

(ii) the aggregate of the amount which the court may allow for each other class member, without regard to any minimum individual recovery.

(3) Attorneys' fees

In the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with reasonable attorneys' fees.

(b) Factors to be considered in awarding punitive damages

In determining the amount of any liability of any credit repair organization under subsection (a)(2) of this section, the court shall consider, among other relevant factors—

- (1) the frequency and persistence of non-compliance by the credit repair organization;
- (2) the nature of the noncompliance;
- (3) the extent to which such noncompliance was intentional; and
- (4) in the case of any class action, the number of consumers adversely affected.

(Pub. L. 90-321, title IV, §409, as added Pub. L. 104-208, div. A, title II, §2451, Sept. 30, 1996, 110 Stat. 3009-459.)

§ 1679h. Administrative enforcement

(a) In general

Compliance with the requirements imposed under this subchapter with respect to credit repair organizations shall be enforced under the Federal Trade Commission Act [15 U.S.C. 41 et seq.] by the Federal Trade Commission.

(b) Violations of this subchapter treated as violations of Federal Trade Commission Act

(1) In general

For the purpose of the exercise by the Federal Trade Commission of the Commission's functions and powers under the Federal Trade Commission Act [15 U.S.C. 41 et seq.], any violation of any requirement or prohibition imposed under this subchapter with respect to credit repair organizations shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act [15 U.S.C. 45(a)].

(2) Enforcement authority under other law

All functions and powers of the Federal Trade Commission under the Federal Trade Commission Act shall be available to the Commission to enforce compliance with this subchapter by any person subject to enforcement by the Federal Trade Commission pursuant to this subsection, including the power to enforce the provisions of this subchapter in the same manner as if the violation had been a violation of any Federal Trade Commission trade regulation rule, without regard to whether the credit repair organization—

- (A) is engaged in commerce; or
- (B) meets any other jurisdictional tests in the Federal Trade Commission Act.

(c) State action for violations

(1) Authority of States

In addition to such other remedies as are provided under State law, whenever the chief

law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this subchapter, the State—

(A) may bring an action to enjoin such violation;

(B) may bring an action on behalf of its residents to recover damages for which the person is liable to such residents under section 1679g of this title as a result of the violation; and

(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

(2) Rights of Commission

(A) Notice to Commission

The State shall serve prior written notice of any civil action under paragraph (1) upon the Federal Trade Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action.

(B) Intervention

The Commission shall have the right—

- (i) to intervene in any action referred to in subparagraph (A);
- (ii) upon so intervening, to be heard on all matters arising in the action; and
- (iii) to file petitions for appeal.

(3) Investigatory powers

For purposes of bringing any action under this subsection, nothing in this subsection shall prevent the chief law enforcement officer, or an official or agency designated by a State, from exercising the powers conferred on the chief law enforcement officer or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(4) Limitation

Whenever the Federal Trade Commission has instituted a civil action for violation of this subchapter, no State may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Commission for any violation of this subchapter that is alleged in that complaint.

(Pub. L. 90-321, title IV, §410, as added Pub. L. 104-208, div. A, title II, §2451, Sept. 30, 1996, 110 Stat. 3009-460.)

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsecs. (a) and (b), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this title and Tables.

§ 1679i. Statute of limitations

Any action to enforce any liability under this subchapter may be brought before the later of—

(1) the end of the 5-year period beginning on the date of the occurrence of the violation involved; or

(2) in any case in which any credit repair organization has materially and willfully misrepresented any information which—

(A) the credit repair organization is required, by any provision of this subchapter, to disclose to any consumer; and

(B) is material to the establishment of the credit repair organization's liability to the consumer under this subchapter,

the end of the 5-year period beginning on the date of the discovery by the consumer of the misrepresentation.

(Pub. L. 90-321, title IV, §411, as added Pub. L. 104-208, div. A, title II, §2451, Sept. 30, 1996, 110 Stat. 3009-461.)

§ 1679j. Relation to State law

This subchapter shall not annul, alter, affect, or exempt any person subject to the provisions of this subchapter from complying with any law of any State except to the extent that such law is inconsistent with any provision of this subchapter, and then only to the extent of the inconsistency.

(Pub. L. 90-321, title IV, §412, as added Pub. L. 104-208, div. A, title II, §2451, Sept. 30, 1996, 110 Stat. 3009-462.)

SUBCHAPTER III—CREDIT REPORTING AGENCIES

§ 1681. Congressional findings and statement of purpose

(a) Accuracy and fairness of credit reporting

The Congress makes the following findings:

(1) The banking system is dependent upon fair and accurate credit reporting. Inaccurate credit reports directly impair the efficiency of the banking system, and unfair credit reporting methods undermine the public confidence which is essential to the continued functioning of the banking system.

(2) An elaborate mechanism has been developed for investigating and evaluating the credit worthiness, credit standing, credit capacity, character, and general reputation of consumers.

(3) Consumer reporting agencies have assumed a vital role in assembling and evaluating consumer credit and other information on consumers.

(4) There is a need to insure that consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy.

(b) Reasonable procedures

It is the purpose of this subchapter to require that consumer reporting agencies adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, and other information in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of such information in accordance with the requirements of this subchapter.

(Pub. L. 90-321, title VI, §602, as added Pub. L. 91-508, title VI, §601, Oct. 26, 1970, 84 Stat. 1128.)

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-159, §3, Dec. 4, 2003, 117 Stat. 1953, provided that: "Except as otherwise specifically provided in this Act [see Short Title of 2003 Amendment note set out under section 1601 of this title] and the amendments made by this Act—

"(1) before the end of the 2-month period beginning on the date of enactment of this Act [Dec. 4, 2003], the Board and the Commission shall jointly prescribe regulations in final form establishing effective dates for each provision of this Act; 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 any such effective date be later than 10 months after the date of issuance of such regulations in final form."

[For final rules adopted by Board of Governors of the Federal Reserve System and Federal Trade Commission establishing effective dates for provisions of Pub. L. 108-159, see 68 F.R. 74467 (joint interim final rules) and 69 F.R. 6526 (joint final rules).]

EFFECTIVE DATE

Section 504(d) of Pub. L. 90-321, as added by Pub. L. 91-508, title VI, §602, Oct. 26, 1970, 84 Stat. 1136, provided that: "Title VI [enacting this subchapter] takes effect upon the expiration of one hundred and eighty days following the date of its enactment [Oct. 26, 1970]."

SHORT TITLE

This subchapter known as the "Fair Credit Reporting Act", see Short Title note set out under section 1601 of this title.

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

Pub. L. 108-159, title II, §215, Dec. 4, 2003, 117 Stat. 1984, provided that:

"(a) STUDY REQUIRED.—The Commission and the Board, 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 statistical relationship, utilizing a multivariate analysis that controls for prohibited factors under the Equal Credit Opportunity Act [15 U.S.C. 1691 et seq.] and other known risk factors, between credit scores and credit-based insurance scores and the quantifiable risks and actual losses experienced by businesses;

"(3) the extent to which, if any, the use of credit scoring models, credit scores, and credit-based insurance scores impact on the availability and affordability of credit and insurance to the extent information is currently available or is available through proxies, by geography, income, ethnicity, race, color, religion, national origin, age, sex, 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 negative or differential treatment of protected classes under the Equal Credit Opportunity Act, 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 negative 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