

108TH CONGRESS
1ST SESSION

H. R. 2633

To establish methods for preventing identity theft and to amend the Fair Credit Reporting Act to protect consumers' sensitive, private health-related information, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2003

Mr. EMANUEL (for himself, Mr. OSE, Mr. FROST, Mr. SANDERS, Ms. HOOLEY of Oregon, Mr. OBERSTAR, Ms. DELAURO, Mr. BOUCHER, Mr. DAVIS of Alabama, Ms. CARSON of Indiana, Mr. DAVIS of Illinois, Mr. LANTOS, Mr. CARDOZA, Mr. TIERNEY, Mr. CASE, Mr. GRIJALVA, Mrs. MCCARTHY of New York, Ms. LINDA T. SÁNCHEZ of California, and Mr. SERRANO) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, the Judiciary, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish methods for preventing identity theft and to amend the Fair Credit Reporting Act to protect consumers' sensitive, private health-related information, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Identity Theft Protec-
3 tion and Information Blackout Act of 2003”.

4 **SEC. 2. RESTRICTIONS ON THE SALE OF SOCIAL SECURITY**
5 **ACCOUNT NUMBERS BY GOVERNMENTAL**
6 **AGENCIES.**

7 (a) IN GENERAL.—Section 205(c)(2)(C) of the Social
8 Security Act (42 U.S.C. 405(c)(2)(C)) is amended by add-
9 ing at the end the following new clause:

10 “(x) No executive, legislative, or judicial agency or
11 instrumentality of the Federal Government or of a State
12 or a political subdivision thereof or trustee appointed in
13 a case under title 11, United States Code (or person act-
14 ing as an agent of such an agency or instrumentality or
15 trustee) in possession of any individual’s social security
16 account number may accept an item of material value in
17 exchange for such number, or any derivative thereof. Not-
18 withstanding the preceding sentence, such number (or de-
19 rivative) may be made available or disclosed in such an
20 exchange in accordance with the following exceptions (and
21 for no other purpose):

22 “(I) Such number (or derivative) may be dis-
23 closed in such an exchange by a State department
24 of motor vehicles as authorized under subsection (b)
25 of section 2721 of title 18, United States Code, if
26 such disclosed number (or derivative) is to be used

1 solely for the purposes permitted under paragraph
2 (1), (6) or (9) of such subsection.

3 “(II) Such number (or derivative) may be made
4 available in such an exchange to a consumer report-
5 ing agency, as defined in section 603(f) of the Fair
6 Credit Reporting Act (15 U.S.C. 1681a(f)), exclu-
7 sively for use in accordance with such Act.

8 “(III) Such number (or derivative) may be dis-
9 closed in such an exchange to the extent that is nec-
10 essary or appropriate for law enforcement or na-
11 tional security purposes, as determined under regu-
12 lations which shall be issued by the Attorney Gen-
13 eral of the United States.

14 “(IV) Such an exchange may occur to the ex-
15 tent it is otherwise specifically authorized by this
16 Act.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply with respect to violations occurring
19 after 2 years after the date of the enactment of this Act.

20 **SEC. 3. PROHIBITION OF THE DISPLAY TO THE GENERAL**
21 **PUBLIC OF SOCIAL SECURITY ACCOUNT NUM-**
22 **BERS POSSESSED BY GOVERNMENTAL AGEN-**
23 **CIES.**

24 (a) IN GENERAL.—Section 205(c)(2)(C) of the Social
25 Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by

1 section 2) is amended further by adding at the end the
2 following new clause:

3 “(xi)(I) No executive, legislative, or judicial agency
4 or instrumentality of the Federal Government or of a
5 State or a political subdivision thereof or trustee appointed
6 in a case under title 11, United States Code (or person
7 acting as an agent of such an agency or instrumentality
8 or trustee), may display to the general public any individ-
9 ual’s social security account number, or any derivative of
10 such number. Notwithstanding the preceding sentence,
11 such number (or derivative) may be so displayed in accord-
12 ance with the exceptions specified in subclauses (II) and
13 (III) (and for no other purpose).

14 “(II) Such number (or derivative) may be so dis-
15 played to a consumer reporting agency, as defined in sec-
16 tion 603(f) of the Fair Credit Reporting Act (15 U.S.C.
17 1681a(f)), exclusively for use in accordance with such Act.

18 “(III) Such number (or derivative) may be so dis-
19 played to the extent that is necessary or appropriate for
20 law enforcement or national security purposes, as deter-
21 mined under regulations which shall be issued by the At-
22 torney General of the United States.

23 “(IV) For purposes of this clause, the term ‘display
24 to the general public’ in connection with a social security
25 account number, or a derivative thereof, means the inten-

1 tional placing of such number or derivative in a viewable
2 manner on an Internet site that is available to the general
3 public. Each such agency or instrumentality or trustee
4 shall ensure that access to such numbers, and any deriva-
5 tive of such numbers, is restricted to persons who may
6 obtain them in accordance with this clause and other ap-
7 plicable law.”.

8 (b) EFFECTIVE DATE.—Agencies and instrumentality-
9 ties and trustees (and agents thereof) shall comply with
10 the requirements of clause (xi) of section 205(c)(2)(C) of
11 the Social Security Act (added by this section) as soon
12 as practicable after the date of the enactment of this Act.
13 Such clause (xi) shall apply with respect to all displays
14 originally occurring after 2 years after the date of the en-
15 actment of this Act.

16 **SEC. 4. PROHIBITION OF THE DISPLAY OF SOCIAL SECUR-**
17 **RITY ACCOUNT NUMBERS ON CHECKS**
18 **ISSUED FOR PAYMENT BY GOVERNMENTAL**
19 **AGENCIES.**

20 (a) IN GENERAL.—Section 205(c)(2)(C) of the Social
21 Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by the
22 preceding provisions of this Act) is amended further by
23 adding at the end the following new clause:

24 “(xii) No executive, legislative, or judicial agency or
25 instrumentality of the Federal Government or of a State

1 or a political subdivision thereof or trustee appointed in
2 a case under title 11, United States Code (or person act-
3 ing as an agent of such an agency or instrumentality or
4 trustee) may include the social security account number
5 of any individual on any check issued for any payment
6 by the Federal Government, any State or political subdivi-
7 sion thereof, or any agency or instrumentality thereof, or
8 such trustee or on any document attached to or accom-
9 panying such a check.”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply with respect to violations occurring
12 after 2 years after the date of the enactment of this Act.

13 **SEC. 5. PROHIBITION OF THE APPEARANCE OF SOCIAL SE-**
14 **CURITY ACCOUNT NUMBERS ON DRIVER’S LI-**
15 **CENSES OR MOTOR VEHICLE REGISTRA-**
16 **TIONS.**

17 (a) IN GENERAL.—Section 205(c)(2)(C)(vi) of the
18 Social Security Act (42 U.S.C. 405(c)(2)(C)(vi)) is
19 amended—

20 (1) by inserting “(I)” after “(vi)”; and

21 (2) by adding at the end the following new sub-
22 clause:

23 “(II) A State or political subdivision thereof (and any
24 person acting as an agent of such an agency or instrumen-
25 tality), in the administration of any driver’s license or

1 motor vehicle registration law within its jurisdiction, may
 2 not disclose the social security account numbers issued by
 3 the Commissioner of Social Security, or any derivative of
 4 such numbers, on any driver’s license or motor vehicle reg-
 5 istration or any other document issued by such State or
 6 political subdivision to an individual for purposes of identi-
 7 fication of such individual.”.

8 (b) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply with respect to licenses, registra-
 10 tions, and other documents issued or reissued after 1 year
 11 after the date of the enactment of this Act.

12 **SEC. 6. PROHIBITION OF THE SALE, PURCHASE, OR DIS-**
 13 **PLAY OF THE SOCIAL SECURITY ACCOUNT**
 14 **NUMBER IN THE PRIVATE SECTOR.**

15 (a) PROHIBITION.—

16 (1) IN GENERAL.—Chapter 47 of title 18,
 17 United States Code, is amended by inserting after
 18 section 1028 the following:

19 **“§ 1028A. Prohibition of the display, sale, or purchase**
 20 **of social security numbers**

21 “(a) DEFINITIONS.—In this section:

22 “(1) DISPLAY.—The term ‘display’ means to in-
 23 tentiously communicate or otherwise make available
 24 (on the Internet or in any other manner) to the gen-
 25 eral public an individual’s social security number.

1 “(2) PERSON.—The term ‘person’ means any
2 individual, partnership, corporation, trust, estate, co-
3 operative, association, or any other entity.

4 “(3) PURCHASE.—The term ‘purchase’ means
5 providing directly or indirectly, anything of value in
6 exchange for a social security number.

7 “(4) SALE.—The term ‘sale’ means obtaining,
8 directly or indirectly, anything of value in exchange
9 for a social security number.

10 “(5) STATE.—The term ‘State’ means any
11 State of the United States, the District of Columbia,
12 Puerto Rico, the Northern Mariana Islands, the
13 United States Virgin Islands, Guam, American
14 Samoa, and any territory or possession of the
15 United States.

16 “(b) LIMITATION ON DISPLAY.—Except as provided
17 in section 1028B, no person may display any individual’s
18 social security number to the general public without the
19 affirmatively expressed consent of the individual.

20 “(c) LIMITATION ON SALE OR PURCHASE.—Except
21 as otherwise provided in this section, no person may sell
22 or purchase any individual’s social security number with-
23 out the affirmatively expressed consent of the individual.

24 “(d) PREREQUISITES FOR CONSENT.—In order for
25 consent to exist under subsection (b) or (c), the person

1 displaying or seeking to display, selling or attempting to
2 sell, or purchasing or attempting to purchase, an individ-
3 ual's social security number shall—

4 “(1) inform the individual of the general pur-
5 pose for which the number will be used, the types of
6 persons to whom the number may be available, and
7 the scope of transactions permitted by the consent;
8 and

9 “(2) obtain the affirmatively expressed consent
10 (electronically or in writing) of the individual.

11 “(e) EXCEPTIONS.—Nothing in this section shall be
12 construed to prohibit or limit the display, sale, or purchase
13 of a social security number—

14 “(1) required, authorized, or excepted under
15 any Federal law;

16 “(2) for a public health purpose, including the
17 protection of the health or safety of an individual in
18 an emergency situation;

19 “(3) for a national security purpose;

20 “(4) for a law enforcement purpose, including
21 the investigation of fraud and the enforcement of a
22 child support obligation;

23 “(5) if the display, sale, or purchase of the
24 number is for a use occurring as a result of an inter-
25 action between businesses, governments, or business

1 and government (regardless of which entity initiates
2 the interaction), including, but not limited to—

3 “(A) the prevention of fraud (including
4 fraud in protecting an employee’s right to em-
5 ployment benefits);

6 “(B) the facilitation of credit checks or the
7 facilitation of background checks of employees,
8 prospective employees, or volunteers;

9 “(C) the retrieval of other information
10 from other businesses, commercial enterprises,
11 government entities, or private nonprofit orga-
12 nizations; or

13 “(D) when the transmission of the number
14 is incidental to, and in the course of, the sale,
15 lease, franchising, or merger of all, or a portion
16 of, a business;

17 “(6) if the transfer of such a number is part of
18 a data matching program involving a Federal, State,
19 or local agency; or

20 “(7) if such number is required to be submitted
21 as part of the process for applying for any type of
22 Federal, State, or local government benefit or pro-
23 gram;

24 except that, nothing in this subsection shall be con-
25 strued as permitting a professional or commercial

1 user to display or sell a social security number to
2 the general public.

3 “(f) LIMITATION.—Nothing in this section shall pro-
4 hibit or limit the display, sale, or purchase of social secu-
5 rity numbers as permitted under title V of the Gramm-
6 Leach-Bliley Act, or for the purpose of affiliate sharing
7 as permitted under the Fair Credit Reporting Act, except
8 that no entity regulated under such Acts may make social
9 security numbers available to the general public, as may
10 be determined by the appropriate regulators under such
11 Acts. For purposes of this subsection, the general public
12 shall not include affiliates or unaffiliated third-party busi-
13 ness entities as may be defined by the appropriate regu-
14 lators.”.

15 (2) CONFORMING AMENDMENT.—The chapter
16 analysis for chapter 47 of title 18, United States
17 Code, is amended by inserting after the item relating
18 to section 1028 the following:

“1028A. Prohibition of the display, sale, or purchase of social security num-
bers.”.

19 (b) STUDY; REPORT.—

20 (1) IN GENERAL.—The Attorney General shall
21 conduct a study and prepare a report on all of the
22 uses of social security numbers permitted, required,
23 authorized, or excepted under any Federal law. The
24 report shall include a detailed description of the uses

1 allowed as of the date of enactment of this Act and
2 shall evaluate whether such uses should be continued
3 or discontinued by appropriate legislative action.

4 (2) REPORT.—Not later than 1 year after the
5 date of enactment of this Act, the Attorney General
6 shall report to Congress findings under this sub-
7 section. The report shall include such recommenda-
8 tions for legislation based on criteria the Attorney
9 General determines to be appropriate.

10 **SEC. 7. REFUSAL TO DO BUSINESS WITHOUT RECEIPT OF**
11 **SOCIAL SECURITY ACCOUNT NUMBER CON-**
12 **SIDERED UNFAIR OR DECEPTIVE ACT OR**
13 **PRACTICE.**

14 (a) IN GENERAL.—Any person who refuses to do
15 business with an individual because the individual will not
16 consent to the receipt by such person of the social security
17 account number of such individual shall be considered to
18 have committed an unfair or deceptive act or practice in
19 violation of section 5 of the Federal Trade Commission
20 Act (15 U.S.C. 45). Action may be taken under such sec-
21 tion 5 against such a person.

22 (b) EXCEPTION.—Subsection (a) shall not apply to
23 any person in any case in which such person, in connection
24 with doing business with an individual, is required—

1 (1) under Federal law to submit to the Federal
2 Government such individual's Social Security ac-
3 count number; or

4 (2) under Federal or State law to collect or use
5 the individual's Social Security account number.

6 **SEC. 8. CONFIDENTIAL TREATMENT OF CREDIT HEADER**
7 **INFORMATION.**

8 (a) **IN GENERAL.**—Section 603 of the Fair Credit
9 Reporting Act (15 U.S.C. 1681a) is amended by adding
10 at the end the following new subsection:

11 “(q) **CONFIDENTIAL TREATMENT OF CREDIT HEAD-**
12 **ER INFORMATION.**—Information regarding the social se-
13 curity account number of the consumer, or any derivative
14 thereof, may not be furnished to any person by a consumer
15 reporting agency other than in a full consumer report fur-
16 nished in accordance with section 604 and other require-
17 ments of this title or as otherwise required by Federal
18 law.”.

19 (b) **EFFECTIVE DATE.**—The amendment made by
20 this section shall take effect 60 days after the date of the
21 enactment of this Act.

22 **SEC. 9. EXTENSION OF CIVIL MONETARY PENALTY AU-**
23 **THORITY.**

24 (a) **APPLICATION OF CIVIL MONEY PENALTIES TO**
25 **ELEMENTS OF CRIMINAL VIOLATIONS.**—Section 1129(a)

1 of the Social Security Act (42 U.S.C. 1320a–8(a)) is
2 amended—

3 (1) by redesignating paragraph (2) as para-
4 graph (4);

5 (2) by designating the last sentence of para-
6 graph (1) as a new paragraph (2), appearing after
7 and below paragraph (1); and

8 (3) by inserting after paragraph (2) (as des-
9 igned under paragraph (2) of this subsection) the
10 following:

11 “(3) Any person (including an organization, agency,
12 or other entity) who—

13 “(A) uses a social security account number that
14 such person knows or should know has been as-
15 signed by the Commissioner of Social Security (in an
16 exercise of authority under section 205(c)(2) to es-
17 tablish and maintain records) on the basis of false
18 information furnished to the Commissioner by any
19 person;

20 “(B) falsely represents a number to be the so-
21 cial security account number assigned by the Com-
22 missioner of Social Security to any individual, when
23 such person knows or should know that such number
24 is not the social security account number assigned
25 by the Commissioner to such individual;

1 “(C) knowingly alters a social security card
2 issued by the Commissioner of Social Security, or
3 possesses such a card with intent to alter it;

4 “(D) knowingly buys or sells a card that is, or
5 purports to be, a card issued by the Commissioner
6 of Social Security, or possesses such a card with in-
7 tent to buy or sell it;

8 “(E) counterfeits a social security card, or pos-
9 sesses a counterfeit social security card with intent
10 to buy or sell it;

11 “(F) discloses, uses, compels the disclosure of,
12 or knowingly sells or purchases the social security
13 account number of any person in violation of the
14 laws of the United States;

15 “(G) with intent to deceive the Commissioner of
16 Social Security as to such person’s true identity (or
17 the true identity of any other person), furnishes or
18 causes to be furnished false information to the Com-
19 missioner with respect to any information required
20 by the Commissioner in connection with the estab-
21 lishment and maintenance of the records provided
22 for in section 205(c)(2);

23 “(H) offers, for a fee, to acquire for any indi-
24 vidual, or to assist in acquiring for any individual,
25 an additional social security account number or a

1 number which purports to be a social security ac-
2 count number;

3 “(I) being an officer or employee of any execu-
4 tive, legislative, or judicial agency or instrumentality
5 of the Federal Government or of a State or political
6 subdivision thereof (or a person acting as an agent
7 of such an agency or instrumentality) (or an officer
8 or employee thereof or a person acting as an agent
9 thereof), in possession of any individual’s social se-
10 curity account number, willfully acts or fails to act
11 so as to cause a violation of clause (vi)(II), (x), (xi),
12 (xii), or (xiv) of section 205(c)(2)(C);

13 “(J) being a trustee appointed in a case under
14 title 11, United States Code (or an officer or em-
15 ployee thereof or a person acting as an agent there-
16 of), willfully acts or fails to act so as to cause a vio-
17 lation of clause (x), (xi), or (xiii) of section
18 205(c)(2)(C); or

19 “(K) violates section 1028A of title 18, United
20 States Code (relating to prohibition of the sale, pur-
21 chase, or display of the social security account num-
22 ber in the private sector);

23 shall be subject to, in addition to any other penalties that
24 may be prescribed by law, a civil money penalty of not
25 more than \$5,000 for each violation. Such person shall

1 also be subject to an assessment, in lieu of damages sus-
2 tained by the United States resulting from such violation,
3 of not more than twice the amount of any benefits or pay-
4 ments paid as a result of such violation.”.

5 (b) EFFECTIVE DATES.—The amendments made by
6 this section shall apply with respect to violations com-
7 mitted after the date of the enactment of this Act, except
8 that subparagraphs (I) and (J) of section 1129(a)(3) of
9 the Social Security Act (added by subsection (a)) shall
10 apply with respect to violations occurring on or after the
11 effective date provided in connection with such violations
12 of the amendments made under section 2, 3, 4, or 5, as
13 the case may be.

14 **SEC. 10. AUTHORITY FOR JUDICIAL ORDERS OF RESTITU-**
15 **TION.**

16 (a) TITLE 18 AMENDMENT.—Section 1028A of title
17 18, United States Code, (as added by section 6 of this
18 Act) is amended by adding at the end the following new
19 subsection:

20 “(g) COURT ORDER FOR RESTITUTION.—

21 “(1) IN GENERAL.—Any Federal court, when
22 sentencing a defendant convicted of an offense under
23 subsection (b), may order, in addition to or in lieu
24 of any other penalty authorized by law, that the de-

1 defendant make restitution to the Social Security Ad-
2 ministration.

3 “(2) RELATED PROVISIONS.—Sections 3612,
4 3663, and 3664 shall apply with respect to the
5 issuance and enforcement of orders of restitution
6 under this subsection. In so applying such sections,
7 the Social Security Administration shall be consid-
8 ered the victim.

9 “(3) STATED REASONS FOR NOT ORDERING
10 RESTITUTION.—If the court does not order restitu-
11 tion, or orders only partial restitution, under this
12 subsection, the court shall state on the record the
13 reasons therefor.”.

14 (b) AMENDMENTS TO TITLE VIII OF THE SOCIAL
15 SECURITY ACT.—Section 807(i) of the Social Security Act
16 (42 U.S.C. 1007(i)) is amended—

17 (1) by striking “(i) RESTITUTION.—In any case
18 where” and inserting the following:

19 “(i) RESTITUTION.—

20 “(1) IN GENERAL.—In any case where”; and

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

23 “(2) COURT ORDER FOR RESTITUTION.—

24 “(A) IN GENERAL.—Any Federal court,
25 when sentencing a defendant convicted of an of-

1 fense under subsection (a), may order, in addi-
2 tion to or in lieu of any other penalty author-
3 ized by law, that the defendant make restitution
4 to the Social Security Administration.

5 “(B) RELATED PROVISIONS.—Sections
6 3612, 3663, and 3664 of title 18, United States
7 Code, shall apply with respect to the issuance
8 and enforcement of orders of restitution under
9 this paragraph. In so applying such sections,
10 the Social Security Administration shall be con-
11 sidered the victim.

12 “(C) STATED REASONS FOR NOT ORDER-
13 ING RESTITUTION.—If the court does not order
14 restitution, or orders only partial restitution,
15 under this paragraph, the court shall state on
16 the record the reasons therefor.”.

17 (c) AMENDMENTS TO TITLE XVI.—Section 1632 of
18 the Social Security Act (42 U.S.C. 1383a) is amended—

19 (1) by redesignating subsection (b) as sub-
20 section (c); and

21 (2) by inserting after subsection (a) the fol-
22 lowing new subsection:

23 “(b)(1) Any Federal court, when sentencing a defend-
24 ant convicted of an offense under subsection (a), may
25 order, in addition to or in lieu of any other penalty author-

1 ized by law, that the defendant make restitution to the
2 Social Security Administration.

3 “(2) Sections 3612, 3663, and 3664 of title 18,
4 United States Code, shall apply with respect to the
5 issuance and enforcement of orders of restitution under
6 this subsection. In so applying such sections, the Social
7 Security Administration shall be considered the victim.

8 “(3) If the court does not order restitution, or orders
9 only partial restitution, under this subsection, the court
10 shall state on the record the reasons therefor.”.

11 (d) SPECIAL ACCOUNT FOR RECEIPT OF RESTITU-
12 TION PAYMENTS.—Section 704(b) of such Act (42 U.S.C.
13 904(b)) is amended by adding at the end the following
14 new paragraph:

15 “(3)(A) Except as provided in subparagraph (B),
16 amounts received by the Social Security Administration
17 pursuant to an order of restitution under section 807(i)
18 or 1632(b) or under section 1028A(g) of title 18, United
19 States Code, shall be credited to a special fund established
20 in the Treasury of the United States for amounts so re-
21 ceived or recovered. The amounts so credited, to the extent
22 and in the amounts provided in advance in appropriations
23 Acts, shall be available to defray expenses incurred in car-
24 rying out titles II, VIII, and XVI.

1 “(B) Subparagraph (A) shall not apply with respect
2 to amounts received in connection with misuse by a rep-
3 resentative payee (within the meaning of sections 205(j),
4 807, and 1631(a)(2)) of funds paid as benefits under title
5 II, VIII, or XVI. Such amounts received in connection
6 with misuse of funds paid as benefits under title II shall
7 be transferred to the Managing Trustee of the Federal
8 Old-Age and Survivors Insurance Trust Fund or the Fed-
9 eral Disability Insurance Trust Fund, as determined ap-
10 propriate by the Commissioner of Social Security, and
11 such amounts shall be deposited by the Managing Trustee
12 into such Trust Fund. All other such amounts shall be
13 deposited by the Commissioner into the general fund of
14 the Treasury as miscellaneous receipts.”.

15 (e) EFFECTIVE DATE.—The amendments made by
16 subsections (a) and (b) shall apply with respect to viola-
17 tions occurring on or after the date of the enactment of
18 this Act.

19 **SEC. 11. RESTRICTION ON USE OF CONSUMER MEDICAL IN-**
20 **FORMATION.**

21 (a) MEDICAL INFORMATION MAY NOT BE INCLUDED
22 WITH TRANSACTION AND EXPERIENCE REPORTS OR
23 SHARED WITH AFFILIATES.—Section 603(d)(2)(A) of the
24 Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)) is
25 amended by striking “communicated among such per-

1 sons;” where such term appears at the end of clause (iii)
2 and inserting “communicated among such persons,
3 “to the extent such report or communication
4 does not contain any medical information;”.

5 (b) MEDICAL INFORMATION DEFINED.—Section
6 603(i) of the Fair Credit Reporting Act (15 U.S.C.
7 1681a(i)) is amended to read as follows:

8 “(i) MEDICAL INFORMATION.—The term “medical
9 information” means—

10 “(1) information or records obtained, with the
11 consent of the individual to whom it relates, from li-
12 censed physicians or medical practitioners, hospitals,
13 clinics, or other medical or medically related facili-
14 ties; and

15 “(2) any information, list or description based
16 on, or derived from, information or records from li-
17 censed physicians or medical practitioners, hospitals,
18 clinics, or other medical or medically related facili-
19 ties or transactions involving the services of such
20 physicians, practitioners or facilities, including—

21 “(A) any individualized list of a con-
22 sumer’s transactions involving individually iden-
23 tifiable medical information or services;

24 “(B) any individualized list or description
25 of a consumer’s characteristics, interests or

1 preferences derived from individually identifi-
2 able medical information, services or trans-
3 actions; and

4 “(C) any aggregate list of consumers con-
5 taining or derived from individually identifiable
6 medical information, services or transactions.”

7 (c) USE OF MEDICAL INFORMATION.—Section
8 604(g) of the Fair Credit Reporting Act (15 U.S.C.
9 1681b(g)) is amended to read as follows:

10 “(g) MEDICAL INFORMATION.—

11 “(1) FURNISHING REPORTS CONTAINING MED-
12 ICAL INFORMATION.—A consumer reporting agency
13 shall not furnish for employment purposes, or in
14 connection with a credit or insurance transaction, a
15 consumer report that contains medical information
16 about a consumer, unless—

17 “(A) the information to be furnished is rel-
18 evant and necessary to process or effect such
19 employment or transaction requested by the
20 consumer; and

21 “(B) the consumer provides specific writ-
22 ten consent for the furnishing of the report on
23 a separate document that describes in clear and
24 concise language the use for which the informa-
25 tion will be furnished.

1 “(2) USE OF MEDICAL INFORMATION.—No per-
2 son may procure or use medical information in con-
3 nection with any decision to offer, provide, or con-
4 tinue to provide any financial product or service,
5 other than insurance.”.

○