

set out as a Definitions note under section 1681 of this title.]

STUDIES OF INFORMATION SHARING PRACTICES

Pub. L. 108-159, title II, §214(e), Dec. 4, 2003, 117 Stat. 1983, as amended by Pub. L. 111-203, title X, §1088(b)(4), July 21, 2010, 124 Stat. 2092, provided that:

“(1) **IN GENERAL.**—The Federal banking agencies, the National Credit Union Administration, and the Bureau shall jointly conduct regular studies of the consumer information sharing practices by financial institutions and other persons that are creditors or users of consumer reports with their affiliates.

“(2) **MATTERS FOR STUDY.**—In conducting the studies required by paragraph (1), the agencies described in paragraph (1) shall—

“(A) identify—

“(i) the purposes for which financial institutions and other creditors and users of consumer reports share consumer information;

“(ii) the types of information shared by such entities with their affiliates;

“(iii) the number of choices provided to consumers with respect to the control of such sharing, and the degree to and manner in which consumers exercise such choices, if at all; and

“(iv) whether such entities share or may share personally identifiable transaction or experience information with affiliates for purposes—

“(I) that are related to employment or hiring, including whether the person that is the subject of such information is given notice of such sharing, and the specific uses of such shared information; or

“(II) of general publication of such information; and

“(B) specifically examine the information sharing practices that financial institutions and other creditors and users of consumer reports and their affiliates employ for the purpose of making underwriting decisions or credit evaluations of consumers.

“(3) **REPORTS.**—

“(A) **INITIAL REPORT.**—Not later than 3 years after the date of enactment of this Act [Dec. 4, 2003], the Federal banking agencies, the National Credit Union Administration, and the Commission shall jointly submit a report to the Congress on the results of the initial study conducted in accordance with this subsection, together with any recommendations for legislative or regulatory action.

“(B) **FOLLOWUP REPORTS.**—The Federal banking agencies, the National Credit Union Administration, and the Commission shall, not less frequently than once every 3 years following the date of submission of the initial report under subparagraph (A), jointly submit a report to the Congress that, together with any recommendations for legislative or regulatory action—

“(i) documents any changes in the areas of study referred to in paragraph (2)(A) occurring since the date of submission of the previous report;

“(ii) identifies any changes in the practices of financial institutions and other creditors and users of consumer reports in sharing consumer information with their affiliates for the purpose of making underwriting decisions or credit evaluations of consumers occurring since the date of submission of the previous report; and

“(iii) examines the effects that changes described in clause (ii) have had, if any, on the degree to which such affiliate sharing practices reduce the need for financial institutions, creditors, and other users of consumer reports to rely on consumer reports for such decisions.”

[For definitions of terms used in section 214(e) of Pub. L. 108-159, set out above, see section 2 of Pub. L. 108-159, set out as a Definitions note under section 1681 of this title.]

§ 1681t. Relation to State laws

(a) In general

Except as provided in subsections (b) and (c), this subchapter does not annul, alter, affect, or exempt any person subject to the provisions of this subchapter from complying with the laws of any State with respect to the collection, distribution, or use of any information on consumers, or for the prevention or mitigation of identity theft, except to the extent that those laws are inconsistent with any provision of this subchapter, and then only to the extent of the inconsistency.

(b) General exceptions

No requirement or prohibition may be imposed under the laws of any State—

(1) with respect to any subject matter regulated under—

(A) subsection (c) or (e) of section 1681b of this title, relating to the prescreening of consumer reports;

(B) section 1681i of this title, relating to the time by which a consumer reporting agency must take any action, including the provision of notification to a consumer or other person, in any procedure related to the disputed accuracy of information in a consumer's file, except that this subparagraph shall not apply to any State law in effect on September 30, 1996;

(C) subsections (a) and (b) of section 1681m of this title, relating to the duties of a person who takes any adverse action with respect to a consumer;

(D) section 1681m(d) of this title, relating to the duties of persons who use a consumer report of a consumer in connection with any credit or insurance transaction that is not initiated by the consumer and that consists of a firm offer of credit or insurance;

(E) section 1681c of this title, relating to information contained in consumer reports, except that this subparagraph shall not apply to any State law in effect on September 30, 1996;

(F) section 1681s-2 of this title, relating to the responsibilities of persons who furnish information to consumer reporting agencies, except that this paragraph shall not apply—

(i) with respect to section 54A(a) of chapter 93 of the Massachusetts Annotated Laws (as in effect on September 30, 1996); or

(ii) with respect to section 1785.25(a) of the California Civil Code (as in effect on September 30, 1996);

(G) section 1681g(e) of this title, relating to information available to victims under section 1681g(e) of this title;

(H) section 1681s-3 of this title, relating to the exchange and use of information to make a solicitation for marketing purposes; or

(I) section 1681m(h) of this title, relating to the duties of users of consumer reports to provide notice with respect to terms in certain credit transactions;

(2) with respect to the exchange of information among persons affiliated by common own-

ership or common corporate control, except that this paragraph shall not apply with respect to subsection (a) or (c)(1) of section 2480e of title 9, Vermont Statutes Annotated (as in effect on September 30, 1996);

(3) with respect to the disclosures required to be made under subsection (c), (d), (e), or (g) of section 1681g of this title, or subsection (f) of section 1681g of this title relating to the disclosure of credit scores for credit granting purposes, except that this paragraph—

(A) shall not apply with respect to sections 1785.10, 1785.16, and 1785.20.2 of the California Civil Code (as in effect on December 4, 2003) and section 1785.15 through section 1785.15.2 of such Code (as in effect on such date);

(B) shall not apply with respect to sections 5-3-106(2) and 212-14.3-104.3 of the Colorado Revised Statutes (as in effect on December 4, 2003); and

(C) shall not be construed as limiting, annulling, affecting, or superseding any provision of the laws of any State regulating the use in an insurance activity, or regulating disclosures concerning such use, of a credit-based insurance score of a consumer by any person engaged in the business of insurance;

(4) with respect to the frequency of any disclosure under section 1681j(a) of this title, 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 December 4, 2003);

(B) with respect to section 10-1-393(29)(C) of the Georgia Code (as in effect on December 4, 2003);

(C) with respect to section 1316.2 of title 10 of the Maine Revised Statutes (as in effect on December 4, 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 December 4, 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 December 4, 2003);

(F) with respect to section 56:11-37.10(a)(1) of the New Jersey Revised Statutes (as in effect on December 4, 2003); or

(G) with respect to section 2480c(a)(1) of title 9 of the Vermont Statutes Annotated (as in effect on December 4, 2003); or

(5) with respect to the conduct required by the specific provisions of—

(A) section 1681c(g) of this title;

(B) section 1681c-1 of this title;

(C) section 1681c-2 of this title;

(D) section 1681g(a)(1)(A) of this title;

(E) section 1681j(a) of this title;

(F) subsections (e), (f), and (g) of section 1681m of this title;

(G) section 1681s(f) of this title;

(H) section 1681s-2(a)(6) of this title; or

(I) section 1681w of this title.

(c) “Firm offer of credit or insurance” defined

Notwithstanding any definition of the term “firm offer of credit or insurance” (or any equivalent term) under the laws of any State, the def-

inition of that term contained in section 1681a(l) of this title shall be construed to apply in the enforcement and interpretation of the laws of any State governing consumer reports.

(d) Limitations

Subsections (b) and (c) do not affect any settlement, agreement, or consent judgment between any State Attorney General and any consumer reporting agency in effect on September 30, 1996.

(Pub. L. 90-321, title VI, §625, formerly §622, as added Pub. L. 91-508, title VI, §601, Oct. 26, 1970, 84 Stat. 1136; renumbered §623, Pub. L. 102-537, §2(a), Oct. 27, 1992, 106 Stat. 3531; renumbered §624 and amended Pub. L. 104-208, div. A, title II, §§2413(a)(1), 2419, Sept. 30, 1996, 110 Stat. 3009-447, 3009-452; renumbered §625 and amended Pub. L. 108-159, title I, §151(a)(2), title II, §§212(e), 214(a)(1), (c)(2), title III, §311(b), title VII, §711, Dec. 4, 2003, 117 Stat. 1964, 1977, 1980, 1983, 1989, 2011.)

PRIOR PROVISIONS

A prior section 625 of Pub. L. 90-321 was renumbered section 626 and is classified to section 1681u of this title.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108-159, §711(1), inserted “or for the prevention or mitigation of identity theft,” after “information on consumers.”

Subsec. (b)(1)(E). Pub. L. 108-159, §214(c)(2)(A), struck out “or” after semicolon at end.

Subsec. (b)(1)(G). Pub. L. 108-159, §151(a)(2), added subpar. (G).

Subsec. (b)(1)(H). Pub. L. 108-159, §214(c)(2)(B), added subpar. (H).

Subsec. (b)(1)(I). Pub. L. 108-159, §311(b), added subpar. (I).

Subsec. (b)(3), (4). Pub. L. 108-159, §212(e), added pars. (3) and (4) and struck out former par. (3) which read as follows: “with respect to the form and content of any disclosure required to be made under section 1681g(c) of this title.”

Subsec. (b)(5). Pub. L. 108-159, §711(2), added par. (5).

Subsec. (d). Pub. L. 108-159, §711(3), substituted “(b) and (c)” for “(b) and (c)—”, struck out par. (1) designation before “do not affect”, substituted “1996.” for “1996; and”, and struck out par. (2) which read as follows:

“(2) do not apply to any provision of State law (including any provision of a State constitution) that—

“(A) is enacted after January 1, 2004;

“(B) states explicitly that the provision is intended to supplement this subchapter; and

“(C) gives greater protection to consumers than is provided under this subchapter.”

1996—Subsec. (a). Pub. L. 104-208, §2419(1), designated existing provisions as subsec. (a), inserted heading, and substituted “Except as provided in subsections (b) and (c), this subchapter” for “This subchapter”.

Subsecs. (b) to (d). Pub. L. 104-208, §2419(2), added subsecs. (b) to (d).

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-159 subject to joint regulations establishing effective dates as prescribed by Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108-159, set out as a note under section 1681 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 effective 365 days after Sept. 30, 1996, with special rule for early compliance, see section 2420 of Pub. L. 104-208, set out as a note under section 1681a of this title.

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section 504(d) of Pub. L. 90-321, as added by Pub. L. 91-508, set out as a note under section 1681 of this title.

§ 1681u. Disclosures to FBI for counter-intelligence purposes

(a) Identity of financial institutions

Notwithstanding section 1681b of this title or any other provision of this subchapter, a consumer reporting agency shall furnish to the Federal Bureau of Investigation the names and addresses of all financial institutions (as that term is defined in section 3401 of title 12) at which a consumer maintains or has maintained an account, to the extent that information is in the files of the agency, when presented with a written request for that information that includes a term that specifically identifies a consumer or account to be used as the basis for the production of that information, signed by the Director of the Federal Bureau of Investigation, or the Director's designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office designated by the Director, which certifies compliance with this section. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing, that such information is sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.

(b) Identifying information

Notwithstanding the provisions of section 1681b of this title or any other provision of this subchapter, a consumer reporting agency shall furnish identifying information respecting a consumer, limited to name, address, former addresses, places of employment, or former places of employment, to the Federal Bureau of Investigation when presented with a written request that includes a term that specifically identifies a consumer or account to be used as the basis for the production of that information, signed by the Director or the Director's designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office designated by the Director, which certifies compliance with this subsection. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that such information is sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.

(c) Court order for disclosure of consumer reports

Notwithstanding section 1681b of this title or any other provision of this subchapter, if re-

quested in writing by the Director of the Federal Bureau of Investigation, or a designee of the Director in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, a court may issue an order ex parte, which shall include a term that specifically identifies a consumer or account to be used as the basis for the production of the information, directing a consumer reporting agency to furnish a consumer report to the Federal Bureau of Investigation, upon a showing in camera that the consumer report is sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States. The terms of an order issued under this subsection shall not disclose that the order is issued for purposes of a counterintelligence investigation.

(d) Prohibition of certain disclosure

(1) Prohibition

(A) In general

If a certification is issued under subparagraph (B) and notice of the right to judicial review under subsection (e) is provided, no consumer reporting agency that receives a request under subsection (a) or (b) or an order under subsection (c), or officer, employee, or agent thereof, shall disclose or specify in any consumer report, that the Federal Bureau of Investigation has sought or obtained access to information or records under subsection (a), (b), or (c).

(B) Certification

The requirements of subparagraph (A) shall apply if the Director of the Federal Bureau of Investigation, or a designee of the Director whose rank shall be no lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office, certifies that the absence of a prohibition of disclosure under this subsection may result in—

- (i) a danger to the national security of the United States;
- (ii) interference with a criminal, counterterrorism, or counterintelligence investigation;
- (iii) interference with diplomatic relations; or
- (iv) danger to the life or physical safety of any person.

(2) Exception

(A) In general

A consumer reporting agency that receives a request under subsection (a) or (b) or an order under subsection (c), or officer, employee, or agent thereof, may disclose information otherwise subject to any applicable nondisclosure requirement to—

- (i) those persons to whom disclosure is necessary in order to comply with the request;
- (ii) an attorney in order to obtain legal advice or assistance regarding the request; or