

115TH CONGRESS
2D SESSION

H. R. 5166

To direct the Federal Trade Commission to review and potentially revise its standards for safeguarding customer information to ensure that such standards require certain consumer reporting agencies and service providers of such agencies to maintain sufficient safeguards against cyber attacks and related threats, to provide for additional authority to enforce such standards with respect to such agencies and providers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 2018

Mr. TED LIEU of California introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Energy and Commerce, 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 direct the Federal Trade Commission to review and potentially revise its standards for safeguarding customer information to ensure that such standards require certain consumer reporting agencies and service providers of such agencies to maintain sufficient safeguards against cyber attacks and related threats, to provide for additional authority to enforce such standards with respect to such agencies and providers, 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 “Protecting Consumer
3 Information Act of 2018”.

4 **SEC. 2. STANDARDS FOR CYBERSECURITY SAFEGUARDS**
5 **FOR CERTAIN CONSUMER REPORTING AGEN-**
6 **CIES AND SERVICE PROVIDERS.**

7 (a) REVIEW OF STANDARDS; POTENTIAL REVI-
8 SION.—

9 (1) REVIEW.—Not later than 90 days after the
10 date of the enactment of this Act, the Commission
11 shall complete a review of the standards contained in
12 the regulations issued by the Commission under sec-
13 tion 501 of the Gramm-Leach-Bliley Act (15 U.S.C.
14 6801) to determine whether such standards require
15 covered consumer reporting agencies and covered
16 service providers to maintain sufficient safeguards to
17 protect customer records and information against
18 cyber attacks and related threats.

19 (2) REVISION.—If the Commission determines
20 in the review completed under paragraph (1) that
21 the standards contained in the regulations issued by
22 the Commission under section 501 of the Gramm-
23 Leach-Bliley Act (15 U.S.C. 6801) do not require
24 covered consumer reporting agencies and covered
25 service providers to maintain sufficient safeguards to
26 protect customer records and information against

1 cyber attacks and related threats, not later than 180
2 days after the date of the completion of the review,
3 the Commission shall, pursuant to section 553 of
4 title 5, United States Code, revise such regulations
5 so as to provide for standards applicable to covered
6 consumer reporting agencies and covered service
7 providers that require such agencies and providers to
8 maintain sufficient safeguards to protect customer
9 records and information against cyber attacks and
10 related threats.

11 (b) INVESTIGATIONS.—

12 (1) INITIAL INVESTIGATION.—

13 (A) IN GENERAL.—Not later than 18
14 months after the date described in subpara-
15 graph (B), the Commission shall complete an
16 investigation of each person or entity that, as of
17 the date described in such subparagraph, is a
18 covered consumer reporting agency or covered
19 service provider, to determine whether such
20 agency or provider is in compliance with the
21 regulations issued by the Commission under
22 section 501 of the Gramm-Leach-Bliley Act (15
23 U.S.C. 6801).

24 (B) DATE DESCRIBED.—The date de-
25 scribed in this subparagraph is—

1 (i) if no revision of such regulations is
2 required by paragraph (2) of subsection
3 (a), the date of the completion of the re-
4 view required by paragraph (1) of such
5 subsection; or

6 (ii) if revision of such regulations is
7 required by paragraph (2) of such sub-
8 section, the date on which the Commission
9 issues the revised regulations.

10 (2) SUBSEQUENT INVESTIGATIONS.—From time
11 to time after the date that is 18 months after the
12 date described in paragraph (1)(B), the Commission
13 shall complete an investigation of each covered con-
14 sumer reporting agency and each covered service
15 provider to determine whether such agency or pro-
16 vider is in compliance with the regulations issued by
17 the Commission under section 501 of the Gramm-
18 Leach-Bliley Act (15 U.S.C. 6801).

19 **SEC. 3. ENFORCEMENT BY FEDERAL TRADE COMMISSION.**

20 (a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—
21 A violation of a regulation issued by the Commission
22 under section 501 of the Gramm-Leach-Bliley Act (15
23 U.S.C. 6801) by a covered consumer reporting agency or
24 a covered service provider shall be treated as a violation
25 of a rule under section 18(a)(1)(B) of the Federal Trade

1 Commission Act (15 U.S.C. 57a(a)(1)(B)) regarding un-
2 fair or deceptive acts or practices.

3 (b) POWERS OF COMMISSION.—The Commission
4 shall enforce, with respect to covered consumer reporting
5 agencies and covered service providers, the regulations
6 issued by the Commission under section 501 of the
7 Gramm-Leach-Bliley Act (15 U.S.C. 6801) in the same
8 manner, by the same means, and with the same jurisdic-
9 tion, powers, and duties as though all applicable terms and
10 provisions of the Federal Trade Commission Act (15
11 U.S.C. 41 et seq.) were incorporated into and made a part
12 of such section. Any covered consumer reporting agency
13 or covered service provider that violates such a regulation
14 shall be subject to the penalties and entitled to the privi-
15 leges and immunities provided in the Federal Trade Com-
16 mission Act.

17 **SEC. 4. ENFORCEMENT BY STATE ATTORNEYS GENERAL.**

18 (a) IN GENERAL.—In any case in which the attorney
19 general of a State, or an official or agency of a State,
20 has reason to believe that an interest of the residents of
21 such State has been or is threatened or adversely affected
22 by an act or practice by a covered consumer reporting
23 agency or covered service provider in violation of a regula-
24 tion issued by the Commission under section 501 of the
25 Gramm-Leach-Bliley Act (15 U.S.C. 6801), the State, as

1 parens patriae, may bring a civil action on behalf of the
2 residents of the State in an appropriate district court of
3 the United States to—

4 (1) enjoin such act or practice;

5 (2) enforce compliance with such regulation;

6 (3) obtain damages, restitution, or other com-
7 pensation on behalf of residents of the State; or

8 (4) obtain such other legal and equitable relief
9 as the court may consider to be appropriate.

10 (b) NOTICE.—Before filing an action under this sec-
11 tion, the attorney general, official, or agency of the State
12 involved shall provide to the Commission a written notice
13 of such action and a copy of the complaint for such action.
14 If the attorney general, official, or agency determines that
15 it is not feasible to provide the notice described in this
16 subsection before the filing of the action, the attorney gen-
17 eral, official, or agency shall provide written notice of the
18 action and a copy of the complaint to the Commission im-
19 mediately upon the filing of the action.

20 (c) AUTHORITY OF COMMISSION.—

21 (1) IN GENERAL.—On receiving notice under
22 subsection (b) of an action under this section, the
23 Commission shall have the right—

24 (A) to intervene in the action;

1 (B) upon so intervening, to be heard on all
2 matters arising therein; and

3 (C) to file petitions for appeal.

4 (2) LIMITATION ON STATE ACTION WHILE FED-
5 ERAL ACTION IS PENDING.—If the Commission or
6 the Attorney General of the United States has insti-
7 tuted a civil action for violation of a regulation
8 issued by the Commission under section 501 of the
9 Gramm-Leach-Bliley Act (15 U.S.C. 6801) by a cov-
10 ered consumer reporting agency or covered service
11 provider (referred to in this paragraph as the “Fed-
12 eral action”), no State attorney general, official, or
13 agency may bring an action under this section dur-
14 ing the pendency of the Federal action against any
15 defendant named in the complaint in the Federal ac-
16 tion for any violation of such regulation alleged in
17 such complaint.

18 (d) RULE OF CONSTRUCTION.—For purposes of
19 bringing a civil action under this section, nothing in this
20 Act shall be construed to prevent an attorney general, offi-
21 cial, or agency of a State from exercising the powers con-
22 ferred on the attorney general, official, or agency by the
23 laws of such State to conduct investigations, administer
24 oaths and affirmations, or compel the attendance of wit-

1 nesses or the production of documentary and other evi-
2 dence.

3 **SEC. 5. DEFINITIONS.**

4 In this Act:

5 (1) COMMISSION.—The term “Commission”
6 means the Federal Trade Commission.

7 (2) COVERED CONSUMER REPORTING AGEN-
8 CY.—The term “covered consumer reporting agency”
9 means a consumer reporting agency that compiles
10 and maintains files on consumers on a nationwide
11 basis (as defined in section 603(p) of the Fair Cred-
12 it Reporting Act (15 U.S.C. 1681a(p))).

13 (3) COVERED SERVICE PROVIDER.—The term
14 “covered service provider” means any person or enti-
15 ty that is a service provider (as defined in section
16 314.2 of title 16, Code of Federal Regulations)
17 through provision of services to a covered consumer
18 reporting agency.

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