Activities constituting discrimination

It shall be unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction—

1. on the basis of race, color, religion, national origin, sex or marital status, or age (provided the applicant has the capacity to contract);
2. because all or part of the applicant’s income derives from any public assistance program; or
3. because the applicant has in good faith exercised any right under this chapter.

Activities not constituting discrimination

It shall not constitute discrimination for purposes of this subchapter for a creditor—

1. to make an inquiry of marital status if such inquiry is for the purpose of ascertaining the creditor’s rights and remedies applicable to the particular extension of credit and not to discriminate in a determination of credit-worthiness;
2. to make an inquiry of the applicant’s age or of whether the applicant’s income derives from any public assistance program if such inquiry is for the purpose of determining the amount and probable continuance of income levels, credit history, or other pertinent element of credit-worthiness as provided in regulations of the Bureau;
3. to use any empirically derived credit system which considers age if such system is demonstrably and statistically sound in accordance with regulations of the Bureau, except that in the operation of such system the age of an elderly applicant may not be assigned a negative factor or value;
4. to make an inquiry or to consider the age of an elderly applicant when the age of such applicant is to be used by the creditor in the extension of credit in favor of such applicant; or
5. to make an inquiry under section 1691c–2 of this title, in accordance with the requirements of that section.

Additional activities not constituting discrimination

It is not a violation of this section for a creditor to refuse to extend credit offered pursuant to—

1. any credit assistance program expressly authorized by law for an economically disadvantaged class of persons;
2. any credit assistance program administered by a nonprofit organization for its members or an economically disadvantaged class of persons; or
3. any special purpose credit program offered by a profit-making organization to meet special social needs which meets standards prescribed in regulations by the Bureau; if such refusal is required by or made pursuant to such program.

Reason for adverse action; procedure applicable; “adverse action” defined

(1) Within thirty days (or such longer reasonable time as specified in regulations of the Bureau for any class of credit transaction) after receipt of a completed application for credit, a creditor shall notify the applicant of its action on the application.

(2) Each applicant against whom adverse action is taken shall be entitled to a statement of reasons for such action from the creditor. A creditor satisfies this obligation by—

(A) providing statements of reasons in writing as a matter of course to applicants against whom adverse action is taken; or
(B) giving written notification of adverse action which discloses (i) the applicant’s right to a statement of reasons within thirty days after receipt of the creditor of a request made within sixty days after such notification, and (ii) the identity of the person or office from which such statement may be obtained. Such statement may be given orally if the written notification advises the applicant of his right to have the statement of reasons confirmed in writing on written request.

(3) A statement of reasons meets the requirements of this section only if it contains the specific reasons for the adverse action taken.

(4) Where a creditor has been requested by a third party to make a specific extension of credit directly or indirectly to an applicant, the notification and statement of reasons required by this subsection may be made directly by such creditor, or indirectly through the third party, provided in either case that the identity of the creditor is disclosed.

(5) The requirements of paragraph (2), (3), or (4) may be satisfied by verbal statements or notifications in the case of any creditor who did not act on more than one hundred and fifty applications during the calendar year preceding the calendar year in which the adverse action is taken, as determined under regulations of the Bureau.

(6) For purposes of this subsection, the term “adverse action” means a denial or revocation of credit, a change in the terms of an existing credit arrangement, or a refusal to grant credit in substantially the amount or on substantially the terms requested. Such term does not include a refusal to extend additional credit under an existing credit arrangement where the applicant is delinquent or otherwise in default, or where such additional credit would exceed a previously established credit limit.

Appraisals; copies of reports to applicants; costs

Each creditor shall promptly furnish an applicant, upon written request by the applicant made within a reasonable period of time of the application, a copy of the appraisal report used in connection with the applicant’s application for a loan that is or would have been secured by a lien on residential real property. The creditor
may require the applicant to reimburse the creditor for the cost of the appraisal.


AMENDMENT OF SECTION

Pub. L. 111–203, title XIV, §§1400(c), 1474, July 21, 2010, 124 Stat. 2136, 2199, provided that, on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, subsection (e) of this section is amended to read as follows:

“(e) Copies furnished to applicants

“(1) In general

“Each creditor shall furnish to an applicant a copy of any and all written appraisals and valuations developed in connection with the applicant’s application for a loan that is secured or would have been secured by a first lien on a dwelling promptly upon completion, but in no case later than 3 days prior to the closing of the loan, whether the creditor grants or denies the applicant’s request for credit or the application is incomplete or withdrawn.

“(2) Waiver

“The applicant may waive the 3 day requirement provided for in paragraph (1), except where otherwise required in law.

“(3) Reimbursement

“The applicant may be required to pay a reasonable fee to reimburse the creditor for the cost of the appraisal, except where otherwise required in law.

“(4) Free copy

“Notwithstanding paragraph (3), the creditor shall provide a copy of each written appraisal or valuation at no additional cost to the applicant.

“(5) Notification to applicants

“At the time of application, the creditor shall notify an applicant in writing of the right to receive a copy of each written appraisal and valuation under this subsection.

“(6) Valuation defined

“For purposes of this subsection, the term ‘valuation’ shall include any estimate of the value of a dwelling developed in connection with a creditor’s decision to provide credit, including those values developed pursuant to a policy of a government sponsored enterprise or by an automated valuation model, a broker price opinion, or other methodology or mechanism.”

See Effective Date of 2010 Amendment note below.

AMENDMENTS


Subsec. (b)(5). Pub. L. 111–203, §1071(b), added par. (5).


1976—Subsec. (a). Pub. L. 94–239 designated existing provisions as cl. (1), expanded prohibition against discrimination to include race, color, religion, national origin and age, and added cls. (2) and (3).

Subsec. (b). Pub. L. 94–239 designated existing provisions as cl. (1) and added cls. (2) to (4).

Subsecs. (c), (d). Pub. L. 94–239 added subsecs. (c) and (d).

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–203, title X, §1071(d), July 21, 2010, 124 Stat. 2059, provided that: “This section [enacting section 1691c–2 of this title and amending this section] shall become effective on the designated transfer date.”

The term “designated transfer date” is defined in section 5481(9) of Title 12, Banks and Banking, as the date established under section 5582 of Title 12.

Amendment by section 1085(1) of Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

Amendment by section 1474 of Pub. L. 111–203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as a note under section 1601 of this title.

EFFECTIVE DATE


“This title [enacting this subchapter and provisions set out as notes under section 1691 of this title] takes effect upon the expiration of one year after the date of its enactment [Oct. 28, 1974]. The amendments made by the Equal Credit Opportunity Act Amendments of 1976 [enacting section 1691i of this title, amending this section and sections 1691b, 1691c, 1691d, and 1691e of this title, repealing section 1609 of this title, enacting provisions set out as notes under this section, and repealing provisions set out as a note under this section] shall take effect on the date of enactment thereof [Mar. 23, 1976] and shall apply to any violation occurring on or after such date, except that the amendments made to section 701 of the Equal Credit Opportunity Act [this section] shall take effect 12 months after the date of enactment [Mar. 23, 1976].”

SHORT TITLE

This subchapter known as the “Equal Credit Opportunity Act”, see Short Title note set out under section 1601 of this title.

CONGRESSIONAL FINDINGS AND STATEMENT OF PURPOSE

Section 502 of Pub. L. 93–495 provided that: “The Congress finds that there is a need to insure that the various financial institutions and other firms engaged in the extensions of credit exercise their responsibility to make credit available with fairness, impartiality, and without discrimination on the basis of sex or marital status. Economic stabilization would be enhanced and competition among the various financial institutions and other firms engaged in the extension of credit would be strengthened by an absence of discrimination on the basis of sex or marital status, as well as by the informed use of credit which Congress has heretofore sought to promote. It is the purpose of this Act [see Short Title note set out under section 1601 of this title] to require that financial institutions and other firms engaged in the extension of credit make that credit equally available to all credit-worthy customers without regard to sex or marital status.”

§ 1691a. Definitions; rules of construction

(a) The definitions and rules of construction set forth in this section are applicable for the purposes of this subchapter.
(b) The term “applicant” means any person who applies to a creditor directly for an extension, renewal, or continuation of credit, or applies to a creditor indirectly by use of an existing credit plan for an amount exceeding a previously established credit limit.

(c) The term “Bureau” means the Bureau of Consumer Financial Protection.

(d) The term “credit” means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment thereof.

(e) The term “creditor” means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit.

(f) The term “person” means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

(g) Any reference to any requirement imposed under this subchapter or any provision thereof includes reference to the regulations of the Bureau under this subchapter or the provision thereof in question.


AMENDMENTS

2010—Subsec. (c). Pub. L. 111–203, § 1085(2), added subsec. (c) and struck out former subsec. (c) which read as follows: “The term ‘Board’ refers to the Board of Governors of the Federal Reserve System.”


EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 1522a of Title 5, Government Organization and Employees.

§ 1691b. Promulgation of regulations by the Bureau

(a) In general

The Bureau shall prescribe regulations to carry out the purposes of this subchapter. These regulations may contain but are not limited to such classifications, differentiation, or other provision, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Bureau are necessary or proper to effectuate the purposes of this subchapter, to prevent circumvention or evasion thereof, or to facilitate or substantiate compliance therewith.

(b) Exempt transactions

Such regulations may exempt from the provisions of this subchapter any class of transactions that are not primarily for personal, family, or household purposes, or business or commercial loans made available by a financial institution, except that a particular type within a class of such transactions may be exempted if the Bureau determines, after making an express finding that the application of this subchapter or of any provision of this subchapter of such transaction would not contribute substantially to effecting the purposes of this subchapter.

(c) Limitation on exemptions

An exemption granted pursuant to subsection (b) shall be for no longer than five years and shall be extended only if the Bureau makes a subsequent determination, in the manner described by such paragraph, that such exemption remains appropriate.

(d) Maintenance of records

Pursuant to Bureau regulations, entities making business or commercial loans shall maintain such records or other data relating to such loans as may be necessary to evidence compliance with this subchapter or enforce any action pursuant to the authority of this chapter. In no event shall such records or data be maintained for a period of less than one year. The Bureau shall promulgate regulations to implement this paragraph in the manner prescribed by chapter 5 of title 5.

(e) Notice of denial of loan

The Bureau shall provide in regulations that an applicant for a business or commercial loan shall be provided a written notice of such applicant’s right to receive a written statement of the reasons for the denial of such loan.

(f) Board authority

Notwithstanding subsection (a), the Board shall prescribe regulations to carry out the purposes of this subchapter with respect to a person described in section 5519(a) of title 12. These regulations may contain but are not limited to such classifications, differentiation, or other provision, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this subchapter, to prevent circumvention or evasion thereof, or to facilitate or substantiate compliance therewith.

(g) Deference

Notwithstanding any power granted to any Federal agency under this subchapter, the deference that a court affords to a Federal agency with respect to a determination made by such agency relating to the meaning or interpretation of any provision of this subchapter that is subject to the jurisdiction of such agency shall be applied as if that agency were the only agency authorized to apply, enforce, interpret, or administer the provisions of this subchapter.

AMENDMENTS

2010—Pub. L. 111–203, §1085(3)(A), substituted “Pro-
mulation of regulations by the Bureau” for “Regula-
tions” in section catchline.


Subsecs. (a) to (e), Pub. L. 111–203, §1085(3)(B)–(E), in subsec. (a), struck out “(a)” designation before “(1)”, redesignated subsec. (a) par. (1) to (6) as subsecs. (a) to (e), respectively, in subsec. (c) substituted “subsection (b)” for “paragraph (2)”, and struck out former subsec. (b), which related to establishment of a Consumer Ad-
visory Council to advise and consult with the Board.

Subsecs. (f), (g), Pub. L. 111–203, §1085(3)(F), added subsecs. (f) and (g).

1988—Subsec. (a). Pub. L. 100–533 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as fol-
ows: “The Board shall prescribe regulations to carry
out the purposes of this subchapter. These regulations
may contain but are not limited to such classifications,
differentiation, or other provision, and may provide for
such adjustments and exceptions for any class of trans-
actions, as in the judgment of the Board are necessary
or proper to effectuate the purposes of this subchap-
ter, to prevent circumvention or evasion thereof, or to fa-
cilitate or substantiate compliance therewith. In par-
cular, such regulations may exempt from one or more
of the provisions of this subchapter any class of trans-
actions not primarily for personal, family, or household
purposes, if the Board makes an express finding that
the application of such provision or provisions would
not contribute substantially to carrying out the pur-
poses of this subchapter. Such regulations shall be pre-
scribed as soon as possible after the date of enact-
ment of this Act, but in no event later than the effective date
of this Act.”

1976—Pub. L. 94–239 redesignated existing provisions as
subsec. (a), inserted provisions exempting from regula-
tions of this subchapter any class of transactions not
primarily for personal, family, or household purposes
to be determined by the Board, and added subsec. (b).

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the des-
ignated transfer date, see section 1100H of Pub. L.
111–203, set out under section 1100A of this title;
Government Organization and Employees.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–239 effective Mar. 23, 1976,
see section 706 of Pub. L. 94–239 effective Mar. 23, 1976, set out as an Effective Date note under section 1691 of this title.

§ 1691c. Administrative enforcement

(a) Enforcing agencies

Subject to subtitle B of the Consumer Protec-
tion Financial Protection Act of 2010 with the require-
ments imposed under this subchapter shall be enforced under:

(1) section 8 of the Federal Deposit Insur-
ance Act [12 U.S.C. 1813], by the appropriate
Federal banking agency, as defined in section
3(q) of the Federal Deposit Insurance Act (12
U.S.C. 1813q), with respect to—

(A) national banks, Federal savings associa-
tions, and Federal branches and Federal agen-
cies of foreign banks;

(B) member banks of the Federal Reserve
System (other than national banks),
branches and agencies of foreign banks
(other than Federal branches, Federal agen-

1 So in original. Probably should be “Consumer Financial Pro-
tection Act of 2010”.

2 So in original. Probably should be “compliance with”.

cies, and insured State branches of foreign
banks), commercial lending companies
owned or controlled by foreign banks, and
organizations operating under section 25 or
et seq., 611 et seq.]; and

(C) banks and State savings associations
insured by the Federal Deposit Insurance
Corporation (other than members of the
Federal Reserve System), and insured State
branches of foreign banks;

(2) The Federal Credit Union Act [12 U.S.C.
1751 et seq.], by the Administrator of the Na-
tional Credit Union Administration with re-
spect to any Federal Credit Union.

(3) Subtitle IV of title 49, by the Secretary of
Transportation, with respect to all carriers
subject to the jurisdiction of the Surface
Transportation Board.

(4) Part A of subtitle VII of title 49, by the Sec-
retary of Transportation with respect to
any air carrier or foreign air carrier subject to
that part.

1971, 1751 et seq.] amendments provided in sec-
tion 406 of that Act [7 U.S.C. 226, 227], by the
Secretary of Agriculture with respect to any
activities subject to that Act.

2001 et seq.], by the Farm Credit Administra-
tion with respect to any Federal land bank,
Federal land bank association, Federal inter-
mediate credit bank, and production credit
association;

U.S.C. 78a et seq.], by the Securities and Ex-
change Commission with respect to brokers
and dealers;

(8) The Small Business Investment Act of
1958 [15 U.S.C. 661 et seq.], by the Small Busi-
ness Administration, with respect to small
business investment companies; and

(9) Subtitle E of the Consumer Financial
by the Bureau, with respect to any person sub-
ject to this subchapter.

The terms used in paragraph (1) that are not de-
defined in this subchapter or otherwise defined in
section 3(s) of the Federal Deposit Insurance Act
(12 U.S.C. 1813a) shall have the meaning given
to them in section 3(i)(b) of the International

(b) Violations of subchapter deemed violations of preexisting statutory requirements; addi-
tional agency powers

For the purpose of the exercise by any agency
referred to in subsection (a) of this section of its
powers under any Act referred to in that sub-
section, a violation of any requirement imposed
under this subchapter shall be deemed to be a
violation of a requirement imposed under that
Act. In addition to its powers under any provi-
sion of law specifically referred to in subsection
(a) of this section, each of the agencies referred to
in that subsection may exercise for the pur-
pose of enforcing compliance with any require-
ment imposed under this subchapter, any other
authority conferred on it by law. The exercise of
the authorities of any of the agencies referred to
in subsection (a) of this section for the purpose
of enforcing compliance with any requirement imposed under this subchapter shall in no way preclude the exercise of such authorities for the purpose of enforcing compliance with any other provision of law not relating to the prohibition of discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction.

(c) Overall enforcement authority of Federal Trade Commission

Except to the extent that enforcement of the requirements imposed under this subchapter is specifically committed to some other Government agency under any of paragraphs (1) through (8) of subsection (a), and subject to subtitle B of the Consumer Financial Protection Act of 2010, the Federal Trade Commission shall be authorized to enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), a violation of any requirement imposed under this subchapter shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Federal Trade Commission to enforce compliance by any person with the requirements imposed under this subchapter, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act, including the power to enforce any rule prescribed by the Bureau under this subchapter in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule.

(d) Rules and regulations by enforcing agencies


REFERENCES IN TEXT

The Consumer Financial Protection Act of 2010, referred to in subsect. (a) and (c), is title X of Pub. L. 111–203, July 21, 2010, 124 Stat. 1522. Subtitles B (§1021–1029A) and E (§1051–1058) of the Act are classified generally to parts B (§5511 et seq.) and E (§5561 et seq.), respectively, of chapter 53 of Title 53, Agriculture. For complete classification of this Act to the Code, see section 201 of Title 53 and Tables.

The Packers and Stockyards Act, 1921, referred to in subsect. (a)(5), is act Aug. 15, 1921, ch. 54, 42 Stat. 159, which is classified to chapter 181 of Title 7, Agriculture. For complete classification of this Act to the Code, see section 181 of Title 7 and Tables.

The Farm Credit Act of 1971, referred to in subsect. (a)(6), is Pub. L. 92–181, Dec. 19, 1971, 85 Stat. 583, which is classified generally to chapter 23 (§681 et seq.) of Title 15, Agriculture. For complete classification of this Act to the Code, see section 181 of Title 7 and Tables.

The Small Business Investment Act of 1958, referred to in subsect. (a)(8), is Pub. L. 85–699, Aug. 21, 1958, 72 Stat. 689, which is classified principally to chapter 1B (§661 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 661 of this title and Tables.

The Federal Trade Commission Act, referred to in subsect. (a)(7), is act June 30, 1914, ch. 9, 48 Stat. 881, which is classified principally to chapter 2B (§78a et seq.) of this title. For complete classification of this Act to the Code, see Codification note set out under section 78a of this title and Tables.

The Federal Trade Commission Act, referred to in subsect. (a)(8), is Pub. L. 85–699, Aug. 21, 1958, 72 Stat. 689, which is classified principally to chapter 1B (§661 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 661 of this title and Tables.

This subchapter, referred to in subsect. (c) before "shall be deemed", probably should have been a reference to the title in the original, meaning title VII of Pub. L. 90–321 which is classified generally to this subchapter.

CODIFICATION


AMENDMENTS


Subsect. (a)(1). Pub. L. 111–203, §1085(4)(A)(ii), added par. (1) and struck out former par. (1) which read as follows: "section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;"

Subsect. (a)(2) to (9). Pub. L. 111–203, §1085(4)(A)(ii)–(vi), added par. (9), redesignated former...
§ 1691c-1  Incentives for self-testing and self-correction  

(a) Privileged information  

(1) Conditions for privilege  

A report or result of a self-test (as that term is defined by regulations of the Bureau) shall be considered to be privileged under paragraph (2) if a creditor—  

(A) conducts, or authorizes an independent third party to conduct, a self-test of any aspect of a credit transaction by a creditor, in order to determine the level or effectiveness of compliance with this subchapter by the creditor; and  

(B) has identified any possible violation of this subchapter by the creditor and has taken, or is taking, appropriate corrective action to address any such possible violation.  

(2) Privileged self-test  

If a creditor meets the conditions specified in subparagraphs (A) and (B) of paragraph (1) with respect to a self-test described in that paragraph, any report or results of that self-test—  

(A) shall be privileged; and  

(B) may not be obtained or used by any applicant, department, or agency in any—  

(i) proceeding or civil action in which one or more violations of this subchapter are alleged; or  

(ii) examination or investigation relating to compliance with this subchapter.  

(b) Results of self-testing  

(1) In general  

No provision of this section may be construed to prevent an applicant, department, or agency from obtaining or using a report or results of any self-test in any proceeding or civil action in which a violation of this subchapter is alleged, or in any examination or investigation of compliance with this subchapter if—  

Effective Date of 1995 Amendment  

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of Title 49, Transportation.  

Effective Date of 1992 Amendment  


Effective Date of 1984 Amendment  


Effective Date of 1976 Amendment  


TRANSFER OF FUNCTIONS  

Functions vested in Administrator of National Credit Union Administration transferred and vested in National Credit Union Administration Board pursuant to section 1752a of Title 12, Banks and Banking.  

pars. (3) to (9) as (2) to (8), respectively, and struck out former par. (2) which read as follows: “Section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation.”  

Subsec. (c), Pub. L. 111–203, § 108(b)(4), added subsec. (c) and struck out former subsec. (c) which read as follows: “Except to the extent that enforcement of the requirements imposed under this subchapter is specifically committed to some other Government agency under subsection (a) of this section, the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of the functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this subchapter shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed under this subchapter, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act, including the power to enforce any Federal Reserve Board regulation promulgated under this subchapter in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule.”  

§ 1691c–1. Incentives for self-testing and self-correction
(A) the creditor or any person with lawful access to the report or results—
   (i) voluntarily releases or discloses all, or any part of, the report or results to the applicant, department, or agency, or to the general public; or
   (ii) refers to or describes the report or results as a defense to charges of violations of this subchapter against the creditor to whom the self-test relates; or

(B) the report or results are sought in conjunction with an adjudication or admission of a violation of this subchapter for the sole purpose of determining an appropriate penalty or remedy.

(2) Disclosure for determination of penalty or remedy

Any report or results of a self-test that are disclosed for the purpose specified in paragraph (1)(B)—
   (A) shall be used only for the particular proceeding in which the adjudication or admission referred to in paragraph (1)(B) is made; and
   (B) may not be used in any other action or proceeding.

(c) Adjudication

An applicant, department, or agency that challenges a privilege asserted under this section may seek a determination of the existence and application of that privilege in—
   (1) a court of competent jurisdiction; or
   (2) an administrative law proceeding with appropriate jurisdiction.


Effective Date of 2010 Amendment

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 1100H of Title 5, Government Organization and Employees.

§1691c-2. Small business loan data collection

(a) Purpose

The purpose of this section is to facilitate enforcement of fair lending laws and enable communities, governmental entities, and creditors to identify business and community development needs and opportunities of women-owned, minority-owned, and small businesses.

(b) Information gathering

Subject to the requirements of this section, in the case of any application to a financial institution for credit for women-owned, minority-owned, or small business, the financial institution shall—

(1) inquire whether the business is a women-owned, minority-owned, or small business, without regard to whether such application is received in person, by mail, by telephone, by electronic mail or other form of electronic transmission, or by any other means, and whether or not such application is in response to a solicitation by the financial institution; and

(2) maintain a record of the responses to such inquiry, separate from the application and accompanying information.

(c) Right to refuse

Any applicant for credit may refuse to provide any information requested pursuant to subsection (b) in connection with any application for credit.
(d) No access by underwriters

(1) Limitation
Where feasible, no loan underwriter or other officer or employee of a financial institution, or any affiliate of a financial institution, involved in making any determination concerning an application for credit shall have access to any information provided by the applicant pursuant to a request under subsection (b) in connection with such application.

(2) Limited access
If a financial institution determines that a loan underwriter or other officer or employee of a financial institution, or any affiliate of a financial institution, involved in making any determination concerning an application for credit should have access to any information provided by the applicant pursuant to a request under subsection (b), the financial institution shall provide notice to the applicant of the access of the underwriter to such information, along with notice that the financial institution may not discriminate on the basis of such information.

(e) Form and manner of information

(1) In general
Each financial institution shall compile and maintain, in accordance with regulations of the Bureau, a record of the information provided by any loan applicant pursuant to a request under subsection (b).

(2) Itemization
Information compiled and maintained under paragraph (1) shall be itemized in order to clearly and conspicuously disclose—

(A) the number of the application and the date on which the application was received;
(B) the type and purpose of the loan or other credit being applied for;
(C) the amount of the credit or credit limit applied for, and the amount of the credit transaction or the credit limit approved for such applicant;
(D) the type of action taken with respect to such application, and the date of such action;
(E) the census tract in which is located the principal place of business of the women-owned, minority-owned, or small business loan applicant;
(F) the gross annual revenue of the business in the last fiscal year of the women-owned, minority-owned, or small business loan applicant preceding the date of the application;
(G) the race, sex, and ethnicity of the principal owners of the business; and
(H) any additional data that the Bureau determines would aid in fulfilling the purposes of this section.

(3) No personally identifiable information
In compiling and maintaining any record of information under this section, a financial institution may not include in such record the name, specific address (other than the census tract required under paragraph (1)(E)),

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(1) In general
The Bureau shall prescribe such rules and issue such guidance as may be necessary to carry out, enforce, and compile data pursuant to this section.

(2) Exceptions
The Bureau, by rule or order, may adopt exceptions to any requirement of this section and may, conditionally or unconditionally, exempt any financial institution or class of financial institutions from the requirements of this section, as the Bureau deems necessary or appropriate to carry out the purposes of this section.

(h) Definitions
For purposes of this section, the following definitions shall apply:

(1) Financial institution
The term “financial institution” means any partnership, company, corporation, associa-
tion (incorporated or unincorporated), trust, estate, cooperative organization, or other entity that engages in any financial activity.

(2) Small business

The term "small business" has the same meaning as the term "small business concern" in section 632 of this title.

(3) Small business loan

The term "small business loan" means a loan made to a small business.

(4) Minority

The term "minority" has the same meaning as in section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(5) Minority-owned business

The term "minority-owned business" means a business—

(A) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

(B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

(6) Women-owned business

The term "women-owned business" means a business—

(A) more than 50 percent of the ownership or control of which is held by 1 or more women; and

(B) more than 50 percent of the net profit or loss of which accrues to 1 or more women.


References in Text

Section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, referred to in subsec. (b)(4), is section 1204(c)(3) of Pub. L. 101–73, which is set out as a note under section 1811 of Title 12, Banks and Banking.

Effective Date

Section effective on the designated transfer date, see section 1071(d) of Pub. L. 111–203, set out as an Effective Date of 2010 Amendment note under section 1691 of this title.

§1691d. Applicability of other laws

(a) Requests for signature of husband and wife for creation of valid lien, etc.

A request for the signature of both parties to a marriage for the purpose of creating a valid lien, passing clear title, waiving inchoate rights to property, or assigning earnings, shall not constitute discrimination under this subchapter: Provided, however, That this provision shall not be construed to permit a creditor to take sex or marital status into account in connection with the evaluation of creditworthiness of any applicant.

(b) State property laws affecting creditworthiness

Consideration or application of State property laws directly or indirectly affecting creditworthiness shall not constitute discrimination for purposes of this subchapter.

(c) State laws prohibiting separate extension of consumer credit to husband and wife

Any provision of State law which prohibits the separate extension of consumer credit to each party to a marriage shall not apply in any case where each party to a marriage voluntarily applies for separate credit from the same creditor: Provided, That in any case where such a State law is so preempted, each party to the marriage shall be solely responsible for the debt so contracted.

(d) Combining credit accounts of husband and wife with same creditor to determine permissible finance charges or loan ceilings under Federal or State laws

When each party to a marriage separately and voluntarily applies for and obtains separate credit accounts with the same creditor, those accounts shall not be aggregated or otherwise combined for purposes of determining permissible finance charges or permissible loan ceilings under the laws of any State or of the United States.

(e) Election of remedies under subchapter or State law; nature of relief determining applicability

Where the same act or omission constitutes a violation of this subchapter and of applicable State law, a person aggrieved by such conduct may bring a legal action to recover monetary damages either under this subchapter or under such State law, but not both. This election of remedies shall not apply to court actions in which the relief sought does not include monetary damages or to administrative actions.

(f) Compliance with inconsistent State laws; determination of inconsistency

This subchapter does not annul, alter, or affect, or exempt any person subject to the provisions of this subchapter from complying with the laws of any State with respect to credit discrimination, except to the extent that those laws are inconsistent with any provision of this subchapter, and then only to the extent of the inconsistency. The Bureau is authorized to determine whether such inconsistencies exist. The Bureau may not determine that any State law is inconsistent with any provision of this subchapter if the Bureau determines that such law gives greater protection to the applicant.

(g) Exemption by regulation of credit transactions covered by State law; failure to comply with State law

The Bureau shall by regulation exempt from the requirements of sections 1691 and 1691a of this title any class of credit transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under this subchapter or that such law gives greater protection to the applicant, and that there is adequate provision for enforcement. Failure to comply with any requirement of such State law in any transaction so exempted shall constitute a violation of this subchapter for the purposes of the purposes of section 1691e of this title.

§ 1691e. Civil liability

(a) Individual or class action for actual damages

Any creditor who fails to comply with any requirement imposed under this subchapter shall be liable to the aggrieved applicant for any actual damages sustained by such applicant acting either in an individual capacity or as a member of a class.

(b) Recovery of punitive damages in individual and class action for actual damages; exemptions; maximum amount of punitive damages in individual actions; limitation on total recovery in class actions; factors determining amount of award

Any creditor, other than a government or governmental subdivision or agency, who fails to comply with any requirement imposed under this subchapter shall be liable to the aggrieved applicant for punitive damages in an amount not greater than $10,000, in addition to any actual damages sustained by such applicant acting either in an individual capacity or as a member of a class.

(c) Action for equitable and declaratory relief

Upon application by an aggrieved applicant, the appropriate United States district court or any other court of competent jurisdiction may grant such equitable and declaratory relief as is necessary to enforce the requirements imposed under this subchapter.

(d) Recovery of costs and attorney fees

In the case of any successful action under subsection (a), (b), or (c) of this section, the costs of the action, together with a reasonable attorney's fee as determined by the court, shall be added to any damages awarded by the court under such subsection.

(e) Good faith compliance with rule, regulation, or interpretation of Bureau or interpretation or approval by an official or employee of Bureau of Consumer Financial Protection duly authorized by Bureau

No provision of this subchapter imposing liability shall apply to any act done or omitted in good faith in conformity with any official rule, regulation, or interpretation thereof by the Bureau or in conformity with any interpretation or approval by an official or employee of the Bureau of Consumer Financial Protection duly authorized by the Bureau to issue such interpretations or approvals under such procedures as the Bureau may prescribe therefor, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(f) Jurisdiction of courts; time for maintenance of action; exceptions

Any action under this section may be brought in the appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction. No such action shall be brought later than 5 years after the date of the occurrence of the violation, except that—

(1) whenever any agency having responsibility for administrative enforcement under section 1691c of this title commences an enforcement proceeding within 5 years after the date of the occurrence of the violation,

(2) whenever the Attorney General commences a civil action under this section within 5 years after the date of the occurrence of the violation,

then any applicant who has been a victim of the discrimination which is the subject of such proceeding or civil action may bring an action under this section not later than one year after the commencement of that proceeding or action.

(g) Request by responsible enforcement agency to Attorney General for civil action

The agencies having responsibility for administrative enforcement under section 1691c of this title, if unable to obtain compliance with section 1691 of this title, are authorized to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted. Each agency referred to in paragraphs (1), (2), and (9) of section 1691c(a) of this title shall refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has engaged in a pattern or practice of discouraging or denying applications for credit in violation of section 1691(a) of this title. Each such agency may refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has violated section 1691(a) of this title.

(h) Authority for Attorney General to bring civil action; jurisdiction

When a matter is referred to the Attorney General pursuant to subsection (g) of this sec-
tion, or whenever he has reason to believe that one or more creditors are engaged in a pattern or practice in violation of this subchapter, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including actual and punitive damages and injunctive relief.

(i) Recovery under both subchapter and fair housing enforcement provisions prohibited for violation based on same transaction

No person aggrieved by a violation of this subchapter and by a violation of section 3605 of title 42 shall recover under this subchapter and section 3612 of title 42, if such violation is based on the same transaction.

(j) Discovery of creditor’s granting standards

Nothing in this subchapter shall be construed to prohibit the discovery of a creditor’s credit granting standards under appropriate discovery procedures in the court or agency in which an action or proceeding is brought.

(k) Notice to HUD of violations

Whenever an agency referred to in paragraph (1), (2), or (3) of section 1691(a) of this title—

(1) has reason to believe, as a result of receiving a consumer complaint, conducting a consumer compliance examination, or otherwise, that a violation of this subchapter has occurred;

(2) has reason to believe that the alleged violation would be a violation of the Fair Housing Act [42 U.S.C. 3601 et seq.]; and

(3) does not refer the matter to the Attorney General pursuant to subsection (g) of this section, the agency shall notify the Secretary of Housing and Urban Development of the violation, and shall notify the applicant that the Secretary of Housing and Urban Development has been notified of the alleged violation and that remedies for the violation may be available under the Fair Housing Act.


Paragraph (1), (2), or (3) of section 1681c(a) of this title, referred to in subsection (k), probably means par. (1), (2), or (3) of section 1691c(a) of this title prior to repeal of pars. (1) and (2), enactment of new pars. (1) and (9), and redesignation of par. (3) as (2) by Pub. L. 111–203, title X, §1085(4)(A)(i)–(vi), July 21, 2010, 124 Stat. 2694.

The Fair Housing Act, referred to in subsection (k), is title VIII of Pub. L. 90–384, Apr. 11, 1968, 82 Stat. 111, which is classified principally to subchapter I [§3601 et seq.] of chapter 45 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of Title 42 and Tables.

See References in Text note below.
§ 1691f. Annual reports to Congress; contents

Each year, the Bureau and the Attorney General shall, respectively, make reports to the Congress concerning the administration of their functions under this subchapter, including such recommendations as the Bureau and the Attorney General, respectively, deem necessary or appropriate. In addition, each report of the Bureau shall include its assessment of the extent to which compliance with the requirements of this subchapter is being achieved, and a summary of the enforcement actions taken by each of the agencies assigned administrative enforcement responsibilities under section 1691c of this title.


AMENDMENTS


1980—Pub. L. 96–221 substituted “Each year” for “Not later than February 1 of each year after 1976”.

Effective Date of 2010 Amendment


§ 1692. Congressional findings and declaration of purpose

(a) Abusive practices

There is abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors. Abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy.

(b) Inadequacy of laws

Existing laws and procedures for redressing these injuries are inadequate to protect consumers.

(c) Available non-abusive collection methods

Means other than misrepresentation or other abusive debt collection practices are available for the effective collection of debts.

(d) Interstate commerce

Abusive debt collection practices are carried on to a substantial extent in interstate commerce and through means and instrumentalities of such commerce. Even where abusive debt collection practices are purely intrastate in character, they nevertheless directly affect interstate commerce.

(e) Purposes

It is the purpose of this subchapter to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.


Effective Date


Short Title

This subchapter known as the “Fair Debt Collection Practices Act”, see Short Title note set out under section 1601 of this title.

§ 1692a. Definitions

As used in this subchapter—

(1) The term “Bureau” means the Bureau of Consumer Financial Protection.

(2) The term “communication” means the conveying of information regarding a debt directly or indirectly to any person through any medium.

(3) The term “consumer” means any natural person obligated or allegedly obligated to pay any debt.

(4) The term “creditor” means any person who offers or extends credit creating a debt or to whom a debt is owed, but such term does not include any person to the extent that he receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of such debt for another.

(5) The term “debt” means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.

(6) The term “debt collector” means any person who uses any instrumentality of interstate commerce for the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. Notwithstanding the exclusion provided by clause (F) of the last sentence of this paragraph, the term includes any creditor who, in the process of collecting his own debts, uses any name other than his own which would indicate that a third person is collect-