

111TH CONGRESS
1ST SESSION

H. R. 3763

IN THE SENATE OF THE UNITED STATES

OCTOBER 21, 2009

Received; read twice and referred to the Committee on Banking, Housing, and
Urban Affairs

AN ACT

To amend the Fair Credit Reporting Act to provide for
an exclusion from Red Flag Guidelines for certain businesses.

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. EXCLUSION FOR CERTAIN SMALL BUSINESSES.**

2 (a) IN GENERAL.—Section 615(e) of the Fair Credit
3 Reporting Act (15 U.S.C. 1681m(e)) is amended by add-
4 ing at the end the following new paragraphs:

5 “(4) EXCLUSION FOR CERTAIN BUSINESSES.—

6 For purposes of this subsection, the term ‘creditor’
7 shall not include—

8 “(A) a health care practice with 20 or
9 fewer employees;

10 “(B) an accounting practice with 20 or
11 fewer employees;

12 “(C) a legal practice with 20 or fewer em-
13 ployees; or

14 “(D) any other business, if the Commis-
15 sion determines, following an application for ex-
16 clusion by such business, that such business—

17 “(i) knows all of its customers or cli-
18 ents individually;

19 “(ii) only performs services in or
20 around the residences of its customers; or

21 “(iii) has not experienced incidents of
22 identity theft and identity theft is rare for
23 businesses of that type.

24 “(5) LIMITATION ON EXCLUSION FOR BUSI-
25 NESSES NO-LONGER ELIGIBLE.—To the extent that
26 a business can no longer demonstrate that it meets

1 the criteria under paragraph (4) that permitted its
2 exclusion from the term ‘creditor’, such exclusion
3 shall no longer apply.

4 “(6) DEFINITIONS.—For purposes of this sub-
5 section:

6 “(A) EMPLOYEE.—With respect to a busi-
7 ness, the term ‘employee’ means any individual
8 who works for such business and is paid either
9 wages or a salary.

10 “(B) HEALTH CARE PRACTICE.—

11 “(i) IN GENERAL.—The term ‘health
12 care practice’ means a business that’s pri-
13 mary service is providing health care via
14 health care professionals employed by the
15 business.

16 “(ii) HEALTH CARE PROFESSIONAL.—
17 For purposes of subparagraph (A), the
18 term ‘health care professional’ means an
19 individual engaged in providing health care
20 and licensed under State law, including
21 physicians, dentists, podiatrists, chiroprac-
22 tors, physical therapists, occupational
23 therapists, marriage and family therapists,
24 optometrists, speech therapists, language

1 therapists, hearing therapists, and veteri-
2 narians.”.

3 (b) PROCESS FOR EXCLUSION APPLICATIONS.—Not
4 later than 180 days after the date of the enactment of
5 this Act, the Federal Trade Commission shall issue regula-
6 tions, in accordance with section 553 of title 5, United
7 States Code, that set forth the process by which a business
8 may apply for an exclusion under section 615(e)(4)(D) of
9 the Fair Credit Reporting Act.

Passed the House of Representatives October 20,
2009.

Attest: LORRAINE C. MILLER,
Clerk.