlewoman from California (Ms. LEE), and I and many others were fighting for higher Federal standards, more consumer protection, but at the same time, give California the right to go forward.

It is inconvenient. Well, democracy is inconvenient. Alabama does some things. Vermont does some things. We live together. We learn from each other. We argue with each other, but we do not take away, we should not take away the rights of the States to go further. I support this amendment.

Mr. Chairman, I support the amendment offered by Congresswoman WATERS. This amendment would simply allow the 7 Fair Credit Reporting Act preemptions to expire, as Congress intended, on January 1, 2004 in order to allow the 50 states of this country to pass stronger consumer protection laws to improve the accuracy of credit reports and to aggressively fight identity theft.

I should note right off the bat that every major national consumer group in this country including the Consumer Federation of America, the U.S. Public Interest Research Group, Consumers Union, and the National Consumer Law Center all vigorously oppose state preemption. I would also like to tell you that the National Association of Attorneys General, representing all 50 States of this country, unanimously passed a resolution opposing the 7 FCRA state preemptions.

Mr. Chairman, you know my views on this subject. If my State of Vermont or your State of Ohio wants to pass laws that are stronger than the Federal Government's, we should give States that right. The States are the laboratories of Democracy. You know what happens here. If there is a particular identity theft crisis in Colorado and the Colorado State Legislature passes a law to correct this problem,

and it works, what happens? Pretty soon, California may pass the same law. Then Nebraska. Then Maryland. And, eventually it filters up to the federal government and we have a good national law on the books. But, if this legislation is signed into law, we would permanently prevent the States from taking this action. We hear a lot of talk from conservatives about protecting the States and the American people against the big, bad and instrusive Federal Government. Well, call me a conservative on this issue because I believe that the 50 States in this country should be able to pass their own laws and should not be pre-empted by the Federal Government from passing stronger laws that protect consumers. So, I would say to my conservative friends on the other side of the aisle, vote for my amendment. It is consistent with your philosophy on the role of the government.

And to my Democratic friends on this side of the aisle, I ask all of you to vote for this amendment as well. Let us not forget that just last week, during a recent mark-up of the Securities Fraud Deterrence and Investor Restitution Act (H.R. 2179) in the Capital Markets Subcommittee, virtually every Democrat voted against preempting the states from taking strong enforcement actions against Wall Street firms that defraud investors. I agree. The 50 States of this country should not be prohibited from aggressively punishing corporate wrongdoing.

Today, we are dealing with the exact same issue: state preemption. But, this time it deals with consumer protection. Just like we should not prohibit States from aggressively punishing corporate wrongdoers, to my mind, we should also not permanently bar the states from aggressively punishing identity thieves and improving the accuracy of consumers' credit reports. Therefore, I hope my Democratic friends will vote for this amendment as well.

Mr. Chairman, as we all know, the newspapers are filled with horror stories about the harm being done to consumers by identity thieves. This problem is compounded by the shabby job done by the credit reporting system in ensuring that consumers' credit reports are accurate and up-to-date. States have been at the forefront of the effort to stop identity thieves and to clean up the credit reporting industry. The federal government should be a partner in that effort but should not pull the rug out from under the states. There is no greater impediment to consumer credit than a credit report full of errors. There is no reason to tie the states' hands.

We have heard from the financial services industry and the major credit bureaus that if we don't extend these state preemptions, the entire credit system will collapse. But, let us not forget, we had a national credit system before the 1996 state preemptions were inserted, and it worked well. For example, one of the witnesses that we heard from on this issue from Juniper Bank who supports preemption cited a study that showed ''in 1990, more than 70 percent of credit card balances were being charged more than an 18 percent annual interest rate. By 1993, only 34 percent of credit card balances were being charged more than 18 percent interest.''

Great study. All of the benefits to consumers just happened to be 3 years before the 1996 preemptions were enacted.

Another supporter of state preemption who testified at our first hearing from the Information Policy Institute pointed to another study that showed that credit card prices ''declined by almost 35 percent between the first quarter of 1984, and the fourth quarter of 1996,'' saving consumers ''about $30 billion per year.''

Again, great study. All of the benefits to consumers happended to occur before the 1996 state preemptions were enacted.

In addition, the 1996 FCRA amendments specifically grandfathered stronger consumer protection statutes in California, Massachusetts and Vermont from pre-emption. What have we seen in these 3 states that have stronger consumer protection laws in regards to credit reporting? We have seen that my State of Vermont now has the lowest rate of consumer bankruptcies in this country; the State of Massachusetts has the second lowest consumer bankruptcies in the United States; and California comes in ahead of the median. At a time when the United States as a whole experienced the highest rate of bankruptcy cases in history, increasing by 23 percent since 2000, I would say that these three examples gives us proof that stronger State consumer protection laws work.

What about mortgage rates? Well, the most recent data indicate that the State of California has the lowest effective rate for a conventional mortgage in the nation, and Vermont and Massachusetts were well below the median. Sounds pretty good to me.

In addition, let us not forget why the 1996 FCRA amendments were enacted. While identity theft complaints have been the number one complaint to the FTC each year since 2000, and in fact doubled from 2001 to 2002, it was credit bureau mistakes which were the number one complaint to the FTC 10 years earlier. And it was credit bureau mistakes, and complaints about them, that led Congress to the 1996 FCRA amendments. From 1990–92, according to a study by U.S. PIRG, mistakes in credit reports were the number one complaint to the FTC. What will the new crisis be? We don't know for sure. But, if we permanently preempt the States from acting on future problems, we will do this country a great disservice.

Moreover, if some of the new members don't believe Congress intended these preemptions to sunset, I would refer them to the floor statement of the former Ranking Member of the Banking Committee and former Republican Congressman from California Al McCandless who had this to say during the floor debate on this bill:

''The issue over whether the Fair Credit Reporting Act should preempt more stringent State laws or whether it should permit States to enact tougher credit reporting statutes has been one of the single toughest issues for the Banking Committee to tackle. On the one hand, many of our Members like the idea of a national uniform standard. On the other, we do not want to tie the hands of State legislatures. I think that this compromise bill resolves the issue of preemption to most everyone's satisfaction. The Fair Credit Reporting Act as amended by this compromise bill, will be the law of the land for the next 8 years. It will provide consumers across the country with greater protection than is currently offered by any existing State statute. A uniform national standard will make compliance more straightforward and will facilitate the extension of credit to consumers. States will be able to enact more stringent legislation if necessary after 8 years.''

Let me repeat, ''States will be able to enact more stringent legislation if necessary after 8 years.''

That's what was said by the top Republican on the Banking Committee on the floor of the House when a compromise was reached on this bill. Let's stick to that compromise and support this amendment.

Ms. WATERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think I made the case as clearly as it can be made. I was told by everybody that certain California laws after 1996 were protected. Now I find that they have been pre-empted. And I really do not think it is fair that I find myself here on the floor today having the laws of my State pre-empted and a manager's amendment that does not attempt to correct it.

I suppose I believe that my ranking member is going to do everything he can, I guess working in conference somewhere, to try and give back the protections that we have in California. I have always maintained that the Federal standard should be the floor. If any State would like to protect its consumers more, who is the Federal Government to tell them they cannot do it? That is wrong.

I do not buy the argument that it is inconvenient for some bank or financial institution to have to deal with California, because California has better consumer laws, and they would just rather be able to deal with them the same way that they deal with everybody else.

I do not think it is fair, and I do not think we should use the powers of our government to do that.

Let me just say this, that knowing that I was today that we were not pre-empted, and this does not have anything to do with SB1, I am talking about those laws that I referred to. Knowing that I was told that, I would expect my colleagues, who have worked pretty well on both sides of the aisle, to try and get a bill that everybody could support, that you would at least represent to me that you are going to try and undo the mistake. That you are going to try.

Mr. BACHUS. Mr. Chairman, will the gentlewoman yield?

Ms. WATERS. I yield to the gentleman from Alabama.

Mr. BACHUS. I will say this: Yes, there are provisions of California law that were preempted, but they are provision where we established a consumer protection on a national basis. And in almost every one of these cases, we went beyond what most States do.

Ms. WATERS. Reclaiming my time, we have to compare it issue-by-issue and then determine whether or not, in fact, you have done better or you have done worse.

The CHAIRMAN. All time for debate on the amendment offered by the gentlewoman from California (Ms. WATERS) has expired.

The question is on the amendment offered by the gentlewoman from California (Ms. WATERS).

The amendment was rejected.

The CHAIRMAN. Are there any further amendments?

Mr. OXLEY. Mr. Chairman, I ask unanimous consent that debate on the following amendments, and any amendments thereto, be limited to the time specified equally divided and controlled by the proponent and opponent as follows:

The amendments numbered 2, 5, 7, 9, and 10 in the CONGRESSIONAL RECORD shall be debatable for 10 minutes;

The amendments numbered 1, 6, 11, 12, and 16 in the CONGRESSIONAL RECORD shall be debatable for 20 minutes;

And the amendments numbered 15 and 4 in the CONGRESSIONAL RECORD shall be debatable for 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. SHERMAN. Reserving the right to object, Mr. Chairman, I thought that the Lee-Sherman amendment was getting 40 minutes equally divided. I could be wrong on that. What was the agreement?

Mr. OXLEY. Thirty minutes, Mr. Chairman.

Mr. SHERMAN. Mr. Chairman, would the gentleman mind having the Lee-Sherman amendment given 40 minutes?

Mr. OXLEY. What number is that?

Mr. SHERMAN. Number 15.

Mr. OXLEY. Number 15? I would give it 35 minutes. How is that for a compromise?

Mr. SHERMAN. That is a wonderful idea, Mr. Chairman.

Mr. OXLEY. Mr. Chairman, I amend my unanimous consent request to make the amendment number 15 debatable for 35 minutes.

The CHAIRMAN. Is there objection to the request with the addition that amendment number 15 be debatable for 35 minutes equally divided?

There was no objection.

The CHAIRMAN. Are there further amendments?

AMENDMENT NO. 15 OFFERED BY MS. LEE

Ms. LEE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 15 offered by Ms. LEE:

Page 7, after line 24, insert the following new section:

**SEC. 102. FINANCIAL PRIVACY EXCEPTIONS.**

Section 624 of the Fair Credit Reporting Act (15 U.S.C. 1681t) is amended by adding at the end the following new subsection:

''(e) FINANCIAL PRIVACY EXCEPTIONS.—Subsections (b) and (c) shall not apply to the California Financial Information Privacy Act (division 1.2 of the California Financial Code, as in effect after June 30, 2004) or the law of any other State that is similar to the California Financial Information Privacy Act.''.

The CHAIRMAN. The gentlewoman from California (Ms. LEE) will be recognized for 17½ minutes and a Member opposed will be recognized for 17½ minutes.

The Chair recognizes the gentlwoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first, let me thank the gentleman from Ohio (Mr. OXLEY) and the ranking member, the gentleman from Massachusetts (Mr. FRANK) for their diligent work to really make this a bipartisan bill. Of course, I cannot support it as long as it preempts California and that is what it does.

I offer this amendment today on behalf of all Californians and all Americans, really, who deserve and want to take back control of their private financial information. And I want to thank my California colleague, the gentleman from California (Mr. SHERMAN), the gentleman from California (Mr. FARR), the gentlewoman from California (Ms. WATERS), the gentlewoman from Illinois (Ms. SCHAKOWSKY), the gentleman from Massachusetts (Mr. MARKEY), and all of those who have been working on this very, very important issue and this important amendment.

Mr. Chairman, our amendment would make a major step towards reclaiming consumers' financial privacy by doing the following: First, it protects California's recently enacted landmark Privacy Act; and, secondly, it allows every State to enact financial privacy laws giving consumers in those States similar protections to Californians, which, of course, is the strongest in the Nation, if they so choose, only if they so choose. For those of you who are not fortunate enough to hail from the great State of California and may not be familiar with California's new law, let me just provide a little bit of background.

What does the new privacy law do? It gives consumers the right to stop the sharing of information by financial institutions, unless they meet very stringent criteria. The law requires financial institutions to obtain a consumer's affirmative consent before sharing information with most third parties. It also provides standards for consumers to receive clear notice of their rights.

Now, how did this groundbreaking law come about? Well, it was the result of a long hard fight and it is a major effort by California State Senators, Jackie Speier and John Burton. And I really want to thank them for their tireless effort in working with the financial institutions in California to come up with this arrangement, this compromise, this law which really did result in resounding bipartisan support for the bill SB1, which passed the California Senate by a vote of 31 to 6 and passed the assembly by a vote of 76 to 1.

Yes, I also want to thank Governor Davis for really standing up for California consumers by signing this bill. But it is very important, I believe, to recognize the critical role California consumers played in the fight for new and strong financial protections because in the end it was this broad support and the very hard work of California consumers that pushed the bill forward.

In fact, I want to cite a January California opinion poll to demonstrate the overwhelming popularity for a strong financial protection. Now, the poll found that 91 percent of individuals supported a ballot initiative that will require a bank, credit card company, insurance company or other financial institutions to notify a consumer and to receive a customer's permission before selling any financial information to any separate financial or nonfinancial company. The support was strong regardless of party affiliation: 96 percent of Democrats, 88 percent of Republicans, 90 percent of Independents. Clearly, financial privacy is not a partisan issue.

Now these groundbreaking, popular, hard-won protections which were negotiated with our financial institutions in California are threatened because of this bill before us today. Let us be clear, this bill does preempt California law. And what does that mean? That means that important California protections will just basically be wiped out. In fact, it means that Californians will never see parts of the law that was signed by the governor. And it means that the will of an overwhelming majority of Californians will be overturned by what we are doing today.

We cannot allow that to happen. We have an obligation to stop that and this amendment would do exactly that. And just like we have an obligation to stand up for all of our consumers today, we are standing up for our California consumers. We have an obligation to stand up for consumers, as I said, all across the country so that they have the opportunity to protect and to control their intimate financial details.

□ 1645

Consumers in California are no different than consumers everywhere when it comes to their financial privacy. Strong protections are what they seek and what they deserve.

I want to take a moment to address some of the inflated and really irrational concerns that have been raised about our amendment. It will not bring commerce to a grinding halt. It will not mean an end to affordable mortgages, and it will not leave more minorities without access to credit. It will not put an end to ATM machines, and it will not ruin the credit system as we know it.

It will merely require banks and insurance companies and other financial institutions to ask California consumers before they share and sell their private information. It will merely allow consumers and other States to benefit from similar protections in the future if they determine that it makes sense for them.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentleman from Ohio (Mr. OXLEY) claim the time in opposition?

Mr. OXLEY. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman from Ohio (Mr. OXLEY) is recognized.

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment and this really strikes at the heart of what we are trying to do in this legislation to provide national uniformity of our credit system. The Lee amendment would destroy the national uniformity with respect of the ability of the financial institutions and others to share information among affiliated entities.

The Lee amendment does not affect only Californians. Would that be the case, I would not be as particularly concerned, but by grandfathering the California law with respect to affiliate sharing, the Congress would actually abdicate its obligations by allowing California to set the national standard with respect to affiliate sharing. I suggest to my colleagues that that is the responsibility of the national legislature, indeed the Congress.

In essence, many financial institutions will not be able to adhere to multiple sets of rules with respect to affiliate sharing. Then what happens? Some or many will simply adopt the California requirements as the national standard, and ultimately, it becomes California setting national standards, and while I have a great deal of respect for my colleagues from California and the Golden State, I do not think it is a responsible position for the Congress to abdicate that responsibility to the Golden State.

So the question is not necessarily whether there will be a national standard but, in fact, who will set it, and ultimately, the Constitution provides the ability of the Congress to set those national standards.

The Lee amendment also would allow any other State to adopt its own laws with respect to affiliate sharing. Therefore, financial institutions and consumers could find themselves attempting to understand dozens of State laws pertaining to affiliate sharing. The actions dealing with privacy in California should not impact the Federal debate on FCRA, and this is important to understand. The affiliate sharing provisions in the California law are preempted by the existing provisions of FCRA today. So they will be essentially null and void whether Congress reauthorizes the FCRA or whether it does not.

The understanding among all parties in California was that the affiliate sharing provisions would be invalidated under the existing FCRA national standard. The negotiations on the California law and the shift of several companies positions in opposition to neutral was based on opposition to a State-wide referendum and was part of the negotiations that went on in the California legislature. That is not unusual in today's making of laws in any particular State.

In short, grandfathering California law and future laws in other States guts our national uniform standards and harms consumers across the country, could cause an increase in interest rates, inability to get credit, precisely the opposite of what we are trying to do in this legislation. That is why this legislation passed 61 to 3 in the Committee on Financial Services. That is why we have a broad base of support for this legislation across the aisle, among all sections of the country, why we have had strong leadership from both sides of the aisle on this important legislation.

We do not need at this point to get in a situation where we have a rush by other States to simply gut our national standards. That is not what we are about in this body, and all of us who have supported this legislation, who probably cosponsored and voted for it in committee and sent letters, Dear Colleagues, out supporting this legislation need to understand that this is a killer amendment to what we are trying to do in the underlying legislation, and that is why this amendment should be defeated.

Mr. Chairman, I reserve the balance of my time.

Ms. LEE. Mr. Chairman, I yield 5 minutes to the gentleman from southern California (Mr. SHERMAN), cosponsor of this amendment.

Mr. SHERMAN. Mr. Chairman, I thank the chairman for arranging an extra 5 minutes to debate this important amendment. It is our intention to offer it, and then withdraw it at the end of this discussion, in the hopes that these issues can be dealt with effectively in conference. By withdrawing the amendment at the end of this discussion, we will save the House at least 30 minutes as compared to a recorded vote, thus giving my colleague a six-time return on his investment.

This is a good and necessary bill. We have an amazing credit system in this country where a bank on the east coast will compete for the opportunity to lend money to somebody on the west coast who they have never met; even when none of the banks' employees knows anyone who knows the borrower. Imagine that compared to where we were in this country 100 years ago, when it took a personal relationship with a banker to get a loan. This is an amazing system, and it can exist only with national credit reporting that borrowers and lenders can rely upon and only with a national system that regulates that national credit reporting.

But in our effort to have national standards, which our friends on the other side of the aisle have explained the importance of, we should not reach the lowest common denominator. Instead, we need to look at what the States have done to protect their consumers and try to have a national standard that is at least as high, or at least addresses each of the different consumer protection issues. So, this bill needs to be compared to California law to see whether it achieves that, or whether it might achieve it at the end of the conference.

There are two sets of consumer protections in California law. The first is known as the pre-SB1, pre-Speier's bill protections. In this area, we from California had been told that none of the California pre-SB1 protections would be preempted. But in fact, they were. However, the violence done by that preemption is perhaps not as great as some of my colleagues have pointed out because in many of the cases where California law was preempted, it was replaced by a national standard that was just as good for consumers, even if slightly different in form.

For example, there is the California requirement that consumer reporting agencies must disclose the names and addresses of all sources of information in the consumer report. That California law is preempted but replaced with an even stronger Federal law that not only requires that, but, (I thank the chairman for accepting my amendment in committee), also requires that the phone numbers, as well as the addresses, of those who provide that consumer information be provided in the consumer report.

So it is important that in conference, we take a look at all the pre-SB1 California provisions, make sure that whatever protections a Federal law preempts, are replaced by equally strong consumer protections.

In a few areas that is not the case, and I am confident that in conference, with the advocacy of our ranking member, the gentleman from Massachusetts (Mr. FRANK) and with the chairman of the committee, we will achieve that.

The second set of California Consuming Protections were given to us by SB1, the Speier's bill, which was passed while this Congress was in recess last month. There are several provisions of that bill that are not preempted by Federal law and that will do an outstanding job of protecting Californians, and I commend them to our committee and to the State legislatures around the country. One of those (SBI) provisions, however, would be preempted. That is what is called the opt-out provision dealing with affiliate information sharing.

We are talking about a situation where a person goes to a bank, provides the bank with their financial information, are the bank shares it with their affiliated insurance company or their affiliated stock brokerage company? Good business practice, as well as California law, allows a consumer to instruct their financial institution not to share their information with an affiliated company. I think that is smart business. I commend Jackie Speier of California for writing it into California law.

As we go to conference, hopefully this issue will be addressed. One way to address it is the way Bank of America already addresses it voluntarily, and this would be a compromise. That is to

say, that a consumer should be able to opt-out for purposes of marketing. The consumer would be able to say, Bank, do not have your insurance company call me. If we were able to get that, yes, California consumers might lose a tiny bit, but 280 million Americans would gain substantially.

I look forward to a conference that will assure consumers around this country, and those of California, with enhaused protections.

Mr. OXLEY. Mr. Chairman, may I inquire as to the time left?

The CHAIRMAN. The gentleman from Ohio (Mr. OXLEY) has 13 minutes remaining. The gentlewoman from California (Ms. LEE) has 7 minutes remaining.

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Chairman, Members are back in their office and they are listening to this debate, and one of the things that they may or may not have heard, but if they did, is that both gentlewomen from California may have been misled on this legislation into thinking that nothing in this law preempted California.

I, in fact, went back to the debate at the time that the gentlewoman from California (Ms. WATERS) offered a similar amendment to what is being offered on the floor today, and I want to read to her just by way of refreshing our memory, not to dispute what she says, and quote what she said.

She said, ''I, in good faith, would not like to preempt the work of the State of California, the legislators who have spent so much time. Nor would I like to be on record preempting them with supporting this legislation, when I know that we are going to have a ballot measure that is going to be passed. The people of the State of California are going to pass this ballot measure that will give them further protections. I do not believe that a ballot measure should be preempted here at the national level.''

She offered this amendment. It was defeated 56 to 6, and then as the legislation passed out of the full committee, the gentlewoman from California (Ms. LEE) and the gentlewoman from California (Ms. WATERS) joined the gentleman from Vermont (Mr. SANDERS) and voted against the whole thing because, in fact, it did preempt something in California. What is it that it preempts?

The legislation that California just passed did three things. Number one, it required opt-in for third party nonaffiliate sharing. Nothing in this legislation changes that. It had new Gramm-Leach-Bliley privacy notices. Nothing in this legislation affects that. There is only one thing and one thing alone that this legislation ''preempts'' California, and that is the required opt-out for affiliate sharing, and that is also the present law. So what was passed in California, as far as the required opt-out for affiliate sharing, the citizens of California did not get anything because the national law today preempts that. It had no effect.

If our national standards expire January 1, yes, they would, but as the gentleman from Ohio (Mr. OXLEY) said, Gramm-Leach-Bliley, we are going to address that next year and look at those affiliate sharing things. In fact, the chairman of the committee in the Senate says he is going to look at them, and I think that he probably will. We may address them in conference, but we did not open up that debate. We did not address it with our hearing.

Ms. LEE. Mr. Chairman, I yield 2 minutes to the gentleman from Monterey, California (Mr. FARR), a real advocate for consumers, a great leader.

Mr. FARR. Mr. Chairman, I thank the gentlewoman for yielding me the time.

I rise in strong support of the Lee-Sherman amendment No. 15, which protects the right of States to defend the privacy of their citizens. As written, this bill would preemptively cancel out the effects of California's SB1. I know it has been mentioned but remember, California, one, is the leading financial State in the United States and has the most number of consumers in the United States, and that bill passed after an incredibly long debate in the legislature, and it was supported by or went neutral by financial institutions who were affected by it, had overwhelming consumer support and was voted out of both Houses on a bipartisan fashion.

□ 1700

So do not take the actions of California lightly. It is a Big Business State, and it did a very remarkable thing by passing this bill. What Members should do now is preempt it. It preempts SB1 but also will nullify a number of existing identity theft laws.

The Credit Reporting Act states that it is a ceiling rather than a floor. I think if you look at what we have done in other legislation in this country where we set the floor in the areas of medical privacy, wire tapping, cable records, video rental record, telemarketing, financial records, and drivers records, Federal law allows the States to provide stronger protections. Why not here?

The Gramm-Leach-Bliley Act explicitly provides for States to enact laws for greater protection for the privacy of personal financial information. If you believe in States' rights and the ability of States to set standards to protect consumers, to protect Americans and their families, then I urge my colleagues to vote ''yes'' on this very important amendment.

Do not take the actions of California so lightly. It is a very important, remarkable historical act that has been created there; and we ought to allow California to proceed with it.

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I just think we really need to go back historically in this discussion and take a look at what we were dealing with. I actually hate to say it, but I remember what it was like back before we dealt with uniform standards on credit back when we first started this in 1970. Then in 1996 we went to pure uniformity.

I remember trying to get credit and being told you are going to have to wait for a while before we can do that. I was not the only consumer. Probably 100 percent of Americans or probably 98 or 99 percent were being told they had to wait in order to establish whatever the credit was. Every place you went it was handled separately or differently or whatever.

Congress did something right. Congress did something extraordinarily right when they passed the act initially and then went to the uniform standards with the usurpation of some of the State laws in 1996. I think that is one thing we simply do not want to back off of. Regardless of what is in the California statute, California is the most significant State we have in terms of people and in terms of financial interests, but the bottom line is that to impose the California standards basically on this country could be a problem.

I might also note another reason to vote against this amendment to this legislation is that it states at the end of it: ''or the law of any other State that is similar to the California Financial Information Privacy Act.'' That is a damaging statement because I don't know how you measure ''similar to.''

Other States could come in and try to do something that would upset the uniformity of what we are doing at the Federal Government level.

What we have done now here in Washington is given every single consumer in this country the opportunity to have a uniform plan so that we know how to get information right away. And with the use of technology that can be done. You can buy a car instantaneously, much less establish credit of a lesser nature some place else.

I think California's attempt to impose restrictions in an area that is completely, totally governed by the FCRA's uniform national standards would be a tremendous error.

We had extensive hearings. I think we need to remember that, too, as we make our decision on how to vote on this amendment. We had over 100 witnesses in very expensive hearings. The chairman and the subcommittee chairman did a wonderful job working with the majority party and our own majority party in terms of developing this legislation.

It did pass overwhelmingly in our committee as everybody understood exactly what we are dealing with. In fact, at that committee another member from California offered an amendment to sunset FCRA's uniform national standards at the end of this

year. And during that debate, a specific appeal to give California the ability to establish its own standards either through action by the State legislature or statewide ballot initiative came up. That amendment was defeated 56 to 6.

So, clearly, the individuals in this body who have looked at this issue carefully understand that to undermine it by allowing States to start to opt out and to have different provisions with respect to the fair credit reporting that we have in the country would be an error.

I would encourage everybody in this body to look at this carefully and to vote ''no'' on this amendment to make sure that we protect a very good piece of legislation.

Ms. LEE. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY), a real leader in this Congress in the fight for privacy rights.

Mr. MARKEY. Mr. Chairman, if the line of juris prudence that we are now operating under is allowed to stand, then we are in a situation in which there is no effective regulation of a bank, an insurance company, or a securities firm sharing of a consumer's personal financial information and no State regulation of such transactions.

In other words, we are left with a regulatory black hole in which neither the Federal Government nor the States are regulating what is going on within this affiliate structure where one part of a firm gets it and then shares it with all of its affiliates, stockbrokers, insurance, you name it. All of the family's secrets are then spread throughout the country and to anyone that is affiliated with them as an independent operator as well.

This is unacceptable. And it means we have no Federal standard for consumer consent regarding affiliate sharing and preemption of any State law dealing with the subject.

What the Lee amendment says is that we should close this black hole so that if the Federal Government is unwilling or unable to effectively address affiliate sharing, sharing it with all the companies which this bank or insurance company or stock brokerage has, taking all their secrets and starting to share it with all these other companies, then the States can do so.

This amendment preserves not only California's privacy statute but the laws of any other State that might want to give their people protection so that their family's secrets are not made a product sold to anyone with enough money to buy what it is that you are doing with your financial life, your stock brokerage, your insurance information.

This is an important issue that our country faces: the privacy of every American. It is why we fought the American Revolution.

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume, as I feel compelled to respond to my good friend from Massachusetts in his somewhat overheated rhetoric regarding the revolution, which I know started in his district. And I am also sorry that we did not hear the famous story about his local banker, Mr. Wentworth. I am sure the other Members, who were not on the committee, have not had an opportunity to hear about it. I also am concerned that the gentleman was unable to hear 100 witnesses in eight separate hearings chaired by our good friend, the gentleman from Alabama.

Regulatory black hole? I would invite my good friend from Massachusetts to read this piece of legislation. This is the strongest piece of privacy legislation I would say ever passed, certainly in recent Congresses. That is why we had 61 members of our committee vote for the final product when it came to the final vote.

So I would say to my good friend, this really is crunch time as far as whether we are going to have a uniform standard that can protect consumers, can set out the rights that they have to protect their privacy, to protect their ability to fight off the horrible crime of identity theft, which affects 10 million Americans. That is what this bill is all about.

And we are dedicated to this national standard that has had so much success since the 1996 act. My friend from Delaware points it out so well, of the progress that we have made. We simply cannot allow ourselves to slip back and allow for States to start to move the goal post and to essentially lower those standards so that we end up with the system that we had before 1996, which would result in higher interest rates, less access to credit, and longer waits for credit. We do not want to go back to the bad old days; we want to move forward. And so I would suggest to the Members that that is what this bill is all about.

So, Mr. Chairman, I have great respect for my friend from Massachusetts, and am actually going to yield some of my time to him, since I miss him so much.

Mr. BACHUS. Mr. Chairman, will the gentleman yield for just a moment, before he yields to the gentleman from Massachusetts, because I think it probably has something to do with it.

Mr. OXLEY. I yield to the gentleman from Alabama.

Mr. BACHUS. Mr. Chairman, the original FCRA that the gentleman from Ohio pointed out was passed in 1996. Right? Not 1776. Is that right?

I will admit to the gentleman from Massachusetts we took absolutely no testimony on the American Revolution and none of our witnesses actually tied that in. But I appreciate his input.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I would be pleased to yield to my good friend, the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I think the gentleman from Alabama missed the point in the discussion of the gentleman from Ohio where he changed the metaphor from the American Revolution to moving the goal post, which makes sense. As a graduate of Ohio State, you would try to switch the form of the debate.

But, nonetheless, we have California moving the goal post further away from the consumer, where in the minds of Californians, and most of us who have dedicated our lives to privacy, the California section moves it closer to the privacy objectives that ordinary families have for their personal financial information. And what we are doing here is essentially giving to the big financial institutions the ability to be able to circumvent this increasing interest at the State level of enhancing the rights of families to be able to protect their privacy.

I hope when we get to the conference committee that my cochairman of the privacy caucus, Senator SHELBY, who shares the passion on this issue, will be in disagreement with my colleagues as to whether or not we have reached in this bill the historic high point of where we should be in 2003 in terms of the protection of the privacy of American families.

Ms. LEE. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WATERS), whose diligence on this bill has identified many errors we are trying to correct today.

Ms. WATERS. Mr. Chairman, I would like to thank the gentlewoman from California (Ms. LEE) for all the work she has done on this most important issue.

Mr. Chairman, if anybody had told me that I would be on the floor of Congress arguing States' rights, facing off with a conservative from Alabama, I would have told them they are crazy. But I am here today arguing States' rights on one of the most important issues confronting Americans today, and that is privacy.

Americans do not want people peeping into their bedrooms. They do not want folks eavesdropping on their calls. And they sure do not want financial institutions selling their personal and financial information. And that is what this is all about. This bill would require financial institutions to first obtain a consumer's explicit consent before selling or sharing their personal or financial information with affiliates or third-party companies for any purpose other than to complete a transaction initiated by the consumer.

What right do we have as Federal lawmakers saying to the American citizens that we do not care that they want their privacy protected; that we are the Federal Government; that we do not care what the States want because we have decided we want national standards for the convenience of the financial institutions. We do not want the financial institutions to have to be inconvenienced by having a State like California have better consumer laws than they have in these national standards.

I just do not believe the way this argument is going. I cannot believe that

I am standing here defending the privacy rights and the States' rights of Americans against the conservatives on the other side of the aisle.

□ 1715

Mr. Chairman, it is just too much for me to absorb at this moment. Let me say we have worked hard in California to have better consumer laws, and I dare say if we do not get it on this side, we are going to have to fight in the other body. But in the final analysis, we also have the ballot in California. We will go to the ballot to deal with this issue.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Chairman, let me reiterate again, because I think it is important that the gentlewoman from California (Ms. WATERS) know this, nothing in this legislation will, in any way, stop SB1, the California bill, from requiring opt-in for third-party nonaffiliate sharing, nothing. The gentlewoman mentioned third parties, this was all about allowing institutions to share their privacy or their records with third parties. That is not what this bill is about. This bill does not authorize that. This bill does not permit that. There is nothing that does that. There is nothing in this bill that stops the second component of that new California law, and that is the privacy notices. Nothing in this legislation stops that.

What this legislation does is it continues the present law. Gramm-Leach-Bliley addressed the privacy issues, not fair credit reporting, and we are going to address those issues in hearings next year. As the gentleman from Massachusetts said, the chairman of the Senate has said he may address affiliate sharing in the Senate. That is fine. We may address it in conference. We did not address it in this bill.

We did not do anything not allowed by present law. Currently, the present law does not preempt that.

Finally, we established a high bar wherever we established a bar. The gentleman from California (Mr. SHERMAN) talked about one of the most important things that they did in California, and that is the telephone numbers, giving the telephone numbers. We put that in this bill over strong industry opposition. It is in there. It is an important new right that everyone in 50 States will have, and it is part of a national standard.

Ms. LEE. Mr. Chairman, I yield myself the balance of my time.

When the Committee rises and we are in the full House, I intend to submit for the RECORD a letter signed by 55 Democrats and Republicans from California discussing the fact that this law, if passed, would preempt California law, SB1.

Finally, let me just say I want to support this bill, but why would any Representative from California support a bill that wipes out the protections for California consumers that they have worked so hard for, for so many years?

Mr. Chairman, I will include for the RECORD the list of financial institutions in California that negotiated with our consumers and remained neutral as this bill was signed into law by Governor Gray Davis. I think it is very important that we protect California law, and if other States want to support stronger measures, allow States to do that. As the gentlewoman from California (Ms. WATERS) said, this is a States' rights issue. I think this amendment would allow States to enact consumer protections that they deem necessary for their consumers.

American Electronics Association
California Bankers Association
California Chamber of Commerce
California Financial Services Association
California Mortgage Bankers Association
Capital One
Citigroup
Countrywide Financial
Farmers Insurance
Fidelity Investments
Financial Services Privacy Coalition
Household International, Inc.
JP Morgan Chase
MBNA
Merrill Lynch
Personal Insurance Federation of California
Providian Financial
Securities Industry Association
State Farm Insurance
Toyota Motor Sales USA
Washington Mutual
Wells Fargo

Ms. ESHOO. Mr. Chairman, I rise today to urge my colleagues to vote in favor of the Sherman-Lee Amendment to give consumers control over their financial information.

Seven million Americans were victims last year of ID theft. Overall, more than 33 million Americans have had their identities used by someone else sometime since 1990.

The Department of Justice says ID theft is the nation's fastest growing financial crime and the damages to consumers are becoming even more significant.

Despite the fact that millions of Americans are victimized by identity theft each year, Congress is getting ready to pass a bill that blocks states from enacting tougher reforms.

The strongest financial privacy law in the nation passed in California last month with overwhelming bipartisan support. This new law, sponsored by State Senator Jackie Speier, allows consumers to stop banks and other financial institutions from sharing confidential account and transaction histories with most of their affiliated companies.

As we consider this matter, I urge my colleagues to vote to bring these protections to all Americans and make sure that any changes to the Fair Credit Reporting Act truly benefit consumers.

Vote in favor of the Sherman-Lee Amendment which protects California's financial privacy law and allow other states to enact similar laws.

Ms. LEE. Mr. Chairman, I ask unanimous consent to withdraw this amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from California?

There was no objection.

AMENDMENT NO. 12 OFFERED BY MR. NEY

Mr. NEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Mr. NEY:

Page 56, after line 16, insert the following new subsection:

(e) TECHNICAL AND CONFORMING AMENDMENT.—Section 624(b) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)(3)) (as amended by section 204(b) of this Act) is amended—

(1) by striking ''or'' at the end of paragraph (2); and

(2) by striking paragraph (3) and inserting the following new paragraphs:

''(3) with respect to the form and content of any disclosure required to be made under subsection (c), (d), (e), or (f) of section 609, except that this paragraph shall not apply—

''(A) with respect to sections 1785.10, 1785.16 and 1785.20.2 of the California Civil Code (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003) and section 1785.15 through section 1785.15.2 of such Code (as in effect on such date) and

''(B) with respect to section 12-14.3-104.3 of the Colorado Revised Statutes (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003); and

''(4) with respect to the frequency of any disclosure under section 612(e), except that this paragraph shall not apply—

''(A) with respect to section 12-14.3-105(1)(d) of the Colorado Revised Statutes (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003);

''(B) with respect to section 10-1-393(29)(C) of the Georgia Code (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003);

''(C) with respect to section 1316.2-B of title 10 of the Maine Revised Statutes (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003);

''(D) with respect to sections 14-1209(a)(1) and 14-1209(b)(1)(i) of the Commercial Law Article of the Code of Maryland (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003);

''(E) with respect to section 59(d) and section 59(e) of chapter 93 of the General Laws of Massachusetts (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003);

''(F) with respect to section 56:11-37.10(a)(1) of the New Jersey Revised Statutes (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003); and

''(G) with respect to section 2480c(a)(1) of the Vermont Statutes Annotated (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003).''.

The CHAIRMAN. Pursuant to the order of the Committee of today, the gentleman from Ohio (Mr. NEY) and the gentleman from Massachusetts (Mr. FRANK) each will control 10 minutes.

The Chair recognizes the gentleman from Ohio (Mr. NEY).

Mr. NEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I commend the leadership shown by the gentleman from Ohio (Mr. OXLEY), the ranking member, the gentleman from Massachusetts (Mr. FRANK), and the subcommittee chairman, the gentleman from Alabama (Mr. BACHUS), and their staff who put this important bill together.

Reauthorizing the expiring provisions in the Fair Credit Reporting Act had the potential to be extremely divisive, partisan and contentious. However, their diligent efforts have created a solid piece of legislation that was reported from the Committee on Financial Services by an overwhelming bipartisan vote. I believe this legislation is a testament to their hard work, and I give them credit for it.

Mr. Chairman, the Ney-Royce-Scott amendment is straightforward. It will amend sections 501 and 502 of H.R. 2622 so they will be able to set a national standard for consumer access to credit scores and credit reports. As Members know, section 501 requires that all consumers have the right to request a free copy of their credit report every year. This is a common sense way to help combat identity theft and fraud while helping Americans maintain a good credit rating.

Section 502 requires that consumers be able to request their credit scores for a reasonable fee, and that when they apply for a mortgage, the credit score their mortgage was based on be provided for a reasonable fee also. I think this is not only good for home buyers, but also a common sense way for consumers to be able to protect themselves from fraud and protect their credit history.

These are just two of the many new consumer protections in the FACT Act. However, neither sections 501 nor 502 is a national standard. As it is currently drafted, H.R. 2622 is silent on whether States can add requirements on top of those already in sections 501 and 502 of the bill.

This could mean that consumers could be faced with new, confusing duplicative and potentially burdensome disclosure requirements. I want to make it clear I do not want to prevent States from being able to protect their citizens. It has been proven time and again that the States often provide the best laboratory for testing new ways to protect consumers from fraud. The ability of States to be more nimble and to be more responsive than the Federal Government has allowed them to experiment with new ways to offer important consumer protections. In fact, both sections 501 and 502 can find their roots in State law. For example, section 502 is nearly word-for-word identical to law in California. Likewise, seven States currently have different requirements for making free credit reports available to consumers.

In recognition of the leadership States have shown, this amendment allows those States that already have laws in place and which lenders and credit bureaus already comply with to remain on the books, much like in 1996 when we put in place national standards, but grandfathered in laws that were already on the books.

However, much like in 1996, now that we are taking the lessons of those laws and forming them into a national standard, we must take the next step and make this standard truly national by preventing States from enacting new and duplicative laws that could harm consumers in the future. If we are not careful, consumers could end up getting multiple disclosures with different numbers, explanations, and forms that are highly confusing and even contradictory. Even worse, if sections 501 and 502 are not made a national standard, a patchwork of State laws could end up raising costs for consumers, something none of us want to see happen. That does not benefit consumers, which is why we need a single national standard that provides consumers with one clear and comprehensive disclosure. I believe sections 501 and 502 achieve that goal.

I do not doubt that the new requirements in sections 501 and 502 will be costly to industry. However, I think that most of us would agree that those costs are worthwhile because of the protections they afford consumers. That is one of the many trade-offs we have been forced to consider when drafting this bill.

Mr. Chairman, as I mentioned a moment ago, if we allow States to add more and more regulations on top of those already in H.R. 2622, then we create the risk of adding so many burdens that ultimately the consumer will see increased costs. That is why I urge my colleagues to support uniform national standards for consumers by supporting this amendment.

We have an opportunity to make a strong statement about the need to pass strong consumer protections while also making the statement that those consumer protections must be uniform. I urge Members to vote on the bipartisan Ney-Royce-Scott amendment, and I thank the cosponsors of the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the crux of this is that by this amendment, the gentleman from Ohio (Mr. NEY) seeks to extend preemption beyond where it is under current law. I believe what we attempted to do, with a great deal of success, we made a mistake with regard to California, was to go forward with existing preemptions, to bring them forward, while we added some consumer protections. It is not contested. This amendment would preempt State activity that is not now preempted.

If we simply extended the Fair Credit Reporting Act without this amendment, there are things that the States could do that this amendment will prevent them from doing. Yes, the bill does make some improvements with regard to credit scores and with regard to credit reports. But as an example, and I recognize that the gentleman's amendment does grandfather current State law that goes beyond what the Federal law does, but I cite these two States not because they are going to be preempted, but because they are an example of the kind of actions that States have taken in the past that would be preempted in the future.

Two of our more radical States have taken actions in the past that would be preempted in the future, Colorado and Georgia. What this amendment says is no other State should be as radical and as anti free market and as populist as those two places, Colorado and Georgia. Colorado and Georgia have both seen fit in their legislative processes to extend to their citizens rights with regard to credit scores and credit reports that no other State will be allowed to do if this amendment is adopted.

Now credit scores, in particular, are very important. Members should check with their own constituents and their own State governments. Credit scoring is spreading. People are now finding that credit scoring is being used not simply to give them a loan, but to give them insurance. It has become a very controversial subject. Indeed, one of the things that is in this bill, and I appreciate the chairman having agreed with us that it should be there, is a study that we have commissioned about the legitimacy of using credit scoring as a standard in areas outside the granting of credit.

Should consumers be denied insurance because there was a past credit problem if those consumers are being given insurance that does not involve credit, insurance which needs to be paid for currently?

The gentleman's amendment would prevent States in the future from going beyond where we are with regard to credit scoring. I agree there is need for uniformity in some things, but insurance has always been a State matter. I do not believe we need a national policy with regard to the regulation of insurance. If we do, then we have to change a lot more than simply preempt this because we have left insurance there.

I want to emphasize at this point, I understand this does not preempt what is currently around in some States, but it says in an area that is of growing concern to the States, credit scoring and that has particular concern for members of ethnic minority communities, you may not do anything in credit scoring that we have not done.

We do good things in this bill, but I do not think that it is perfect. I do not think it explores and occupies the entire universe of consumer protections. I believe there are things that the States could do that would be relative to that State that would not impinge on others.

I do not think the Colorado and Georgia rules interfere elsewhere. For instance, in Colorado it says as I said it, that if you are going to be treated negatively because there have been too many inquiries on your credit report, the credit agency has to tell you that so you can take some action to protect yourself. I think that is a reasonable

thing for a State to be able to do. I am glad Colorado has done it. I do not think Colorado ought to be, as it would be under this amendment, the last State to be able to make that protection. I hope that we will stick with what I thought was the outlines of what we were agreeing to here which was to preserve the existing preemptions, but not to extend them.

Mr. Chairman, I reserve the balance of my time.

Mr. NEY. Mr. Chairman, I have no additional requests for time, and I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to just stress again, and I was reminded by one of our able staff members, in the case of credit scoring, we have in our legislation emulated what California did to some extent.

□ 1730

I will be prepared to agree to a unanimous consent request that subsequently no one will be allowed to mention California in this debate. I would be ready to agree to that. But I will take my one last reference to it and say we have benefited from what the States do. Even if you believe in preemption, this is the wrong time in the evolution of national policy to lock in a preemption with regard to credit scoring. I warn Members, credit scoring is an explosive issue in some areas. It is one which is being expanded beyond the granting of credit. Do not vote for an amendment that will limit your State's ability to respond to what consumers will feel is very important in the area of credit scoring, and that is what this amendment would do. Even if you believe in an ultimate preemption, it is at a very premature stage. Credit scoring is a relatively new issue in terms of its being extended to other areas. I do not see any reason why we should go beyond the existing preemptions. Everyone has said they work very well. All the studies have been of the existing preemptions.

I want to be very clear once again, this is a new preemption. This would have the States lose the right that they now have, and have under the Fair Credit Reporting Act, to protect their citizens, particularly with regard to the area of credit scoring. I think it would be very unwise. I urge the Members to stay with the committee position here and defeat this amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. NEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. NEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Ohio (Mr. NEY) will be postponed.

AMENDMENT NO. 11 OFFERED BY MR. ROYCE

Mr. ROYCE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. ROYCE:

Page 34, strike line 9 and all that follows through line 18, and insert the following new subparagraph:

''(A) IN GENERAL.—A consumer may dispute directly with a person the accuracy of information that is contained in a consumer report on the consumer prepared by a consumer reporting agency described in section 603(p), if—

''(i) the information was provided by the person to that consumer reporting agency in accordance with paragraph (1)(B);

''(ii) the consumer has disputed the accuracy of such information with the consumer reporting agency that prepared the consumer report pursuant to section 611;

''(iii) the consumer has received the results of the investigation from the consumer reporting agency and has requested that the consumer reporting agency reinvestigate the results in accordance with section 611; and

''(iv) the results of the consumer reporting agency's reinvestigation requested pursuant to (iii), as reported to the consumer, do not resolve the dispute.''

Page 35, beginning on line 25, strike ''thereafter report correct information to'' and insert ''notify''.

The CHAIRMAN. Pursuant to the order of the Committee of today, the gentleman from California (Mr. ROYCE) and the gentleman from Massachusetts (Mr. FRANK) each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Chairman, I yield myself such time as I may consume. I am offering this amendment today on behalf of myself and on behalf of the gentleman from Pennsylvania (Mr. TOOMEY) and the gentleman from Ohio (Mr. TIBERI). We are doing this to correct some of the serious problems with the furnisher liability provision that was offered by the committee's ranking member during the full committee markup. That particular provision penalizes businesses who voluntarily provide the information that makes our credit system work. The provision also turns the existing system for correcting errors on its head with little evidence that it will do anything to increase the accuracy of that system. As the director of the FTC's Bureau of Consumer Protection recently said, and I will quote these remarks, ''We don't want to discourage voluntary reporting. Imposing too many obligations on the furnishers could have that effect.''

As our chairman will recall, I believe, I along with several other members of the committee raised these concerns about what we perceived as these serious flaws. We were told by the other side of the aisle that each of these problems we raised would be addressed before consideration on the House floor. Unfortunately, we have not yet found common ground. I am hopeful that we yet will; but the amendment that I have filed here seeks to resolve the following key problems, and I want to state these problems again so that we can focus on them.

First, the furnisher liability provision would allow the current system to be circumvented, thereby flooding small- and medium-sized credit grantors with unnecessary investigations; second, that provision in the bill opens the door for credit repair clinics to subvert the existing system by overwhelming furnishers who are ill prepared to address these tactics. By overwhelming, we mean sending in tens of thousands at one time. Last, that provision effectively doubles the number of reinvestigations businesses would have to handle by encouraging consumers to file in two different places at the same time, because they would file both with the furnisher and they would file with the credit bureau. In short, the provision would drive many furnishers out of the voluntary system. That would reduce the integrity and accuracy of our system.

The current dispute resolution system resolves the overwhelming majority of disputes. It is only the very small number of unusual problems that need specialized attention. Our amendment that we are offering here preserves the existing system that works for so many consumers today, but provides a new right for those infrequent instances where the current system may not be sufficient. In short, our amendment requires individuals to use the current investigation and reinvestigation process through the bureaus. If the dispute is not resolved, it would then allow individuals to take their credit bureau dispute directly to the furnisher, and it compels the furnisher to address it within 30 days under a threat of liability. I think this approach addresses each of the concerns raised in the markup while providing a new dispute resolution process for those individuals who are not served through the current system.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

This is a difficult issue. Let me say first, I very much agree with the gentleman, and this is something that I want us to return to; and I hope the chairman will do this. The credit repair agencies, I agree, are a problem. Whatever system we have, I think there is an abusive practice there. I think the gentleman is right to point to it. I myself check my voice mail when I am down here. I called my Massachusetts voice mail where my phone is listed, and I have a man telling me that he has got my credit records in front of him and he can help me with my debts. Since I pay up pretty regularly, I thought maybe this was identity theft. I called him up, and it was one of these phoney credit repair agencies. I called just to do that.

Let me say to the gentleman, I would be glad to work with him to do legislation, because whatever we do, whatever remedy we give, we are going to have the problem of credit repair. I think he has pointed to a very good problem. I would just say to the gentleman that I look forward to working with him. I cannot support this particular amendment, but I would be glad to work with our chairman on dealing with the credit repair issue.

Mr. ROYCE. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. ROYCE. I thank the gentleman for yielding. I look forward to trying to work out a satisfactory compromise on this.

Mr. FRANK of Massachusetts. Mr. Chairman, I reserve the balance of my time.

Mr. ROYCE. Mr. Chairman, I yield 3 minutes to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Chairman, the problem that the gentleman from California has identified is a real problem, and it does need a solution. I want to reiterate what the gentleman from Massachusetts said, because I think there is genuine support for finding a solution to this. The last thing we want is for small- and middle-sized businesses to be burdened down and not to report information to the national credit reporting system because this could actually encourage a situation in which people, knowing that they do not participate because of a liability, target them, do business with them and knowing that they are not part of the national credit reporting system. The more information that goes into that system, the more valuable it is. It is often these small- and middle-sized businesses that in fact do not have the sophistication to collect bad debts or to write off bad debts; and when they take a loss, it is more severe because it reflects a greater percentage. So the very businesses that need to be not only furnishing information but drawing information, we need to do everything we can to encourage those retailers and others to participate in the system.

I fear that unless somewhere in conference or in the Senate, and I would say to the gentleman from California, we just simply have not come up with the right language yet, but I know the gentleman from Ohio is very committed to working on this issue. I want to commend the gentleman from California for working on this issue and identifying it and bringing it to our attention, along with the National Retail Association that has made us very aware that this is a weakness of the bill as it now exists.

Mr. ROYCE. Mr. Chairman, I yield 2½ minutes to the gentleman from Virginia (Mr. CANTOR).

Mr. CANTOR. Mr. Chairman, I thank the gentleman from California for yielding me this time. First of all I would like to congratulate the gentleman from Ohio (Mr. OXLEY), the gentleman from Alabama (Mr. BACHUS), and the gentleman from Massachusetts (Mr. FRANK) for producing a bill that addresses an extremely important issue. I know that the gentleman from Alabama has been quoted as saying that this is probably one of the most important economic initiatives that we have got to accomplish this session because it means so much to so many people.

I was reading some figures that say that if we are not going to go forward, if we did not or had not gone forward with reauthorizing the Fair Credit Reporting Act, it would result in a $20 billion loss in the consumer spending area. Actually, as some of the dialogue here has indicated, it would fall really on those that need help, who need access to credit most. I am glad that we are here, and I congratulate the chairman on his work.

I also am here to support the gentleman from California in trying to search for a solution to a provision that is in the bill that would, as has been said earlier, provide a disincentive for retailers to be a part of this nationwide system that we have that affords individuals access to credit. For the reasons stated before, the provision as it stands now, which would force an individual seeking to correct information on a credit report to go to the furnisher rather than the parties currently doing it now in the credit bureaus, would provide inefficiencies on the part of the furnishers; would, as I said earlier, provide a disincentive for those furnishers to even offer the information to the credit bureau; and ultimately, I think, would drive up costs for everybody. As we know, the individuals who end up suffering most are those who we are trying to help by affording the least expensive access to credit.

Again, I congratulate the gentleman from California on his efforts and want to offer help in any way that I can to hopefully resolve this issue.

Mr. ROYCE. Mr. Chairman, I yield myself such time as I may consume.

I very much appreciate the support from the gentleman from Virginia. I appreciate the offer from the ranking member to work toward a resolution of this. In the spirit of cooperation, I am going to withdraw this amendment. However, Mr. Chairman, I am going to ask for your commitment that you will continue to work with me to ensure that these problems are resolved before a final conference report comes back to the House.

Mr. OXLEY. Mr. Chairman, will the gentleman yield?

Mr. ROYCE. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Chairman, let me indicate my support for the gentleman's purposes here. I think he makes an excellent point. We had some good debate in the committee as well as here on the floor. As we work toward, hopefully, the conference committee, I pledge my support for trying to find an answer to this difficult problem.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. ROYCE. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I would say, particularly with regard to protecting legitimate merchants against abusive credit repair companies, I would be glad to work with the gentleman.

Mr. ROYCE. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1745

AMENDMENT NO. 4 OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. SANDERS:

Page 69, after line 5, insert the following new section (and conform the table of contents accordingly):

**SEC. 507. LIMITATION ON USE OF CONSUMER REPORTS.**

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

''(d) LIMITATION ON USE OF CONSUMER REPORT.—No credit card issuer may use any negative information contained in a consumer report to increase any annual percentage rate applicable to a credit card account, or to remove or increase any introductory annual percentage rate of interest applicable to such account, for reasons other than actions or omissions of the card holder that are directly related to such account or a late payment of 60 days or more on any another credit card or debt.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 604(a)(3)(F)(ii) of the Fair Credit Reporting Act (15 U.S.C. 1681b(a)(3)(F)(ii)) is amended by inserting ''subject to subsection (d),'' before ''to review''.

The CHAIRMAN. Pursuant to the order of the committee of today, the gentleman from Vermont (Mr. SANDERS) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is cosponsored by the gentlewoman from California (Ms. WATERS) and the gentlewoman from California (Ms. LEE). It is also strongly supported by the Consumer Federation of America, the Consumers Union, the Electronic Privacy Information Center, the National Association of Consumer Advocates, the National Consumer Law Center, the New York Public Interest Research Group, the Privacy Rights Clearinghouse, the Privacy Times, and the U.S. Public Interest Research Group. In other words, almost every major consumer organization in America is supporting this amendment.

Mr. Chairman, this amendment deals with an issue which is of growing concern to millions of credit card holders, and that is that, increasingly, credit card companies are engaging in an outrageous bait and switch practice which is costing consumers hundreds of millions of dollars.

This, Mr. Chairman, is how the scam works: In our country today, credit card companies are sending out over 5 billion solicitations a year. Yes, that is right, 5 billion pieces of mail are being sent to Americans every year in order to purchase this or that credit card. Sometimes I think about half of those solicitations come to my kids. Nonetheless, we are all receiving them. As we all know, these mailings very often have bold headlines stating zero percent interests rates for 6 months, or 2.5 percent interest rates for a year, or whatever. We all receive them.

Now, here, Mr. Chairman, is the scam and the bait and the switch. An individual fills out the form and purchases the credit card, and month after month after month, he or she pays the amount owed to the credit card company faithfully and on time. In other words, the individual consumer has fulfilled his or her end of the contract. But in the midst of this, something strange happens. People are paying up on time, but suddenly the interest rate skyrockets, despite the individual making their payment on time.

Now, how can this happen? How can interest rates double or triple when the individual has fulfilled the obligations of the credit card company and made payments on time and never has gone over the credit card limit?

Well, it happens because the credit card issuers, companies like Chase Manhattan, Citigroup or Bank One, have decided all on their own that the consumer has become a greater financial risk, even when that consumer has in every instance paid their credit card bill on time.

What happens is the company obtains information from their customer's credit report which indicates a late payment on another financial transaction, another transaction. Perhaps the consumer might have been late in paying a student loan or a mortgage payment or a medical bill, and because the individual was late paying off another financial transaction, having nothing to do with the credit card they have from this company, the credit card company raises interest rates on their transaction with that individual.

Even more outrageous, credit card companies are raising interest rates when the consumer has never been late on any payment, and here is the crime there: There is an illness in the family. Somebody borrows money to pay off a medical bill; and, because they have committed that terrible crime of borrowing money for a medical reason, interest rates will go on the credit card, although they have never been late on any payment.

That is absurd, that is unfair, and that is a rip-off of the American people. At a time when the Federal Reserve has lowered short-term interest rates 13 times, why do we have consumers in this country paying 16 percent, 26 percent, even 29 percent APR on their credit cards?

Furthermore, Mr. Chairman, the Committee on Financial Services and my Subcommittee of Financial Institutions, of which I am the ranking member on, have heard from a number of witnesses about the inaccuracies of credit reports. According to freecreditinsight.com, over 70 percent of credit reports contain errors, so the credit reporting agency makes a mistake and your interest rates go zooming up.

By charging higher interest rates, the profits of credit card companies skyrocket and consumers grow deeper and deeper into debt. Is it any wonder why bankruptcies in the U.S. are now at an all time high, increasing by 23 percent since 2000?

Mr. Chairman, this is the issue. This is a very simple issue. It is an issue of fairness. If I take out a credit card and the credit card company says to me you have to pay up at a certain time and your interest rates are such-and-such, and I do that every single month, that is what the deal should be. And, if I am late, if I go above the amount of credit that I agreed to, well, I agree, they have a right to penalize me. They do not have a right to double or triple my interest rates when I pay my bills on time and because I took out a loan because my wife might have been ill.

Mr. Chairman, Congress has a responsibility to stop the credit card industry from ripping off consumers by this deceptive and unfair practice. I urge my colleagues to vote for this amendment to restrict the credit card interest rate bait and switch.

Specifically, this amendment would prohibit credit card issuers from using negative information contained in their customers' credit reports, such as a late payment on a student loan, a lower credit score, a new mortgage or new loan to pay for medical emergency or an error in a credit report, as a reason to double or triple credit card interests rates.

Importantly, as part of a compromise worked out at the committee level, this amendment has been crafted so that if a consumer is at least 60 days delinquent on any other credit card or debt, the credit card company could still use that information to increase the interest rates of their customers.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Who seeks to control time in opposition?

Mr. OXLEY. Mr. Chairman, I claim the time in opposition to the Sanders amendment.

The CHAIRMAN. The gentleman from Ohio is recognized for 15 minutes.

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment, first of all, was defeated on a bipartisan vote of 44 to 22 in the Committee on Financial Services.

Chairman Greenspan has raised serious concerns about this amendment. Let me quote, if I may, from a letter from Chairman Greenspan to the gentleman from Delaware (Mr. CASTLE) who had requested the response from the Fed, and specifically Chairman Greenspan, regarding the amendment offered by the gentleman from Vermont.

He says in part, ''The information gathered by credit reporting companies on the borrowing and payment experiences of consumers is a cornerstone of the consumer credit system in this country. Experience indicates that access to the information assembled by these companies and credit evaluation systems based on that information have improved the overall quality and reduced the cost of credit decisions while expanding the availability of credit.''

He goes on to end in this way: ''In sum, in deciding whether to restrict the use of certain information in credit evaluations, the Congress should be aware that such restrictions are likely to diminish the effectiveness of statistical systems that have played a significant role in reducing the overall cost of credit and widening its availability.''

So what we have here is the chairman of the Fed saying that the Sanders amendment is going to have a chilling effect on the availability of credit, and could drive up the cost of credit at the same time, basically saying to those of us who are good credit risks, we will be asked to pay for those who are less responsible in paying back those credit card debts.

Now, the committee did adopt an amendment offered by the gentlewoman from New York (Mrs. MALONEY) that specifically addresses the issue raised by the gentleman from Vermont. It requires any preapproved credit card solicitation to disclose the credit card issuer's ability to adjust the interest rate for reasons other than delinquencies on the credit card account. The notice will educate the consumer and allow him or her to act accordingly.

So in place of this rather draconian approach by the gentleman from Vermont, we have the gentlewoman from New York's amendment, which is part of this bill that we are debating now, adopted in the committee unanimously, that would provide more information, more notice to the consumer, to make certain that they are aware that, should a delinquency occur, it is a possibility that the interest rate could go up.

Essentially, this is an overkill amendment, and the committee found by a two-to-one margin that indeed that was the case. Nothing has changed from the time that the committee adopted the bill to today on the floor.

So the amendment would clearly increase the cost, and probably decrease

the availability of credit for credit card borrowers. Lenders must have the ability to adjust the interest rate on a loan in order to adequately price for that borrower's risk.

It seems obvious that those who are good credit risks are able to obtain credit at lower costs. That is how our system works. If someone who is a good credit risk suddenly imposes additional risk to the lender, the lender should be able to adjust for this increased risk. The amendment would prohibit a credit card issuer from doing this in many circumstances, and what the likely impact of this Sanders amendment would be lenders would be forced to offer credit card accounts at higher interest rates in order to buffer against any potential future risk that any borrower may present.

Frankly, for those of us, the vast majority of us, those who pay their credit card bills monthly and are responsible, why should we be faced with a potential for higher interest rates and less available on that score? Adjusting the price of credit to match the level of risk imposed by the customer is not a bait-and-switch tactic, it is simply good, common sense, and such adjustments are already adequately addressed by existing law, particularly in regard to the Maloney amendment.

To that extent, I oppose the Sanders amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SANDERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my friend from Ohio just said why should people who pay their bill on time every month be penalized? I agree with him. But as the gentleman knows, right now people pay their bills on time every single month and, despite that, they can see a doubling or tripling of their interest rates, and that is precisely what we are trying to prevent.

Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, let me just thank the gentleman from Vermont for his leadership on the committee and for bringing this amendment today to the floor. But I must say that this is a very moderate amendment, it is a very conservative amendment, and I was, quite frankly, surprised he would go for it. But in the spirit of compromise, he did. So, very seldom do I believe that something is better than nothing, but I believe that this is such a fundamental injustice as it relates to our consumers that I had to support this very modest measure.

Quite frankly, a creditor should not be allowed to increase interest rates if consumers are paying the debt according to the agreed upon terms. They should not be allowed to raise interest rates based on payment histories of another debt. That is just fundamentally wrong. When individuals agree to a contract, when a consumer believes that they are doing the right thing and paying their monthly payments, how in the world can they get set up to fail? That is what this does.

□ 1800

An interest rate that jumps from 7 percent to 29 percent, bankruptcy, certainly, will follow if, in fact, this does not fit within the consumer's financial scheme. And generally, the consumer has a financial plan that they have to stick to in terms of payment schedules of debts. And so a huge payment like this is wrong. It would make more sense if the gentleman from Vermont (Mr. SANDERS) had offered an amendment to say what I just said earlier, that a creditor should never be allowed to increase an interest rate on a debt if, in fact, the consumer is paying that debt based upon the agreed-upon agreement. But I understand how this place works, and I really thought that he had enough support on the other side to at least get this very basic kind of amendment passed, I would say to the gentleman. So I want him to know that I support it. I thank him for bringing it to the floor. But just know I think that sooner or later, we have to correct this injustice.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. CANTOR).

Mr. CANTOR. Mr. Chairman, I thank the chairman for yielding me this time.

I rise in opposition to the Sanders amendment. I am listening to the gentlewoman from California's remarks that we should not allow a credit card company or a bank to alter one's interest rate on an extension of credit based on that consumer's performance in the marketplace, but if we look back to the beginning of the transaction to see how the credit was extended to begin with, it was based on the overall credit picture. And we have a nationwide credit access, information access system that affords lenders the ability to know more about their risk. And by tying the hands and essentially asking the credit card issuer and the lender to ignore information that will impact their risk will end up ultimately denying more credit to more people.

Mr. Chairman, we ought to let the marketplace work. We ought not go in and try and micromanage someone's business. We have the laws in place which require disclosure. There is the Maloney amendment that was attached in committee which will ensure adequate notice if there is, for some reason, the increase in the rate. Again, the end of the day is we want to make sure as many people as possible have access to credit.

What this amendment will do, as the chairman has said, will raise rates for everyone and will deny those who really need the credit access to those funds.

Mr. SANDERS. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, I rise in support of this amendment. Mr. Chairman, I was hopeful that my friends on the opposite side of the aisle would have the good sense not to oppose something like this. This is so ridiculous. This is so ridiculous that they could absolutely defend a credit card company increasing your interest rates, even though you are paying your bills on time every month. You are paying your bills on time, you have not missed a payment, but because you did not pay Nordstrom's or Gap, and you may have a dispute with them, they are going to raise your interest rates. Then, my friends on the opposite side of the aisle will say, they have to do that; and if we do not allow them to do that, that will have a chilling effect on credit.

Well, I think what one of my friends on this side of the aisle just said to me makes a lot of sense. She said, you know, this is nothing but a racket. You are defending a racket. You are defending a racket that is exploiting the people for no good reason. They simply want to make more money, and they can come up with any excuse, any way possible to get more money, to gouge your constituents; and you would stand here and argue that unless we allow them to gouge your constituents, you will have a chilling effect on them being able to get some credit. Give me a break. This is the greatest ripoff I have ever seen. And to add to it that if you are paying your bills on time, you are not missing a payment, and you go out and borrow some money because you may have a situation where you need more money, they look at that and say, oh, they went out and they borrowed some more money; I can use this, and I can describe it as a credit risk. Up with the interest rates.

Oh, you are better legislators than that. You do not want to do that to your consumers. You do not want to undermine them that way. You do not want to have the dollars that they are working hard to earn pulled out of their pockets in this racket.

Support the amendment. That is the decent thing to do.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I thank the chairman for yielding me this time.

We had this discussion on this amendment before the Committee on Financial Services, and it did not make a lot of sense then; and, frankly, it does not make a lot of sense now, that we would even consider this amendment.

Essentially, those who are issuing credit, particularly credit cards, that is their business, that is their product, that is what they do. And what they have to look to is the creditworthiness of any of us. We probably all in this room and most people in this country today are carrying some sort of credit card, and probably multiple credit cards in the cases of most individuals. And that is based on one's ability to be

able to pay their debts and be able to manage their accounts. Obviously, the one account is not necessarily the whole answer. The whole answer is exactly where you are financially. They make a decision with respect to where you are in a circumstance, and they issue the credit based on that. With the Maloney amendment, we have a circumstance in which people will be informed that if, indeed, their creditworthiness is challenged, they may have to pay higher interest rates.

The chairman cited a letter which I received on July 22, 2003, from Chairman Greenspan with respect to this issue, and I would just like to read a little further from that beyond what he had read. He said, ''Consumers' performance on credit accounts as well as the number and recency of certain types of inquiries to credit reporting companies are credit criteria that are statistically associated with creditworthiness in evaluative systems that are used for credit granting and pricing. Records of consumers' usage of, and payment performance on, credit accounts with other creditors are fundamental building blocks for evaluations of creditworthiness. For example, where a creditor commits to allow a consumer to make purchases or obtain cash advances from time to time on a revolving line of credit, the consumer's performance on other credit accounts can well presage the credit risk outlook for the creditor's own account,'' and it goes on from there.

It is relatively simple. You are in a situation in which an individual has taken credit based on the circumstances of their own creditworthiness and then has gone out and established their creditworthiness as not what it should be. There are problems or circumstances. Frankly, the credit card companies and others dealing with this do not want to have to do this if they can avoid it because it is easier for them to deal with it on the levels on which it is issued; but there are circumstances in which this happens, or perhaps this discourages it from happening, that is your interest rates might be increased.

So I think for all of these reasons, while this amendment sounds to be well-intended, ultimately would be extremely counterproductive in that I think a lot of the credit which is issued now, because people realize that this may be an outlet in order to make sure that people do not extend their credit otherwise, might in the future not be able to be granted, simply because the credit issuers are going to say this person has sort of a spotty history and yes, we would have done it if we had known we could have increased the interest rate if necessary, but in this circumstance we are not going to issue it. I think you are going to find a lot of people who marginally might have been able to receive credit before are not going to be able to receive it if this amendment were to be adopted. So I encourage the defeat of the amendment.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
*Washington, DC, July 22, 2003.*

Hon. MICHAEL N. CASTLE,
*House of Representatives, Washington, DC.*

DEAR CONGRESSMAN: This letter responds to your request of July 18, 2003, seeking my views as to whether proposed changes to the Fair Credit Reporting Act might affect the pricing of credit based upon risk or might potentially bear upon the safety and soundness of creditors. The proposed amendments referred to in your letter would limit use in credit evaluation systems of certain types of information, such as information regarding the number of inquiries about the consumer made to a credit reporting company, and would also restrict consideration of other types of information, such as information about the consumer's personal credit experiences with other creditors in credit decisions that involve the interest rate on an account.

The information gathered by credit reporting companies on the borrowing and payment experiences of consumers is a cornerstone of the consumer credit system in this country. Experience indicates that access to the information assembled by these companies and credit evaluation systems based on that information have improved the overall quality and reduced the cost of credit decisions while expanding the availability of credit.

Credit evaluation systems rely on information to measure the credit risk posed by current and prospective borrowers. In the process of credit evaluation, creditors seek to use information that helps them better distinguish between good and bad credit risks. The information items that receive positive and negative weights in credit evaluation systems are those that have demonstrated statistical usefulness in this process.

Consumers' performance on credit accounts as well as the number and recency of certain types of inquiries to credit reporting companies are credit criteria that are statistically associated with creditworthiness in evaluative systems that are used for credit granting and pricing. Records of consumers' usage of, and payment performance on, credit accounts with other creditors are fundamental building blocks for evaluations of creditworthiness. For example, where a creditor commits to allow a consumer to make purchases or obtain cash advances from time to time on a revolving line of credit, the consumer's performance on other credit accounts can well presage the credit risk outlook for the creditor's own account. Similarly, an upsurge in recent inquiries could indicate that a borrow in financial distress is seeking to gain access to more credit. Thus, restrictions on the use of information about certain inquiries or restrictions on considering the experience of consumers in using their credit accounts will likely increase overall risk in the credit system, potentially leading to higher levels of default and higher prices for consumers. Even with higher prices for credit, elevated levels of default may raise risk levels for credit-granting institutions.

In sum, in deciding whether to restrict the use of certain information in credit evaluations, the Congress should be aware that such restrictions are likely to diminish the effectiveness of statistical systems that have played a significant role in reducing the overall costs of credit and widening its availability.

I hope these comments are useful.

Sincerely,

ALAN GREENSPAN.

Mr. SANDERS. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY), the famous author of the Maloney amendment.

Mrs. MALONEY. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank the gentleman from Alabama (Mr. BACHUS) and the gentleman from Ohio (Mr. OXLEY) and the gentleman from Massachusetts (Mr. FRANK) for their extraordinary leadership on this important bill. And I thank them for supporting my disclosure amendment which will require conspicuous disclosure on credit reports and all credit papers of pricing items and techniques and strategies.

But at the same time, I continue to be very, very troubled by some pricing strategies used by certain companies, and I believe that the Sanders amendment provides a needed reform.

The amendment affects how credit card companies use information from credit reports to increase interest rates on their customers. This devious practice is known as ''bait and switch,'' where a consumer's low interest rate may be increased to 20 percent or higher simply because they may have taken out a new mortgage or some other liability. A recent New York Times article documented just such a case where an Illinois doctor had his rate go from 6.2 percent to over 16 percent when he took out a mortgage.

The amendment merely allows the consumer a window of 60 days before their rates are increased, in the event they were on a vacation or got sick or missed a payment or were experiencing some type of short-term financial difficulty.

I have met with a large number of industry representatives on this issue. Some company practices are already close to the standard of this bill and some are not. Congress has established some minimum consumer protections in other instances where necessary for the credit card industry such as the $50 maximum liability for lost cards. I believe this amendment sets a modest floor for the industry's practices above which there is an abundance of room for different companies to take different approaches and compete in the free market.

Mr. Chairman, I support this amendment.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I am opposed to this amendment for a couple of reasons. I too serve on the Committee on Financial Services where this amendment was defeated by a two to one margin. The Maloney compromise amendment which came up seemed reasonable. It does give disclosure, and I think that that certainly is a good warning to the consumer.

Mr. Chairman, one of the previous speakers mentioned a dispute, if you are disputing an item on your credit card statement, that is something that is put into abeyance, so that would not affect your credit rating. If we were to pass this amendment, I believe that all

consumers would be harmed, because there would be higher costs of credit nationwide.

When a credit card is issued, it is based upon a snapshot in time. As the picture changes, obviously, we need to have the companies remain to have that kind of flexibility that they have right now. This is really an issue of credit risk and creditworthiness; and as various occasions arise in one's life that they may be overextending themselves, then certainly the credit card company deserves to have the right to make those appropriate changes.

Mr. SANDERS. Mr. Chairman, I yield myself such time as I may consume.

The sides on this debate are very clear. One side are the credit card companies and the very large banks who are making huge profits from their consumers and, in some cases in our low-interest moment, right now, who are charging 25 or 29 percent a year interest rates. In other words, they are ripping off the American people.

On the other side of this debate and supporting this amendment, are virtually every major consumer organization in America that is saying enough is enough. If people pay their bills on time every month, they should not see their interest rates double or triple. The chairman mentioned that there was bipartisan opposition to my amendment. He was right. But as he knows, there was bipartisan support for this amendment, including the gentleman from Alabama (Mr. BACHUS), who was very articulate and supportive of this amendment as chairman of the relevant subcommittee.

Let me simply conclude by saying this: the American people are sick and tired of being ripped off by credit card companies. When they pay their bills every month on time, they should not see their interest rates soar. I would urge the Members of this body, in a bipartisan way, to support the American consumer and pass the Sanders amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. OXLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. RYAN of Wisconsin). The question is on the amendment offered by the gentleman from Vermont (Mr. SANDERS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. SANDERS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Vermont (Mr. SANDERS) will be postponed.

AMENDMENT NO. 16 OFFERED BY MRS. KELLY

Mrs. KELLY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 16 offered by Mrs. KELLY:

Page 44, after line 22, insert the following new subsection:

(c) REGULATORY AUTHORITY TO ADJUST REPORT DISTRIBUTION SCHEDULES IN TIMES OF REQUEST SPIKES.—Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended by inserting after subsection (g) (as added by section 702(e) of this Act) the following new subsection:

''(h) REGULATORY AUTHORITY TO ADJUST REPORT DISTRIBUTION SCHEDULES IN TIMES OF REQUEST SPIKES.—

''(1) IN GENERAL.—If the Federal Trade Commission and the Board of Governors of the Federal Reserve System determine that consumer reporting agencies have been temporarily overwhelmed with requests for disclosures of consumer reports under section 612(e) beyond their capacity to deliver such reports in a timely fashion, the Commission and the Board, by order, may implement such measures as the Commission and the Board determine to be necessary for a limited time to regain equilibrium between the ability of the agencies to disclose consumer reports and consumers demands for such reports.

''(2) PROTECTION FOR EMERGENCY AND TIME-SENSITIVE REQUESTS.—In issuing any order under paragraph (1), the Federal Trade Commission and the Board of Governors of the Federal Reserve System shall ensure that, during the effective period of any such order, creditors, other users, and consumers continue to have access to consumer credit reports on a time-sensitive basis for specific purposes, such as home purchases or suspicions of identity theft.''.

The CHAIRMAN pro tempore. Pursuant to the order of the Committee of today, the gentlewoman from New York (Mrs. KELLY) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, while this bill contains good consumer protections, my concern is that if free credit reports are extended to consumers, then there will be an unquestionable strain on the system. Unfortunately, the current system is not yet equipped to deal with overwhelming requests for credit reports that may result from offering free credit reports or any other extraordinary events. Consumers who have an identified need to access their file could find their request lost in an overburdened system. This will undoubtedly reduce service levels that could otherwise be dedicated to helping consumers who do have a concern about their files and need to have information quickly.

After holding several hearings on the issue of identity theft, my concern is that large numbers of people simply looking for information could result in a chaotic shock to the system that would be ripe then for fraud and difficult to detect criminal behavior.

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In the full committee I offered an amendment to ensure consumers' requests are accommodated by alleviating burdens on credit bureaus as the new law is implemented. I am pleased we have included a lot of this language in the manager's amendment, and as a result, the underlying bill now directs regulators as they construct a system for implementation to take into consideration potential spikes in the volume of requests for first year of the legislation. It is a tremendous first step, but I do not feel it is enough.

The amendment I am offering now builds on the manager's amendment and simply gives regulators the authority to respond on a temporary basis to the needs of consumers when credit bureaus are overwhelmed with requests after the 1-year implementation.

If the regulators determine it is necessary to exercise this authority, the amendment also explicitly states that their temporary approach must maintain consumer access to credit reports for emergency or time-sensitive requests. Including incidents of home purchases and suspected identity theft. Without the flexibility that this amendment provides, customer service may decline as credit bureaus become overwhelmed with requests under extenuating circumstances. By giving regulators the authority to mitigate in these instances, credit bureaus would be able to devote time and attention that each request deserves.

I want to thank both the chairman and ranking member for including some language in the manager's amendment on the first year of implementation, but this amendment would complete that work. It is a straightforward approach to a significant problem and I urge colleagues to support the amendment that will benefit millions of Americans who need prompt access to their credit reports.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I claim the time in opposition to the amendment.

The gentlewoman correctly described what happened when the gentlewoman raised this issue in committee and we had a discussion of it and I agreed to the substance in the first year. And yes, in the manager's amendment we have, I think, a very good version of the amendment that she had introduced in committee because when you are doing something like this, there is often a problem in the transition. And the gentlewoman is correct that her initiative, we have managed the problem of the transition, namely, we have given to the regulators, in this case, primarily the Federal Trade Commission, with some participation from the Federal Reserve, the ability to do it within the first year.

But I could not agree to making that a permanent feature in the way in which we now have because, for instance, some of the credit reporting agencies might be responsible and gear up for this. I do not want to reward those that might not do it. I think it is very reasonable to say in the first year, and it is also the case when you go from not having this right to having the right, yes, you can expect there to be a slew of first-time requests. But

after the first year there is no reason to think that there is going to be this kind of backlog and a reasonable company ought to be able to manage that.

If something should turn out later down the road to be an unanticipated problem, we have the capacity to deal with it, but I think it would weaken this if we were now to say to the regulators, in effect, on an ongoing basis, they could suspend this indefinitely, suspend this right for a lot of people. So while I supported and was glad to the 1-year transition issue, it does seem to me to go much further and we had and this was a process of give and take, we had agreed I thought on free credit reports as a basic rule. I must say that on our side and in many other places, giving the regulators an ongoing right to suspend what we have advertised as a new right beyond the transition year is very troubling and I would find it very difficult if this were to be included.

Mr. Chairman, I reserve the balance of my time.

Mrs. KELLY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, serving on the Committee on Financial Services has been a challenge at times and certainly a great pleasure. And I want to thank the gentleman from Ohio (Mr. OXLEY) for his leadership in championing the bill that we have before us.

The Kelly amendment, I believe, is a very worthwhile amendment. As free credit reports are extended to consumers, there will be an unquestionable strain on the system. Unfortunately, the system is not yet equipped to deal with the overwhelming requests for credit reports. It may result from offering free credit reports or other extraordinary events that may occur as people begin to request these free credit reports and overload the system.

Consumers who have identified the need to access their file will find their requests lost in an overburdened system. That will reduce service levels that could be dedicated to truly helping consumers who do have a concern about their files.

Yes, there is language in the manager's amendment that directs regulators as they construct a system for implementation to consider potential spikes in the volume of requests for their first year of implementation. The Kelly amendment, I believe, builds on this language and simply gives regulators the authority to respond on a temporary basis to the needs of consumers when credit bureaus are overwhelmed with requests.

If the regulators determine it is necessary to exercise this authority, the amendment also explicitly states that their temporary approach must maintain consumer access to credit reports for emergency or very time-sensitive requests, including instances of home purchases and suspected identity theft. Without this flexibility that this amendment offers, customer services will undoubtedly decline as credit bureaus become overwhelmed with these requests. By giving regulators the authority to mitigate in these instances, credit bureaus will be able to devote better time and attention to those needing the requests.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 1 minute.

One point, I recognize there could be a spike problem in the beginning. We should underline with regard to these requests, we are talking here about the problem of sending it out. Nobody has to send out a report that does not exist.

In other words, we are not imposing on the credit reporting agencies the duty of compiling the report anew. And I think that is something we ought to take into account. The question is simply whether after that first year they will be flooded, and the request is to simply send a report that exists. If no report exists, no obligation exists. And I do not think that the problem after the first year at this point is going to be so clearly a problem that we ought to write in this suspension. I am prepared to look at it later, but I think it would be a serious error at this point.

Mr. Chairman, I reserve the balance of my time.

Mrs. KELLY. Mr. Chairman, does the gentleman have any further speakers on this issue?

Mr. FRANK of Massachusetts. Just myself to close, as we have the right to do.

Mrs. KELLY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I believe this is an important work that I think we need to address before any conference report is finished. I think with an agreement with our chairman and with an agreement, hopefully, that was just stated by our ranking member, I think that I am willing to hopefully work with him in the spirit of cooperativeness here on the floor today.

Mrs. KELLY. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

Mr. FRANK of Massachusetts. Reserving the right to object, I would point out to the gentlewoman, the last time she and I had this conversation the result was a pretty good amendment to the manager's. I think we have a pretty good track record of working together.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore (Mr. RYAN of Wisconsin). The amendment is withdrawn.

Mr. EHLERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in order to enter into a colloquy with the distinguished chairman of the Committee on Financial Service.

Mr. Chairman, constituents in my district have brought to my attention a problem regarding the inability of certain people to obtain a credit rating from a credit bureau, even when they are very creditworthy. This is an extremely troublesome issue given the importance of a credit rating in our society today. It is very difficult to function without credit. From placing a deposit when renting a car, to staying in a hotel to getting a mortgage for a home, people rely on credit every day. Indeed, credit bureaus wield a great deal of influence in this respect.

Unfortunately, the rules and formulas they apply can yield unjust and nonsensical results. For example, visiting scholars at our colleges and universities or other temporary workers from overseas who have good credit in their home countries, often industrialized countries with advanced credit and accounting systems, often cannot obtain credit when coming to America. This prevents them from obtaining a credit card which is so vital for proper functioning in this society.

As another example, one woman in my district worked overseas for about 10 years during which time her credit cards expired and she stopped transacting business with credit cards from America. Upon returning she had a nearly $20,000 cash balance in a bank account but she was unable to get a credit bureau to rate her. She could not get a mortgage for a house, a credit card or even a retail store charge account. Despite her many years of good credit rating, this lull in credit usage eliminated her creditworthiness in the eyes of the number crunchers at the credit bureaus.

At the same time, credit card companies turn around and grant credit cards almost willy nilly to high school or college students with no credit history at all. These kinds of situations are unfair given the importance of a credit rating, good or bad, for so many financial transactions. It just does not make sense in many situations that some creditworthy people cannot get a credit rating at all despite having adequate cash resources or a positive history in another country.

Mr. Chairman, I would appreciate the time and effort of you and the committee to investigate whether a solution to these problems can be found.

Mr. OXLEY. Mr. Chairman, will the gentleman yield?

Mr. EHLERS. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Chairman, I understand the gentleman's concern and we have had some discussion about it. I would be pleased to work with him to explore what might be done to remedy these situations. It is certainly unfortunate that under our current system some situations like the ones you mentioned do arise preventing consumers, who are low credit risks, from obtaining credit quickly.

I look forward to working with the gentleman from Michigan (Mr. EHLERS) to see if we can address the legitimate concerns he raises.

Mr. EHLERS. Reclaiming my time, I thank the chairman for his assistance

and I look forward to working with him and the Committee on Financial Services on this important issue.

AMENDMENT NO. 1 OFFERED BY MR. KANJORSKI

Mr. KANJORSKI. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. KANJORSKI:

Page 7, strike line 13 and all that follows through line 24 and insert the following (and conform the table of contents accordingly):

**SEC. 101. 9-YEAR EXTENSION OF UNIFORM NATIONAL CONSUMER PROTECTION STANDARDS.**

Paragraph (2) of section 624(d) of the Fair Credit Reporting Act (15 U.S.C. 1681t(d)(2)) is amended to read as follows:

''(2) shall not apply after December 31, 2012.''.

The CHAIRMAN pro tempore. Pursuant to the order of the Committee of today, the gentleman from Pennsylvania (Mr. KANJORSKI) and the gentleman from Ohio (Mr. OXLEY) each will control 10 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. KANJORSKI).

Mr. KANJORSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I strongly support the Fair and Accurate Credit Transactions Act. Nevertheless, I believe that we should alter the legislation to sunset the key elements of the bill at the end of 2012.

The gentlewoman from New York (Mrs. MALONEY) also joins me in sponsoring this pragmatic and reasonable amendment.

In June, I helped to introduce H.R. 2622 to extend the expiring provisions of the Fair Credit Reporting Act and to improve consumer protections. In my view, the 1996 amendments to create a national credit reporting system have expanded access to credit, lowered the price of credit, and accelerated decisions about getting credit. To continue this record of achievement, we need to extend the expiring provisions of this law before the end of the year.

While I support the FACT Act, I also continue to believe that we should amend the bill to include a 9-year sunset. As currently drafted, the legislation would permanently extend the seven expiring preemptions of State law within the Fair Credit Reporting Act. In my view, we should sunset the Uniformed National Consumer Protections Standards contained in H.R. 2622 at the end of 2012, and the Kanjorski-Maloney amendment accomplishes this narrow objective. Unlike current law, our amendment would not specifically allow States to enact additional credit reporting standards in the preempted areas after the 9-year sunset.

In referring to the U.S. relationship with the Soviet Union, Ronald Reagan once said that we should ''trust but verify.'' We have adopted a similar approach with H.R. 2622. We should trust that the participants in the credit reporting industry will continue to work to comply with the law but verify that the consumers continue to have appropriate protections with respect to their credit in years ahead.

Mr. Chairman, a sunset provision provides industry with incentive to continue to work to advance the interest of consumers. Moreover, without a sunset, we may well have trust until some major problem causes chaos in the credit reporting industry and forces Congress to revisit the issue in a haphazard way.

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Furthermore, a sunset provision will allow us to evaluate the effectiveness of our credit-reporting programs and policies within a predetermined time frame and force us to decide whether to alter them. In fact, the sunset imposed by Congress in 1996 has allowed us today to review in a methodical and systematic manner the success of the current law and make necessary improvements to it to reflect changes in the financial system.

Identity theft, for example, has dramatically increased in recent years. Technology has also changed greatly in the last 7 years. Mr. Chairman, the FACT Act before us today addresses both of these developments. It, therefore, makes sense to ask the 112th Congress to review and reconsider our work in the 108th Congress and make further improvements to our credit reporting laws. A sunset at the end of 2012 provides sufficient time for industry to implement the reforms called for in this bill, establishes sufficient surety for our financial marketplace, and allows for new issues to arise on the public policy landscape.

In closing, Mr. Chairman, I encourage my colleagues to make a good bill even better by supporting the sensible and practical Kanjorski-Maloney amendment to sunset H.R. 2622 at the end of 2012.

Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio (Mr. TIBERI).

Mr. TIBERI. Mr. Chairman, it is a pleasure to speak to this amendment as well as to the legislation at hand. I am opposing the amendment. The amendment obviously would eliminate the uniform standards established by the FCRA in the future in 9 years.

Congress did something very good in 1996, and it did so voluntarily. There was not anything about to expire with FCRA in 1996, and Congress established a national uniform standard for FCRA in 1996 that recognized, quite competently, that this was an experiment, an experiment that should last and be tested over a 7-year period. That 7-year period is coming to an end on January 1 of 2004.

Over 100 witnesses through eight hearings loudly, clearly told our committee, Democrats and Republicans, that what we have had over the last 7 years and what Congress did in 1996 was quite successful. It has been successful for our economy, but, most importantly, successful for American consumers.

We are now, as American consumers, leaders of the world as far as credit goes, mortgage credit, consumer credit. And FCRA and the exemptions, the eight exemptions did that.

What we do not want to do is do this again in 9 years because what we have seen in the last 7 years and what was done in 1996 was done correctly.

Now, ladies and gentlemen, the committee rejected this amendment. We heard from, as I said, over 100 witnesses. Three of those witnesses included the Federal Trade Commission chairman, Chairman Greenspan, and Treasury Secretary Snow. They, too, believe this is the right way to go and support this legislation in its current form.

Now, there has been discussion on the floor today about what has been happening on the left coast and what has been happening in their legislature and what has been happening with their Governor who is in the process of being recalled. Well, this legislation is a great piece of legislation. I am afraid that because of their action, this Congress will be dealing with issues because of the California legislature in years to come.

This legislation today and what has happened in the last month out West demonstrate why this piece of legislation in its current form without the current amendment being offered is the right way to go.

The arguments that Congress will not address or will not be able to address, the problems or potential problems in the future without this amendment are unfortunately baseless because Congress can address issues pertaining to FCRA or issues pertaining to identity theft in 2 years, 3 years, 4 years, or 5 years.

Members of the House, the amendment is supported by some because they hope that the national uniform provisions will expire.

The national standard is good for consumers. It is good for America. This is a good bill drafted by the gentleman from Ohio (Chairman OXLEY) and the gentleman from Alabama (Mr. BACHUS). I support the bill. I urge my Members of the House and the Republican and Democrat side to reject the amendment from my learned colleague.

I thank the Members of the House for supporting this bill.

Mr. KANJORSKI. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I am very pleased to be an original cosponsor of the Fair Credit and Reporting Act. Over the course of several months the committee conducted comprehensive hearings and produced a balanced bill that

preserves the national credit market and enhances consumer protections.

I do not think any reasonable person would question the fact that the engine driving these improvements is the sunset provision put in the original Fair Credit and Reporting Act in 1996 that expires at the end of this year. Without the present sunset, consumers would not be getting free credit reports or access to their scores as they will be in this underlying bill.

Without the sunset, the Congress would not be forced to conduct months of hearings on the fundamental questions of credit report accuracy, identity theft, the privacy of medical records, and access to credit reports. These are major, all-important new rights that the underlying legislation grants to consumers that result directly from the current sunset.

In offering this amendment today, the gentleman from Pennsylvania (Mr. KANJORSKI) and I seek to strike a balance. Nine years ensures that the legislation will be revisited, but it grants the financial services industry a prolonged period of time during which it will not have to be concerned about major changes of law that will affect company operations.

I applaud my colleague, the gentleman from Pennsylvania (Mr. KANJORSKI), for being consistent in his desire to sunset the programs Congress creates. I think this approach is particularly important on this issue and on the legislation before us tonight.

Nine years ago, the world was a very different place. Technology has completely changed the manner our constituents access financial services in that time, and things are likely to be just as different 9 years from now; and it is appropriate that Congress revisit this law at that point.

For that reason and the others illustrated by my colleague, I deeply and truly do believe that this amendment is a very important one, and I strongly support it.

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Chairman, the gentleman from Ohio (Mr. TIBERI) spoke in opposition to this amendment and I think basically said everything that needed to be said on this particular amendment; and I think the most important thing he said is that Congress has demonstrated, because they have done it in the past, they are free to revisit and fine-tune FCRA anytime they wish; and they did that in 1996, even though there was not an impending deadline.

Far more important is what we learned in our hearing and how good the national credit reporting system is to our Nation. I am not sure that anybody disagrees with that, that anybody thinks that it ought to be experimented with, that it ought to expire in 9 years. It is very good for consumers. It has been particularly good in democratizing credit and extending credit to middle- and low-income Americans; and to limit that to 9 years, we do not do that with the Community Reinvestment Act. We do not do that to the Equal Credit Opportunity Act. We do not do that to our other acts which protect consumers, and this act is for the benefit of consumers and it protects consumers.

Let me conclude by saying the gentleman from Ohio (Mr. TIBERI) is one of our younger members of our committee, an outstanding member. It is just one example of the many young members that we have on our committee that have really had real input in this bill. I want to commend all of them.

I will close by commending the gentleman from Ohio (Mr. OXLEY) giving me the opportunity to work on this bill, for making it a priority, for realizing early that we needed multiple hearings. I would also like to commend these people: the gentleman from Massachusetts (Mr. FRANK), the gentlewoman from Oregon (Ms. HOOLEY), the gentleman from Kansas (Mr. MOORE), the gentleman from Ohio (Mr. LATOURETTE), the gentlewoman from Illinois (Mrs. BIGGERT), and other members of the committee.

Mr. KANJORSKI. Mr. Chairman, can I inquire as to the time remaining.

The CHAIRMAN pro tempore (Mr. RYAN of Wisconsin). The gentleman from Pennsylvania has 3½ minutes remaining. The gentleman from Ohio (Mr. OXLEY) has 4½ minutes remaining.

Mr. KANJORSKI. Mr. Chairman, I yield myself such time as I may consume. I do not think we need our 3½ minutes. I have no other speakers, Mr. Chairman.

Mr. Chairman, I guess I want to first say one of the privileges of serving in the House of Representatives is the opportunity to meet the Members of Congress on the other side of the aisle, and one of the Members of Congress that has been very instrumental in this bill is my good friend, the gentleman from Alabama (Mr. BACHUS); and he and I do not agree on a lot of things philosophically, but he represents the type of qualities that this House needs more of. So it has been such a pleasure to see him cochair this subcommittee and accomplish the almost unanimous consent of this committee on this piece of legislation, and it goes a great deal to his innate abilities and his just Southern gentlemanliness of how to accomplish a good piece of legislation. So I want to compliment him.

I disagree on the proposition that it hurts to sunset things. I think my colleague and I probably agree and have voted for sunset provisions. I am probably on most of the committees I serve on known as the sunset person. I like to sunset everything. The reason I like to sunset everything is it forces the Congress of the United States to come back, reevaluate, restudy and bring up to date needs that otherwise are not driven by public recognition or by commonality in the public force to cause legislation to be addressed.

In my opening remarks, I said that it is important that we trust industry, and I think as a Member of my side of the aisle what I want to say is that I have met with all of the interested parties in the reporting industry and the financial industry, and I have found them all working toward a common effort to increase credit, to increase accessibility to credit, and increase efficiencies to benefit consumers. So we have no disagreements on that.

Between now and 2012 there will be changes in technologies and changes for needs, and in my opening remarks I also said I like the idea of trust but verify. There will be some elements of the society that want to take advantage or not comply with the act. It will give us an opportunity to evaluate that and find out methods that we can reward good practitioners of fair credit and at least bring into the limelight bad practitioners of good credit.

I just do also want to take one moment to respond to my gentleman friend from Ohio. He referred to the left coast, and I am not sure, was he looking north or looking south because he may have been attacking my hometown. I could be on the left coast if one is looking south.

The comment I want to make to my colleague is there is a fundamental illogic in his argument. He said that the left coast is having this recall and they are, and he seems to favor the recall. The recall probably is an element of sunset provisions, that is, the opportunity to require a revesting out there of an election of a Governor.

□ 1845

So if my colleague is in favor of not having sunsetting and not having recalling, then I suggest he talk to one of his fellow colleagues on his side, because I think he brought this about with the argument that the people should be protected with the right to recall.

I do not favor recall, but in the Congress I do favor a sunsetting provision because it will give us the opportunity to reevaluate, rejudge, and have oversight and correct some mistakes made in the initial legislation. So I urge all my colleagues on the Republican side, the Democratic side, and those that are Independent, in the middle, to support this amendment.

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume, and in conclusion I would say to my good friend from Pennsylvania that this is a philosophical difference. Clearly, he makes some interesting arguments. The amendment was, in fact, rejected in the committee.

In fact, FCRA, as other Members have said on both sides of the aisle today, has been a very successful piece of legislation. It has provided consistency, reliability, certainty, and uniformity in our credit laws. And that has had enormous consequences for our economy and for consumers, as has been chronicled time and time again during the period of this debate.

I would suggest that this act that we are now seeking to make permanent has stood the test of time for 7 years, and it is now time that we make this permanent so that credit agencies, people who get credit, issuers, furnishers, everybody concerned knows what the rules are, knows that those rules are effective and work well, and that they will be permanent.

So I respectfully oppose the Kanjorski amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. RYAN of Wisconsin). All time for debate has expired. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. KANJORSKI).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. KANJORSKI. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Pennsylvania (Mr. KANJORSKI) will be postponed.

AMENDMENT NO. 3 OFFERED BY MR. INSLEE

Mr. INSLEE. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. INSLEE:

Page 80, after line 5, add the following new title (and conform the table of contents accordingly):

**TITLE VIII—TECHNICAL CORRECTIONS**

**SEC. 801. AMENDMENTS RELATING TO SECTIONS 625 AND 626 OF THE FAIR CREDIT REPORTING ACT.**

(a) SECTION 625.—Section 625(h) of the Fair Credit Reporting Act (15 U.S.C. 1681u(h)) is amended by striking ''Committee on Banking, Finance and Urban Affairs'' and inserting ''Committee on Financial Services''.

(b) SECTION 626.—Section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681v) is amended—

(1) in subsection (b), by striking ''a supervisory official designated by''; and

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

''(f) REPORTS TO THE CONGRESS.—On a semiannual basis, the head of a Federal agency authorized to conduct investigations of, or intelligence or counterintelligence activities or analysis related to, international terrorism shall fully inform the Permanent Select Committee on Intelligence and the Committee on Financial Services of the House of Representatives, and the Select Committee on Intelligence and the Committee on Banking, Housing, and Urban Affairs of the Senate concerning all requests made pursuant to subsections (a).

''(g) PAYMENT OF FEES.—A Federal agency authorized to conduct investigations of, or intelligence or counterintelligence activities or analysis related to, international terrorism shall, subject to the availability of appropriations, pay to the consumer reporting agency assembling or providing report or information in accordance with procedures established under this section a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching, reproducing, or transporting books, papers, records, or other data required or requested to be produced under this section.''.

Mr. OXLEY. Mr. Chairman, I reserve a point of order.

Mr. INSLEE. Mr. Chairman, we have an amendment that will cure a modest imperfection that occurred essentially due to the PATRIOT Act. It is something that I think actually may have been an oversight, but it is something we would like to take a shot at solving today.

Mr. Chairman, while the FBI for years has been allowed to have access to our credit reports, we have wisely included certain conditions in the law about the FBI being able to dial up and get access to citizens' credit reports. There is a requirement that there be a sign-off by the Director or someone appointed by the Director, and that there be a report to Congress and that there be payment to the credit reporting agency for the costs associated with sharing the information. These are reasonable conditions and requirements for privacy concerns.

Unfortunately, when we adopted the PATRIOT Act, we did not include those conditions, those privacy protections, when it applied to the ability now for the Treasury Department and a host of other investigatory agencies who can now essentially call up and get citizens' reports. So our amendment would simply require the same privacy protections that apply to the FBI's getting access to our credit reports to other investigatory agencies.

We understand that there is a point of order raised on this, but we have brought this to the Chair's attention; and we hope as this matter moves along, the chairman will look for a way to solve this problem at a later date as this legislation matures. It is very solvable, it needs to be resolved, and it should not be controversial. So we hope that that will occur.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. The amendment is withdrawn.

AMENDMENT NO. 6 OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. FRANK:

Page 44, strike lines 9 and 10 and insert ''Section 612 of the''.

Page 44, beginning on line 14, strike ''described in section 603(p)'' and insert ''that compiles and maintains files on consumers on a nationwide or regional basis''.

Page 44, strike line 18 and all that follows through line 22.

The CHAIRMAN pro tempore. Pursuant to the order of the Committee of today, the gentleman from Massachusetts (Mr. FRANK) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, there has been a good deal of self-congratulation on this bill, but some of it is not yet deserved. I hope after the adoption of this amendment it will be.

We have congratulated ourselves on, among other things, providing under this amendment for free copies once a year of credit reports to consumers. Indeed, we had a colloquy with the gentleman from New York about the flood that was going to happen; and at one point in committee. Language was adopted which did provide all consumers with free copies of all credit reports that might have been done on them.

Then an amendment was adopted in committee, and I wish it had not been adopted, it was not by vote, it just happened, which substantially limited it. So as of now, as the bill stands, if this amendment is not adopted, consumers can get free copies of their credit reports, consumers in general, from only one of the three major national credit agencies. And that is a good thing, but there are an awful lot of specialized credit agencies. There are regional credit agencies. Not as many. Some that remain from previously. There are local credit agencies. My amendment does not cover them; I leave them out. They had been in the original bill, but I had agreed to a cutback. The cutback went much further than I thought we had agreed to.

So what this amendment says is an individual should be able to get a free copy of their credit report from the national specialized credit agencies, and there are large numbers of national agencies. One of the most important is the Medical Information Bureau, and I have spoken to them. They have no objection to being in this requirement. They give medical information, which would be relevant. There is also ChoicePoint, CheckSystems, CLUE, and Landlords United. A lot of these national specialized agencies have to do with landlord-tenant agencies.

So if this amendment does not pass, please do not try to take credit for passing a bill that generally gives consumers a right to a free credit report. It gives consumers a right to a limited pool of free credit reports, those from the major national credit agencies. But a large number of the agencies which compile credit on people will be excluded from the bill, and I think that would be a severe error and a misrepresentation.

Mr. Chairman, I reserve the balance of my time.

Mr. BAKER. Mr. Chairman, I claim the time in opposition.

The CHAIRMAN pro tempore. The gentleman from Louisiana (Mr. BAKER) is recognized for 10 minutes.

Mr. BAKER. Mr. Chairman, I yield myself such time as I may consume, and I rise in opposition to the gentleman's amendment.

During the course of the committee deliberations, I was concerned about the consequences of the mandatory credit report obligation on those entities within communities which are basically small businesses. The three principal national credit reporting entities are responsible for in excess of 95 percent of all credit reporting activities, financial in nature, within the country.

I offered an amendment in committee which I represented to the gentleman that would affect what we deemed to be small reporting agencies in nature, to which there was agreement in that principle. The effect of the amendment, subject to further review, though it was not the intent, was clearly to go beyond just the very small credit bureaus in the way in which the amendment was constructed. I then understood, by error, the intent of the amendment was better than I originally thought.

Although I was aiming only at the very small credit bureaus, for which it would be an economic disadvantage of some significance for them to provide this level of free report and, furthermore, who are not now required under law to provide a free credit report for this reason, it also went to other entities, for example, MIB or other health-related reporting entities under the broad definition of consumer reporting enterprises that also required them to provide the free credit report. By inadvertence, my amendment was a little broader in scope than I thought, but in principle and effect I agree with the consequences of my amendment.

I support the gentleman's view that the three large credit-reporting entities, which conduct over 95 percent of the disclosure of financial matters of consumers, should be subject to this now new one additional reason for a provision of a free credit report. The adoption of this amendment, however, if the House were to accept the gentleman's position, would be to require all consumer-related reporting agencies, even the smallest, to provide this free credit reporting information even to their financial detriment.

Although there was some disagreement in the construct of the amendment in the committee, I would still reserve my objection to the gentleman's amendment; and I think it is a policy matter for the House to determine whether we would accept any relief from the requirement for the free credit report or would we accept the gentleman's position to require all entities regardless of economic consequence to provide the mandated credit report.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 1 minute and would say first that the gentleman has correctly stated it. And, frankly, I relied when that amendment was offered on what he now concedes was a misinterpretation. That is not a good way to legislate. And I am disappointed that the gentleman is going to try to keep the advantage of that misunderstanding.

Secondly, it is inaccurate to say that this amendment that I am now offering would cover everybody. I have agreed to exempt in this amendment the local credit agencies. I am talking about the national specialized ones. They are the primary difference between us.

The gentleman acknowledges and he explained an amendment that I did not think and I guess he did not think covered people like MIB. We did not object to it. It was not carefully read. We accepted the description. He says through inadvertence it went too far. That happens. But I think it is frankly inappropriate in terms of our legislatively working together to insist on that, particularly since I am not trying to restore the original language. I am excluding the small ones.

Mr. Chairman, what this does is this covers the few regional ones, but mostly it covers national specialized agencies which do not merit the description of those who are too poor.

So I think, once again, if we reject this amendment, we have what the gentleman concedes is an inadvertent amendment that was adopted that excludes a number of agencies and we cannot say that it gives everybody free credit reports.

Mr. Chairman, I reserve the balance of my time.

Mr. BAKER. Mr. Chairman, I yield myself 2 minutes.

I simply point out in fairness to the gentleman that the discussion of regional reporting entities was not really a discussion point within the committee discourse. My concern was the economic consequences on the very small. And upon reflection of the impact of the amendment addressing the question of regionals and economic concerns, the arguments are the same.

I still feel that the exemption that I am attempting to preserve in the bill is appropriate and understand the gentleman's philosophic view that all of these enterprises at the regional level should be required to provide the free report.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. BAKER. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Put aside the regionals. What about the national specialized agencies, like MIB? This amendment could be amended under the rules. An amendment could be offered to amend this, a second degree amendment. Would the gentleman agree to exclude the regionals and cover the specialized national ones?

Mr. BAKER. Mr. Chairman, reclaiming my time, let me suggest this to the gentleman, in light of everyone here present and observing this. I will be most happy not to repeat the same mistake I made at the committee and agree with the gentleman that in fact a description and analysis of the specialties does result in the view that they are large enough and sufficient in scope; I will commit to work with the gentleman going forward.

Mr. FRANK of Massachusetts. Where? This is the end of the bill.

Mr. BAKER. Well, it will likely be in conference, I would suggest, because there will be no assurance that the bill we pass here will seek Senate approval or uniformity with the Senate.

I would suggest to the gentleman that adopting here at the moment, without having a full listing of those specialty organizations, would be difficult for me to assess the effect. But I am not trying to obstruct the gentleman's interest and believe that the bill as constructed in its current form is appropriate.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 1 minute to express my extreme disappointment.

I relied on an explanation the gentleman now acknowledges was erroneous when this amendment was adopted. The gentleman says it goes too far. I have offered to try to compromise. He now tells me that after the bill has passed, he will work with me. That offer is worth about as much as the explanation I got, apparently. And it may or may not be a conferencable item. I do not know whether the Senate will have any language in this.

So I must express my extreme disappointment. This is not conducive to a cooperative working relationship, I must say to the gentleman from Louisiana. We tried to do this through negotiations in the manager's amendment; we have tried to repair this. And the gentleman has at every point said, no, I won because there was a misunderstanding, and that is it.

□ 1900

Mr. Chairman, I cannot consider that to be a reasonable offer to work together.

Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Chairman, I thank the gentleman from Massachusetts (Mr. FRANK) for yielding me this time.

Mr. Chairman, I rise in strong support of the Frank amendment. As we have heard, the base bill would allow every American access to a free annual consumer report upon request from the three national credit reporting agencies, and I salute the provision, as does the ranking member.

But as we all know, while the Fair Credit Reporting Act deals primarily with credit-reporting agencies, the underlying statute we are amending today through the FAIR Act deals with all consumer reporting agencies. These include credit investigative medical tenant reporting agencies, among many others.

Unfortunately, this bill inadvertently limits consumers to requesting

and reviewing only one free credit report annually from the three national reporting agencies, meaning this bill does not permit consumers to obtain free reports from hundreds of specialized national consumer reporting agencies that compile information on consumers for noncredit purposes.

This provision is necessary in order to correct this oversight and ensure free annual consumer reports from all entities covered by the Fair Credit Reporting Act, whether they be credit agencies or other information-gathering agencies.

We need to ensure that this legislation lives up to the spirit of what all of its supporters intended, including myself, that of allowing Americans access to all consumer reports compiled on them by information-reporting bureaus, not just credit reports, but medical reports and other reports about people's personal information.

I do recognize that the Medical Information Bureau, which I have worked closely with, for their agreement to provide these free annual reports upon request, but even with this agreement, there are too many information-gathering agencies which are exempt and will remain unresponsive from these provisions without passage of this amendment.

These consumer-reporting agencies include but are not limited to companies that compile consumer information relating to medical records, employment background checks, tenant screening, driving records, insurance claims, criminal records and check-writing history. In fact, in recent years, it has become evident that two companies, only two companies almost dictate which consumers can open checking accounts based upon the reports and scores they provide to financial institutions.

These information gatherers must be included under the obligation to ensure free annual reports to individuals upon the consumer's request. This will ensure greater accuracy and transparency, what I believe is the basic goal of the underlying bill today.

Everyone should support this amendment. It does not change the bill, but rather clarifies the intent of all of its supporters, of which I am one. I urge my colleagues to support this amendment.

Mr. BAKER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I wish to address the view of the gentleman with regard to the consequences of these determinations. The focus of the bill was to provide those individuals without financial resources or for just cause access to a credit report without having to pay for it.

In our negotiations or discussions about resolution of the matter, I am willing and would support an amendment that would preserve that right for those protected classes under the bill to have access to a free credit report, regardless of the nature of that credit-reporting entity.

What I did not want to require was a broad-based requirement for either the specialty or the small business credit reporting agency to be under a monetary obligation to provide all requesters a free credit report. I think that is a fair position, given my concerns about the economic impact on these business enterprises, and would be reluctant not to provide that measure of equity to the regional reporting agencies without understanding better the economic consequences.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Chairman, I rise in support of the Frank amendment to the Fair Credit Reporting Act. One of the things that happened in committee, and it is unfortunate because of a misunderstanding, all of a sudden we are restricting these free credit reports.

One of the big deals about passing this bill was that everyone got a free credit report. The Frank amendment allows all consumers to obtain a free annual credit report from any nationwide consumer reporting agency. It eliminates the provision in the bill that restricts consumers to getting their free annual credit report from just three national consumer reporting agencies. The amendment also restores the right of consumers who are unemployed or on public assistance or believe they have been a victim of fraud to obtain a free credit report from any consumer reporting agency. Right now they can get that from all of the major credit reporting agencies. Under this bill, as it is currently written without this amendment, they will be restricted. They will only be able to get these free reports from local or regional consumer reporting agencies.

I believe I speak for both sides of the aisle when I say it was never the intention of the Committee on Financial Services to strip away these rights that these disadvantaged groups have under current law, and these groups are already entitled to a free credit report from the national agencies. We should not be restricting access to credit reports for the disadvantaged, while at the same time, giving the rest of the Nation's consumers even more access to their credit information. This amendment will restore the additional access to credit information that these disadvantaged groups currently enjoy, and this amendment should have been part of Fair Credit Transaction Act from day one.

Again, one of the primary intentions of this legislation was to increase access to information for all Americans, and by supporting the Frank amendment, we will be doing just that. I urge Members to vote yes on the Frank amendment.

Mr. BAKER. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. Mr. Chairman, let me just say, having participated obviously in the markup and listening to the debate on the floor, I think all Members want to preserve the protected class. I do not think that is really an issue. Also, I think there is some concern that very small agencies ought to have some exemption from the free credit report.

I would indicate to the gentleman from Massachusetts (Mr. FRANK) my efforts to try to solve that problem. I think it is going to be impossible at this point in the process, but going forward, particularly in conference, I have every reason to think that we can come to a good conclusion. We all, I think, recognize that the protected class should continue to have access to free credit reports, as they always have had, as the gentlewoman from Oregon (Ms. HOOLEY) so carefully pointed out.

The real issue is the exemptions of the small agencies that represent approximately 10 percent of those credit reports. I do not think at the end of the day the position of the gentleman from Massachusetts (Mr. FRANK) and the gentleman from Louisiana (Mr. BAKER) are all that different, and I would simply say that I would pledge my efforts towards reaching a good conclusion towards both gentlemen's aims.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I guess I must look pretty stupid to be told that people are going to work with me at the end of the bill.

This process has been going on since we finished the markup. My staff was negotiating with the staff of the majority. We offered all kinds of things. We had the manager's amendment opportunity. This amendment was filed last night. It was subject to secondary degree amendment. It could have been changed.

The gentleman from Ohio (Mr. OXLEY) said there is no real difference between my position and the position of the gentleman from Louisiana. Let me correct the gentleman, there is no difference between my position and the position the gentleman from Louisiana explained when the amendment was offered; but there is a big difference between my position and what the law says if we pass this bill this way.

We talk about the protected classes, people who have been the victims of fraud, people who are unemployed, if you pass this bill and defeat this amendment, they will have less rights thanks to your work than they have today. The amendment of the gentleman from Louisiana (Mr. BAKER), he said through inadvertence, took away their rights. Whatever they use to take away their rights, whether it was inadvertence, advertence, or anything else, they have lost their rights.

Now after saying no to a negotiation before, no to the manager's amendment, and no to an amendment here, now the other side says we will see you in conference. Let me make a commitment to the gentleman. If you want to

use your majority to defeat this amendment, I probably cannot stop you; but if this is not substantially repaired in conference, this bipartisan consensus is coming to an end.

Mr. BAKER. Mr. Chairman, I yield myself such time as I may consume.

Let me return to the basis of the current law and what the effect of the amendment would be if adopted. Today, any person who is the subject of an adverse action, you get turned down, you have an absolute right to a free credit report regardless of your economic status.

If you are a consumer who suspects fraudulent conduct regardless of your economic status, you get a free credit report. If you are unemployed, you get a free credit report. If you are subject to public welfare, you get a free credit report. The amendment adopted I proposed in committee does not, in any way, limit or affect those rights that exist under current law. The bill as proposed without the amendment I offered would have established one more level for a free credit report.

I was and am willing, as is the current law with regard to these categories, to say that with regard to the one additional credit report, that the protected classes may have access to that information without charge. But it is not a correct view of the effect of the Baker amendment as adopted to suggest that it rolls back current protections and authorities of those desiring to get a free credit report. It would with regard to the new right being adopted by passage of the Act. That is the state of affairs if we defeat the Frank amendment, which I hope the House will engage in; and again, renew the pledge to the gentleman, despite his difficulties with the manner under which this has proceeded, if we are fortunate enough to be on such a conference, to work with the gentleman toward appropriate resolution, and would hope the House would reject the Frank amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. CULBERSON). The question is on the amendment offered by the gentleman from Massachusetts (Mr. FRANK).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. FRANK of Massachusetts. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Massachusetts (Mr. FRANK) will be postponed.

AMENDMENT NO. 9 OFFERED BY MRS. TAUSCHER

Mrs. TAUSCHER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mrs. TAUSCHER:

Page 69, after line 5, insert the following new section (and conform the table of contents accordingly):

**SEC. 510. REQUESTS BY CONSUMERS FOR REASONABLE PROCEDURES FOR ESTABLISHING NEW CREDIT.**

Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended by inserting after subsection (e) (as added by section 403 of this Act) the following new subsection:

''(f) REQUESTS BY CONSUMERS FOR REASONABLE PROCEDURES FOR ESTABLISHING NEW CREDIT.—

''(1) IN GENERAL.—Any consumer may submit a request to a consumer reporting agency that any person who uses a consumer report of such consumer to establish a new credit plan in the name of the consumer utilize reasonable policies and procedures described in paragraph (4).

''(2) PLACEMENT IN FILE.—Any consumer reporting agency that receives a request from a consumer shall include the request in the file of the consumer.

''(3) NOTICE TO USERS.—No person who obtains any information from a file of any consumer from a consumer reporting agency that includes a request from the consumer under this subsection may establish a new credit plan in the name of the consumer for a person other than the consumer without utilizing reasonable policies and procedures described in paragraph (4).

''(4) REASONABLE POLICIES AND PROCEDURES.—The notice included by the consumer reporting agency pursuant to the request of the consumer shall state that the consumer does not authorize establishing any new credit plan in the name of the consumer, unless the user utilizes reasonable policies and procedures to form a reasonable belief that the user knows the identity of the person for whom such new plan is established, which may include obtaining authorization or preauthorization of the consumer at a telephone number designated by the consumer or by such other reasonable means agreed to.''.

The CHAIRMAN pro tempore. Pursuant to the order of Committee of today, the gentlewoman from California (Mrs. TAUSCHER) and a Member opposed to the amendment each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to ask my colleagues to support a simple amendment. Currently only consumers who can prove that they already have been victims of identity theft can ask the credit industry to confirm the identity of a person before issuing new credit accounts under the consumer's name. My amendment would simply allow any consumer the option to require the credit industry to use the reasonable policies and procedures identification standards established in the fraud alert provision. This amendment would give all consumers, students, military, the elderly and families, a meaningful way to protect their own personal credit records.

Proponents of this bill claim that the fraud alert provision creates powerful consumer protection tools to prevent identity thieves from opening accounts in their names. They fail to mention that the tools are available only after one becomes a victim. Talk about closing the barn door after the horse is out.

□ 1915

The credit industry argues that the public needs education to learn how to protect their data. While there are some precautions individuals can take, individual consumers have little or no means to protect themselves from the fastest-growing type of identification theft, theft from poorly protected databases. Since 1990, 33 million Americans, or one in six adults, have been victims of identity theft. This year businesses will lose $4.2 billion to this crime, losses that will ultimately be passed on to other customers. Earlier this year, the major credit card companies confirmed that a hacker broke into their systems and accessed 8 million credit card records. My amendment would provide all consumers an option to proactively protect their personal information against fraudulent use by identity thieves, organized crime and terrorist organizations.

Mr. Chairman, I would like to ask the distinguished ranking member from Massachusetts to work with me and the members of the committee during conference to implement the spirit of my amendment in the final report.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentlewoman yield?

Mrs. TAUSCHER. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentlewoman for her spirit of cooperation. I think she is very much right on the substance. We did have to try to work out a balance out of committee. Some of us, as you recently saw, were more willing to stick to our commitments than others; but I would say to the gentlewoman, I think that in substance she has a very good idea and, yes, I would welcome the chance to try to work with her in conference assuming that there is something conferencable about this, as there may well be.

Mrs. TAUSCHER. I thank the gentleman.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore (Mr. CULBERSON). Is there objection to the request of the gentlewoman from California?

There was no objection.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 4 offered by the gentleman from Vermont (Mr. SANDERS), amendment No. 1 offered by the gentleman from Pennsylvania (Mr. KANJORSKI), amendment No. 6 offered by the gentleman from Massachusetts (Mr. FRANK), and amendment No. 12 offered by the gentleman from Ohio (Mr. NEY).

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic votes in this series will be conducted as 5-minute votes.

AMENDMENT NO. 4 OFFERED BY MR. SANDERS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Vermont (Mr. SANDERS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 142, noes 272, answered ''present'' 1, not voting 19, as follows:

[Roll No. 495]

AYES—142

Abercrombie
Ackerman
Aderholt
Bachus
Baldwin
Ballance
Barton (TX)
Becerra
Bereuter
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Carson (IN)
Clay
Conyers
Cooper
Costello
Cubin
Cummings
Davis (AL)
Davis (CA)
DeFazio
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Duncan
Edwards
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frost
Gonzalez
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinchey
Hoeffel
Honda
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson, E. B.
Jones (NC)
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
LaHood
Lampson
Langevin
Lantos
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Maloney
Matsui
McCarthy (MO)
McGovern
McNulty
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller, George
Mollohan
Moran (KS)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Otter
Owens
Pallone
Pascrell
Pastor
Payne
Pomeroy
Rahall
Reyes
Rodriguez
Rogers (AL)
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Slaughter
Solis
Stark
Strickland
Taylor (MS)
Tierney
Udall (NM)
Van Hollen
Visclosky
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Whitfield
Wu

NOES—272

Akin
Alexander
Allen
Andrews
Baca
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Bell
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cunningham
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Dunn
Ehlers
Emanuel
Engel
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Holden
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Kanjorski
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Larsen (WA)
Latham
Leach
Lewis (CA)
Lewis (KY)
LoBiondo
Lucas (KY)
Lucas (OK)
Majette
Manzullo
Marshall
Matheson
McCarthy (NY)
McCollum
McCotter
McCrery
McHugh
McInnis
McIntyre
Meeks (NY)
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moore
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Oxley
Paul
Pearce
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Upton
Velazquez
Vitter
Walden (OR)
Walsh
Weldon (FL)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

ANSWERED ''PRESENT''—1

Ruppersberger

NOT VOTING—19

Burton (IN)
Davis (IL)
Emerson
Gephardt
Hayworth
Hoekstra
Holt
Janklow
Linder
Lipinski
Markey
McDermott
McKeon
Pelosi
Pence
Rangel
Thompson (MS)
Udall (CO)
Woolsey

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. CULBERSON) (during the vote). Members are advised they have 2 minutes within which to record their vote.

□ 1937

Messrs. CARDOZA, BARTLETT of Maryland, SANDLIN, CLYBURN, MICHAUD, ENGEL and INSLEE changed their vote from ''aye'' to ''no.''

Mr. ADERHOLT and Mr. BECERRA changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. HOLT. Mr. Chairman, I was unavoidably detained and failed to vote on rollcall No. 495 (the Sanders amendment to the Fair and Accurate Credit Transactions Act). Had I been present I would have voted ''aye.''

AMENDMENT NO. 1 OFFERED BY MR. KANJORSKI

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Pennsylvania (Mr. KANJORSKI) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 112, noes 310, answered ''present'' 1, not voting 11, as follows:

[Roll No. 496]

AYES—112

Abercrombie
Ackerman
Baca
Baldwin
Barton (TX)
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Capps
Capuano
Cardin
Conyers
Cummings
DeFazio
DeGette
Delahunt
DeLauro
Doggett
Doyle
Emanuel
Eshoo
Etheridge
Farr
Fattah
Filner
Flake
Frank (MA)
Grijalva
Harman
Hastings (FL)
Hefley
Hinojosa
Hoeffel
Holden
Holt
Honda
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larson (CT)
Lee
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
McCarthy (MO)
McDermott
McGovern
McNulty
Meehan
Millender-McDonald
Miller, George
Murtha
Nadler
Napolitano
Neal (MA)
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Price (NC)
Radanovich
Rahall
Rodriguez
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sanchez, Linda T.
Sanders
Schakowsky
Scott (VA)
Sherman
Slaughter
Solis
Stark
Stupak
Taylor (MS)
Thompson (CA)
Tierney
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner

NOES—310

Aderholt
Akin
Alexander
Allen
Andrews
Bachus
Baird
Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Bell
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)

Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Engel
English
Evans
Everett
Feeney
Ferguson
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hill
Hinchey
Hobson
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Ose
Otter
Oxley
Pearce
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Loretta
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

ANSWERED ''PRESENT''—1

Ruppersberger

NOT VOTING—11

Davis (IL)
Emerson
Gephardt
Hoekstra
Janklow
Lipinski
Pelosi
Pence
Rangel
Udall (CO)
Woolsey

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1944

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 6 OFFERED BY MR. FRANK OF MASSACHUSETTS

The CHAIRMAN pro tempore (Mr. CULBERSON). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts (Mr. FRANK) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 235, noes 186, answered ''present'' 1, not voting 12, as follows:

[Roll No. 497]

AYES—235

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Barton (TX)
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Bono
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Burton (IN)
Buyer
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Coble
Conyers
Cooper
Costello
Cramer
Crowley
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Dreier
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gerlach
Gilchrest
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Isakson
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kirk
Kleczka
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Peterson (MN)
Petri
Platts
Pomeroy
Price (NC)
Putnam
Quinn
Rahall
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shaw
Sherman
Shimkus
Simmons
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Wicker
Wu
Wynn

NOES—186

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Bereuter
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Cole
Collins
Crane
Crenshaw
Cubin
Cunningham
Davis, Jo Ann
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Duncan
Dunn
Ehlers
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hostettler
Houghton
Hulshof
Hunter
Hyde
Issa
Istook
Jenkins
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Latham
Lewis (CA)
Lewis (KY)
Linder
Lucas (OK)
Manzullo
McCotter
McCrery
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Peterson (PA)
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sessions
Shadegg
Shays
Sherwood
Shuster
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Sullivan
Tancredo
Tauzin
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

ANSWERED ''PRESENT''—1

Ruppersberger

NOT VOTING—12

| | | |
|---|---|---|
| Cox | Hoekstra | Pence |
| Davis (IL) | Janklow | Rangel |
| Emerson | Lipinski | Udall (CO) |
| Gephardt | Pelosi | Woolsey |

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised there are 2 minutes remaining on this vote.

□ 1953

Messrs. DREIER, PETRI, TERRY, BURTON of Indiana, KIRK, SHIMKUS, LoBIONDO, and Mrs. BONO changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 12 OFFERED BY MR. NEY

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Ohio (Mr. NEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 233, noes 189, answered ''present'' 1, not voting 11, as follows:

[Roll No. 498]

AYES—233

| | | |
|---|---|---|
| Abercrombie | Case | Gallegly |
| Aderholt | Castle | Garrett (NJ) |
| Akin | Chabot | Gerlach |
| Allen | Chocola | Gibbons |
| Bachus | Coble | Gilchrest |
| Baker | Cole | Gillmor |
| Ballenger | Collins | Gingrey |
| Barrett (SC) | Cooper | Gordon |
| Bartlett (MD) | Cox | Goss |
| Bass | Cramer | Granger |
| Beauprez | Crane | Graves |
| Bereuter | Crenshaw | Green (WI) |
| Biggert | Cubin | Greenwood |
| Bilirakis | Culberson | Gutknecht |
| Bishop (UT) | Cunningham | Harman |
| Blackburn | Davis (AL) | Harris |
| Blunt | Davis (TN) | Hart |
| Boehlert | Davis, Jo Ann | Hastings (WA) |
| Boehner | Davis, Tom | Hayes |
| Bonilla | Deal (GA) | Hayworth |
| Bonner | DeLay | Hensarling |
| Bono | DeMint | Herger |
| Boozman | Diaz-Balart, L. | Hobson |
| Boswell | Diaz-Balart, M. | Holden |
| Boucher | Dicks | Hostettler |
| Bradley (NH) | Doolittle | Houghton |
| Brady (TX) | Dreier | Hulshof |
| Brown (SC) | Dunn | Hunter |
| Brown-Waite, Ginny | Edwards | Hyde |
| | Ehlers | Isakson |
| Burgess | English | Issa |
| Burns | Etheridge | Istook |
| Burr | Everett | Jenkins |
| Burton (IN) | Feeney | Johnson (CT) |
| Buyer | Ferguson | Johnson (IL) |
| Calvert | Fletcher | Johnson, Sam |
| Cannon | Foley | Jones (NC) |
| Cantor | Forbes | Keller |
| Capito | Ford | Kelly |
| Carter | Fossella | Kennedy (MN) |
| King (IA) | Oxley | Sherwood |
| King (NY) | Pearce | Shimkus |
| Kirk | Peterson (PA) | Shuster |
| Kline | Petri | Simmons |
| Knollenberg | Pickering | Simpson |
| Kolbe | Pitts | Smith (MI) |
| LaHood | Platts | Smith (NJ) |
| Latham | Pombo | Smith (TX) |
| Leach | Pomeroy | Souder |
| Lewis (CA) | Porter | Stearns |
| Lewis (KY) | Portman | Stenholm |
| Linder | Pryce (OH) | Strickland |
| LoBiondo | Putnam | Sullivan |
| Lucas (KY) | Quinn | Sweeney |
| Lucas (OK) | Radanovich | Tanner |
| Manzullo | Rahall | Tauzin |
| Marshall | Ramstad | Taylor (MS) |
| McCotter | Regula | Taylor (NC) |
| McCrery | Rehberg | Terry |
| McHugh | Renzi | Thomas |
| McInnis | Reynolds | Thornberry |
| McKeon | Rogers (AL) | Tiahrt |
| Mica | Rogers (KY) | Tiberi |
| Michaud | Rogers (MI) | Toomey |
| Miller (MI) | Rohrabacher | Turner (OH) |
| Miller, Gary | Ros-Lehtinen | Upton |
| Mollohan | Royce | Vitter |
| Moran (KS) | Ryan (WI) | Walden (OR) |
| Moran (VA) | Ryun (KS) | Walsh |
| Murphy | Sandlin | Weldon (PA) |
| Nethercutt | Saxton | Weller |
| Neugebauer | Schrock | Whitfield |
| Ney | Scott (GA) | Wicker |
| Northup | Sensenbrenner | Wilson (NM) |
| Nunes | Sessions | Wilson (SC) |
| Nussle | Shadegg | Wolf |
| Osborne | Shaw | Young (AK) |
| Ose | Shays | Young (FL) |

NOES—189

| | | |
|---|---|---|
| Ackerman | Goodlatte | Meeks (NY) |
| Alexander | Green (TX) | Menendez |
| Andrews | Grijalva | Millender-McDonald |
| Baca | Gutierrez | |
| Baird | Hall | Miller (FL) |
| Baldwin | Hastings (FL) | Miller (NC) |
| Ballance | Hefley | Miller, George |
| Barton (TX) | Hill | Moore |
| Becerra | Hinchey | Murtha |
| Bell | Hinojosa | Musgrave |
| Berkley | Hoeffel | Myrick |
| Berman | Holt | Nadler |
| Berry | Honda | Napolitano |
| Bishop (GA) | Hooley (OR) | Neal (MA) |
| Bishop (NY) | Hoyer | Norwood |
| Blumenauer | Inslee | Oberstar |
| Boyd | Israel | Obey |
| Brady (PA) | Jackson (IL) | Olver |
| Brown (OH) | Jackson-Lee (TX) | Ortiz |
| Brown, Corrine | | Otter |
| Camp | Jefferson | Owens |
| Capps | John | Pallone |
| Capuano | Johnson, E. B. | Pascrell |
| Cardin | Jones (OH) | Pastor |
| Cardoza | Kanjorski | Paul |
| Carson (IN) | Kaptur | Payne |
| Carson (OK) | Kennedy (RI) | Peterson (MN) |
| Clay | Kildee | Price (NC) |
| Clyburn | Kilpatrick | Reyes |
| Conyers | Kind | Rodriguez |
| Costello | Kingston | Ross |
| Crowley | Kleczka | Rothman |
| Cummings | Kucinich | Roybal-Allard |
| Davis (CA) | Lampson | Rush |
| Davis (FL) | Langevin | Ryan (OH) |
| DeFazio | Lantos | Sabo |
| DeGette | Larsen (WA) | Sanchez, Linda T. |
| Delahunt | Larson (CT) | |
| DeLauro | LaTourette | Sanchez, Loretta |
| Deutsch | Lee | Sanders |
| Dingell | Levin | Schakowsky |
| Doggett | Lewis (GA) | Schiff |
| Dooley (CA) | Lofgren | Scott (VA) |
| Doyle | Lowey | Serrano |
| Duncan | Lynch | Sherman |
| Emanuel | Majette | Skelton |
| Engel | Maloney | Slaughter |
| Eshoo | Markey | Smith (WA) |
| Evans | Matheson | Snyder |
| Farr | Matsui | Solis |
| Fattah | McCarthy (MO) | Spratt |
| Filner | McCarthy (NY) | Stark |
| Flake | McCollum | Stupak |
| Frank (MA) | McDermott | Tancredo |
| Franks (AZ) | McGovern | Tauscher |
| Frelinghuysen | McIntyre | Thompson (CA) |
| Frost | McNulty | Thompson (MS) |
| Gonzalez | Meehan | Tierney |
| Goode | Meek (FL) | Towns |
| Turner (TX) | Wamp | Weiner |
| Udall (NM) | Waters | Weldon (FL) |
| Van Hollen | Watson | Wexler |
| Velazquez | Watt | Wu |
| Visclosky | Waxman | Wynn |

ANSWERED ''PRESENT''—1

Ruppersberger

NOT VOTING—11

| | | |
|---|---|---|
| Davis (IL) | Janklow | Rangel |
| Emerson | Lipinski | Udall (CO) |
| Gephardt | Pelosi | Woolsey |
| Hoekstra | Pence | |

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. CULBERSON) (during the vote). Members are advised there are 2 minutes in which to record their votes.

□ 2001

Mr. ROHRABACHER changed his vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. Are there any other amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HASTINGS of Washington) having assumed the chair, Mr. CULBERSON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2622) to amend the Fair Credit Reporting Act, to prevent identity theft, improve resolution of consumer disputes, improve the accuracy of consumer records, make improvements in the use of, and consumer access to, credit information, and for other purposes, pursuant to House Resolution 360, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

Mr. SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on engrossment and third reading of the bill.

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

Mr. SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OXLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 392, nays 30,

answered ''present'' 1, not voting 11, as follows:

[Roll No. 499]

YEAS—392

Abercrombie
Ackerman
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Engel
English
Etheridge
Evans
Everett
Fattah
Feeney
Ferguson
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—30

Berman
Conyers
Davis (CA)
DeFazio
Delahunt
Eshoo
Farr
Filner
Flake
Harman
Honda
Jackson (IL)
Kucinich
Lee
Lofgren
Markey
Matsui
Millender-McDonald
Miller, George
Nadler
Paul
Sanders
Schakowsky
Schiff
Stark
Tauscher
Thompson (CA)
Waters
Watson
Waxman

ANSWERED ''PRESENT''—1

Ruppersberger

NOT VOTING—11

Aderholt
Davis (IL)
Emerson
Gephardt
Hoekstra
Janklow
Lipinski
Pence
Rangel
Udall (CO)
Woolsey

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HASTINGS of Washington) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 2019

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF H.R. 2622, FAIR AND ACCURATE CREDIT TRANSACTIONS ACT OF 2003

Mr. LATOURETTE. Mr. Speaker, on a gratifying endorsement of my oratorical skills, the Chairman of the full committee has asked that I ask unanimous consent that in the engrossment of the bill, H.R. 2622, the Clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

## PERSONAL EXPLANATION

Mr. OSE. Mr. Speaker, on September 4, I recorded a ''yes'' vote on rollcall vote No. 463. My vote should have been ''no.''

## PERSONAL EXPLANATION

Mr. WAMP. Mr. Speaker, on September 4, I recorded a ''yes'' vote on rollcall vote No. 463 ordered on the previous question for H. Res. 351. My vote should have been ''no.''

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1472

Mr. WAMP. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1472.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

## MOTION TO INSTRUCT CONFEREES ON H.R. 1588, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

Mr. EDWARDS. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. EDWARDS moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 1588 be instructed to agree to the provisions contained in sections 606 and 619 of the Senate amendment (relating to the rates of pay for the family separation allowance and imminent danger pay).

The SPEAKER pro tempore. Pursuant to clause 7(b) of rule XX, the gentleman from Texas (Mr. EDWARDS) and a Member of the opposing party each will control 30 minutes.

Mr. MCHUGH. Mr. Speaker, I rise to control the time in opposition.

The SPEAKER pro tempore. The gentleman from New York (Mr. MCHUGH) will control the time in opposition.

The Chair recognizes the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, my motion would instruct the conferees working on the Defense authorization bill to recede to the Senate bill on section 606 and 619. Specifically, Section 606 would make permanent the increase of military separation pay from $100 per month to $250 a month. Section 619 would make permanent the increase to hostile fire and imminent danger special pay from $150 a month to $225 a month.

Mr. Speaker, what we are really talking about here is that in the past year, Congress voted to show respect to our