AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 2547
OFFERED BY MR. MCHENRY

Strike all after the enacting clause and insert the following:

1 SECTION 1. REQUIREMENT FOR CONFESSIONS OF JUDGMENT.
2
3 (a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding
4 at the end the following:
5 “§ 140B. Unfair credit practices
6 “In connection with the extension of credit or creation of debt in or affecting commerce, as defined in section 4 of the Federal Trade Commission Act (15 U.S.C. 44), including any advance of funds or sale or assignment of future income or receivables that may or may not be credit, no person may take or receive from another person an obligation that constitutes or contains a cognovit or confession of judgment (for purposes other than executory process in the State of Louisiana), warrant of attorney, or other waiver of the right to notice and the opportunity to be heard in the event of suit or process thereon unless the other person provides to the lender a written affidavit
describing the nature of the default and the date on which such default occurred.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended—

(1) in section 103, by adding at the end the following:

“(ff) The term ‘debt’ means any obligation of a person to pay to another person money—

“(1) regardless of whether such obligation is absolute or contingent if the understanding between the parties is that any part of the money shall be or may be returned;

“(2) that includes the right of the person providing the money to an equitable remedy for breach of performance if the breach gives rise to a right to payment; and

“(3) regardless of whether the obligation or right to an equitable remedy described in paragraph (2) has been reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.”; and

(2) in section 130(a), by striking “creditor” each place the term appears and inserting “person”.
SEC. 2. ENHANCED PROTECTION AGAINST DEBT COLLECTOR HARASSMENT OF SERVICEMEMBERS.

(a) COMMUNICATION IN CONNECTION WITH DEBT COLLECTION.—Section 805 of the Fair Debt Collection Practices Act (15 U.S.C. 1692c) is amended by adding at the end the following:

“(e) COMMUNICATIONS CONCERNING SERVICEMEMBER DEBTS.—

“(1) DEFINITION.—In this subsection, the term ‘covered member’ means—

“(A) a covered member or a dependent as defined in section 987(i) of title 10, United States Code; and

“(B)(i) an individual who was separated, discharged, or released from duty described in such section 987(i)(1), but only during the 365-day period beginning on the date of separation, discharge, or release; or

“(ii) a person, with respect to an individual described in clause (i), described in subparagraph (A), (D), (E), or (I) of section 1072(2) of title 10, United States Code.

“(2) PROHIBITIONS.—A debt collector may not, in connection with the collection of any debt of a covered member—
“(A) threaten to have the covered member reduced in rank;

“(B) threaten to have the covered member’s security clearance revoked; or

“(C) threaten to have the covered member prosecuted under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice).”.

(b) UNFAIR PRACTICES.—Section 808 of the Fair Debt Collection Practices Act (15 U.S.C. 1692f) is amended by adding at the end the following:

“(9) The representation to any covered member (as defined under section 805(e)(1)) that failure to cooperate with a debt collector will result in—

“(A) a reduction in rank of the covered member;

“(B) a revocation of the covered member’s security clearance; or

“(C) prosecution under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice).”.

SEC. 3. GAO STUDY AND REPORT.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on the impact of debt collection on covered members (as defined under section
805(e)(1) of the Fair Debt Collection Practices Act, as added by section 201), which shall—

(1) identify types of false, deceptive, misleading, unfair, abusive, and harassing debt collection practices experienced by covered members and make recommendations to eliminate these practices;

(2) identify collection practices of creditors and debt collectors experienced by covered members;

(3) discuss the effect of these practices on military readiness; and

(4) discuss any national security implications, including the extent to which covered members with security clearances would be impacted by uncollected debt.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the completed study required under subsection (a).

SEC. 4. PROTECTIONS FOR OBLIGORS AND COSIGNERS IN CASES OF DEATH OR TOTAL AND PERMANENT DISABILITY.

(a) IN GENERAL.—Section 140(g) of the Truth in Lending Act (15 U.S.C. 1650) is amended—

(1) in paragraph (2)—
(A) in the heading, by striking “IN CASE
OF DEATH OF BORROWER”;

(B) in subparagraph (A), by inserting after
“of the death”, the following: “or total and per-
manent disability”; and

(C) in subparagraph (C), by inserting after
“of the death”, the following: “or total and per-
manent disability”; and

(2) by adding at the end the following:

“(3) Discharge in case of death or total
and permanent disability of borrower.—The
holder of a private education loan may, upon request
of the estate of a deceased student obligor or, in the
case of a student obligor who incurs a total and per-
manent disability, upon certification by a medical
professional of such total and permanent disability,
discharge the liability of the student obligor on the
loan and may not, after such a discharge—

“(A) attempt to collect on the outstanding
liability of the student obligor; and

“(B) in the case of total and permanent
disability, monitor the disability status of the
student obligor at any point after the date of
discharge.
“(4) TOTAL AND PERMANENT DISABILITY DEFINED.—For the purposes of this subsection and with respect to an individual, the term ‘total and permanent disability’ means the individual is totally and permanently disabled, as such term is defined in section 685.102(b) of title 34 of the Code of Federal Regulations.

“(5) PRIVATE DISCHARGE IN CASES OF CERTAIN DISCHARGE FOR DEATH OR DISABILITY.—The holder of a private education loan may, when notified of the discharge of liability of a student obligor on a loan described under section 108(f)(5)(A) of the Internal Revenue Code of 1986, discharge any liability of the student obligor (and any cosigner) on any private education loan which the private education loan holder holds and may not, after such a discharge—

“(A) attempt to collect on the outstanding liability of the student obligor; and

“(B) in the case of total and permanent disability, monitor the disability status of the student obligor at any point after the date of discharge.”.

(b) RULEMAKING.—The Director of the Bureau of Consumer Financial Protection may issue rules to imple-
ment the amendments made by subsection (a) as the Di-
rector determines appropriate.
(c) EFFECTIVE DATE.—The amendments made by
this section shall take effect 1 year after the date of the
enactment of this Act.

SEC. 5. PROHIBITION ON THE USE OF SOCIAL SECURITY
NUMBERS.

(a) IN GENERAL.—Section 605 of the Fair Credit
Reporting Act (15 U.S.C. 1681e) is amended by adding
at the end the following:

“(i) PROHIBITION ON THE USE OF SOCIAL SECURITY
NUMBERS.—A consumer reporting agency described
under section 603(p)—

“(1) may not make any consumer report con-
taining a social security number; and

“(2) may not use the social security number of
a consumer as a method to verify the identity of the
consumer.”.

(b) CONFORMING AMENDMENT.—Section 609(a)(1)
of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)(1))
is amended by striking “except that—” and all that fol-
lows through “(B) nothing” and inserting “except that
nothing”.

(c) EFFECTIVE DATE.—The amendments made by
this section shall take effect on January 1, 2022.
SEC. 6. EXCLUSION OF PAID MEDICAL DEBT.

Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)) is amended by adding at the end the following:

“(9) Paid debt arising from the receipt of medically necessary, non-elective medical services, products, or devices which from the date of payment, antedate the report by more than 1 year.”.

SEC. 7. PROHIBITION ON INCLUDING ADVERSE INFORMATION RELATED TO PREDATORY MORTGAGE LENDING.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after section 605B the following:

“§ 605C. Adverse information relating to predatory mortgage lending

“(a) IN GENERAL.—A consumer reporting agency may not furnish any consumer report containing any adverse item of information relating to a covered residential mortgage loan (including the origination and servicing of such a loan, any loss mitigation activities related to such a loan, and any foreclosure, deed in lieu of foreclosure, or short sale related to such a loan), if the action or inaction to which the item of information relates—

“(1) resulted from an unfair, deceptive, or abusive act or practice, or a fraudulent, discriminatory,
or illegal activity of a financial institution, as determined by a court of competent jurisdiction; or

“(2) is related to an unfair, deceptive, or abusive act or practice, or a fraudulent, discriminatory, or illegal activity of a financial institution that is the subject of a settlement agreement initiated on behalf of a consumer and that is between the financial institution and an agency or department of a local, State, or Federal Government.

“(b) COVERED RESIDENTIAL MORTGAGE.—In this section, the term ‘covered residential mortgage loan’ means any loan made primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling (as defined in section 103(w) of the Truth in Lending Act), including a loan in which the proceeds will be used for—

“(1) a manufactured home (as defined in section 603 of the Housing and Community Development Act of 1974);

“(2) any installment sales contract, land contract, or contract for deed on a residential property; or

“(3) a reverse mortgage transaction (as defined in section 103(cc) of the Truth in Lending Act).”.
(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Fair Credit Reporting Act is amended by inserting after the item relating to section 605B the following new item:

“605C. Adverse information relating to predatory mortgage lending.”.

SEC. 8. PROHIBITION ON INCLUDING ADVERSE INFORMATION WHEN FINANCIAL ABUSE HAS BEEN DETERMINED.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by section 403, is further amended by inserting after section 605C the following:

“§ 605D. Adverse information in cases of financial abuse

“A consumer reporting agency may not furnish a consumer report containing any adverse item of information about a consumer that resulted from intentionally abusive or harmful financial behavior if—

“(1) a court of competent jurisdiction, in a lawsuit that is not a class action lawsuit, has determined that the consumer is a victim of such intentionally abusive or harmful financial behavior;

“(2) such intentionally abusive or harmful financial behavior was conducted by a spouse, family or household member, caregiver, or person with whom such consumer had a dating relationship; and
“(3) such consumer did not participate in or consent to such behavior.”.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Fair Credit Reporting Act is amended by inserting after the item relating to section 605C, as added by section 403, the following new item:

“605D. Adverse information in cases of financial abuse.”.

SEC. 9. PROHIBITION ON INCLUDING ADVERSE INFORMATION WHEN A STUDENT OBLIGOR IS DEFRAUDED.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by section 404, is further amended by inserting after section 605D the following:

“§ 605E. Adverse information in cases of a defrauded student obligor.

“(b) IN GENERAL.—A consumer reporting agency may not furnish a consumer report containing any adverse item of information about a consumer that resulted from a private student loan obligation if—

“(1) such consumer is a student obligor with respect to such private education loan; and

“(2) a court of competent jurisdiction, in a lawsuit that is not a class action lawsuit, has determined that such consumer is a victim of fraud with respect to such private education loan.
“(c) PRIVATE EDUCATION LOAN DEFINED.—For the purposes of this section, the term ‘private education loan’ has the meaning given the term in section in section 140(a) of the Truth in Lending Act.”.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Fair Credit Reporting Act is amended by inserting after the item relating to section 605D, as added by section 404, the following new item:

“605E. Adverse information in cases of a defrauded student obligor.”.

SEC. 10. STUDY AND REPORT TO CONGRESS ON USE OF NON-TRADITIONAL DATA IN CREDIT SCORING.

(a) STUDY.—The Bureau of Consumer Financial Protection shall carry out a study about the use of non-traditional data—

(1) by consumer reporting agencies when compiling and furnishing consumer reports; and

(2) by persons that create, maintain, or purchase credit scoring models used in making credit decisions.

(b) REPORT.—Not later than 18 months after the date of the enactment of this section, the Bureau of Consumer Financial Protection shall issue a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing all findings and
determinations, including any recommendations for any legislative or regulatory changes, made in carrying out the study required under subsection (a).

(c) DEFINITIONS.—For the purposes of this section, the terms “consumer reporting agency” and “consumer report” shall have the meanings given the terms in section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a).

SEC. 11. ADVERSE INFORMATION IN CASES OF TRAFFICKING.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by section 405, is further amended by inserting after section 605E the following:

“§ 605F. Adverse information in cases of trafficking

“(a) IN GENERAL.—A consumer reporting agency may not furnish a consumer report containing any adverse item of information about a consumer that resulted from a severe form of trafficking in persons or sex trafficking if a court of competent jurisdiction, in a lawsuit that is not a class action lawsuit, has determined that the consumer is a victim of trafficking.

“(b) RULEMAKING.—

“(1) IN GENERAL.—The Director shall, not later than 180 days after the date of the enactment
of this section, issue a rule to implement subsection (a).

“(2) CONTENTS.—The rule issued pursuant to paragraph (1) shall establish a method by which consumers may submit documentation to consumer reporting agencies, including—

“(A) documentation of a determination by a court of competent jurisdiction that such consumer is a victim of trafficking; and

“(B) documentation that identifies items of adverse information that should not be furnished by the consumer reporting agency because the items resulted from the severe form of trafficking in persons or sex trafficking of which the consumer is a victim.

“(c) VICTIM OF TRAFFICKING DEFINED.—For the purposes of this section, the term “victim of trafficking” means a person who—

“(1) is a victim of a severe form of trafficking in persons or sex trafficking, as such terms are defined in section 103 of the Trafficking Victims Protection Act of 2000; and

“(2) has been listed as a victim in a criminal case against a person who has been found guilty of
a severe form of trafficking in persons or sex trafficking.”.

(b) Table of Contents Amendment.—The table of contents of the Fair Credit Reporting Act is amended by inserting after the item relating to section 605E, as added by section 405, the following new item:

“605F. Adverse information in cases of trafficking.”.

(c) Effective Date.—The amendments made by this section shall apply on the earlier of—

(1) the date that is 30 days after the date on which the Director of the Bureau of Consumer Financial Protection issues a rule pursuant to section 605F(b) of the Fair Credit Reporting Act (as added by subsection (a)); or

(2) the date that is 2 years after the date of the enactment of section 605F of the Fair Credit Reporting Act (as added by subsection (a)).

SEC. 12. EFFECTIVE DATE.

Except as otherwise provided, this Act and the amendments made by this Act shall take effect on the date that is 180 days after the date of enactment of this Act.