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 Representatives of the United States of America in Congress assembled,
SECTION 1. EXCLUSION FOR CERTAIN SMALL BUSINESSES.

(a) In General.—Section 615(e) of the Fair Credit Reporting Act (15 U.S.C. 1681m(e)) is amended by adding at the end the following new paragraphs:

“(4) Exclusion for certain businesses.—

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

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

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

“(C) a legal practice with 20 or fewer employees; or

“(D) any other business, if the Commission determines, following an application for exclusion by such business, that such business—

“(i) knows all of its customers or clients individually;

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

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

“(5) Limitation on exclusion for businesses no-longer eligible.—To the extent that a business can no longer demonstrate that it meets
the criteria under paragraph (4) that permitted its
exclusion from the term ‘creditor’, such exclusion
shall no longer apply.

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

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

“(B) HEALTH CARE PRACTICE.—

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

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

(b) Process for Exclusion Applications.—Not later than 180 days after the date of the enactment of this Act, the Federal Trade Commission shall issue regulations, in accordance with section 553 of title 5, United States Code, that set forth the process by which a business may apply for an exclusion under section 615(e)(4)(D) of the Fair Credit Reporting Act.

Passed the House of Representatives October 20, 2009.

Attest: LORRAINE C. MILLER,

Clerk.