

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the civil liability requirements under the Fair Credit Reporting Act to include requirements relating to class actions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. LOUDERMILK introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the civil liability requirements under the Fair Credit Reporting Act to include requirements relating to class actions, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “FCRA Liability Har-
5 monization Act”.

1 **SEC. 2. MAINTAINING CONSISTENCY IN CIVIL LIABILITY**
2 **UNDER THE FAIR CREDIT REPORTING ACT**
3 **FOR CLASS ACTIONS.**

4 (a) WILLFUL NONCOMPLIANCE.—Section 616 of the
5 Fair Credit Reporting Act (15 U.S.C. 1681n) is amend-
6 ed—

7 (1) in subsection (a)—

8 (A) by striking paragraph (2);

9 (B) by redesignating paragraph (3) as
10 paragraph (2); and

11 (C) in paragraph (1)(B), by inserting
12 “and” after the semicolon;

13 (2) by redesignating subsection (d) as sub-
14 section (e); and

15 (3) by inserting after subsection (c) the fol-
16 lowing new subsection:

17 “(d) CLASS ACTION LAWSUITS.—With respect to a
18 class action (as such term is defined in section 1711 of
19 title 28, United States Code), or series of class actions
20 arising out of the same failure to comply of a person,
21 brought by consumers against a person who willfully fails
22 to comply with any requirement imposed under this title,
23 such person is liable to such consumers in such an amount
24 as a court may determine, except that—

1 “(1) the court may not apply a minimum
2 amount of damages for each member of the class;
3 and

4 “(2) the total recovery (excluding reasonable at-
5 torney’s fees as determined by the court) of the class
6 shall not exceed the lesser of—

7 “(A) \$500,000; or

8 “(B) 1 percent of the net worth of such
9 person.”.

10 (b) NEGLIGENT NONCOMPLIANCE.—Section 617 of
11 the Fair Credit Reporting Act (15 U.S.C. 1681o7) is
12 amended by adding at the end the following new sub-
13 section:

14 “(c) CLASS ACTION LAWSUITS.—With respect to a
15 class action (as such term is defined in section 1711 of
16 title 28, United States Code), or series of class actions
17 arising out of the same failure to comply of a person,
18 brought by consumers against a person who negligently
19 fails to comply with any requirement imposed under this
20 title, such person is liable to such consumers in an amount
21 equal to the sum of any actual damages sustained by the
22 consumers as a result of the failure, except that the total
23 recovery (excluding reasonable attorney’s fees as deter-
24 mined by the court) of the class shall not exceed the lesser
25 of—

1 “(1) \$500,000; or
2 “(2) 1 percent of the net worth of such per-
3 son.”.