



Insights: Alerts

Key Provisions of the Recently Enacted Consumer Protection Legislation

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Changes Impact Credit Reporting, Veteran Lending, and Private Student Lending, Among Other Areas

On May 24, 2018, President Trump signed the Economic Growth, Regulatory Relief, and Consumer Protection Act (the Act) into law, taking the first step in paring back some of the regulations imposed under the Dodd-Frank Wall Street Reform and Consumer Protection Act in the wake of the financial crisis.

Last week, we [summarized](#) the sections of the Act that most directly impact the regulation of financial institutions. This alert summarizes the key sections of the Act that provide important new protections and benefits for consumers, including senior citizens and student borrowers.

Section 301 – Protecting consumers' credit

The Act amends the Fair Credit Reporting Act (FCRA) to increase the length of time a consumer reporting agency (CRA) must include a fraud alert in a consumer's file (from a period of 90 days to one year). It also: (1) requires a CRA to provide a consumer with free credit freezes and to notify a consumer of their availability; (2) establishes provisions related to the placement and removal of these freezes; and (3) creates requirements related to the protection of the credit records of minors. The Act also requires CRAs to establish a webpage for consumers to, among other things, request a credit freeze or fraud alert; and for the Federal Trade Commission (FTC) to create a single webpage that includes a link to each such CRA webpage.

Section 303 – Immunity from suit for disclosure of financial exploitation of senior citizens

The Act extends immunity from liability to certain individuals employed at covered financial institutions who, in good faith and with reasonable care, disclose the suspected exploitation of a senior citizen to a regulatory or law enforcement agency. Similarly, the employing financial institution shall not be liable with respect to disclosures made by such employees. In addition, the Act allows financial institutions and third-party entities to offer training related to the suspected financial exploitation of a senior citizen to specified employees. The Act also provides guidance regarding the content, timing, and record retention requirements of such training.

Section 304 – Restoration of the Protecting Tenants at Foreclosure Act of 2009

The sunset provision of the Protecting Tenants at Foreclosure Act (which originally became effective on May 20, 2009 and expired on December 31, 2014) is repealed, restoring notification requirements and other protections

related to the eviction of renters in foreclosed properties.

Section 309 – Protecting veterans from predatory lending

A refinanced home loan to a veteran generally may not be guaranteed or insured by the Department of Veterans Affairs (VA), unless: (1) a specified minimum time period has passed between the original loan and the refinancing (the later of 210 days after the date on which the first monthly payment is made on the loan, or the date on which the sixth monthly payment is made on the loan); and (2) the lender complies with provisions related to fee recoupment, mortgage interest rates, and net tangible benefit tests. The Department of Housing and Urban Development (HUD) and the Government National Mortgage Association (Ginnie Mae) are required to report on the liquidity of the VA Housing Loan Program. The VA must report annually on refinanced home loans to veterans.

Section 310 – Credit score competition

The Act amends the Federal National Mortgage Association Charter Act and the Federal Home Loan Mortgage Corporation Act to allow the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac), when determining whether to purchase a residential mortgage, to consider a borrower's credit score only if certain procedural requirements are met with respect to the validation and approval of credit-scoring models. Fannie Mae and Freddie Mac also must provide for the use of the credit score by all of their automated underwriting systems and any other procedures and systems used. Fannie Mae and Freddie Mac are required to make a description of the validation and approval process publicly available. The Federal Housing Finance Agency (FHFA) is required to adopt regulations to establish standards and criteria for processes used by Fannie Mae and Freddie Mac to validate and approve credit-scoring models in accordance with the Act.

Section 601 – Protections in the event of death or bankruptcy

The Act amends the Truth in Lending Act (TILA) to prospectively revise provisions relating to cosigners of private student loans. Specifically, the Act: (1) prohibits a creditor from declaring an automatic default or accelerating the debt of a private student loan on the sole basis of the death or bankruptcy of a cosigner to such a loan; and (2) directs loan holders to release cosigners from any obligation upon the death of the student borrower. The Act also requires lenders issuing private student loans to provide the student borrower with an option to designate an individual to have the legal authority to act on his or her behalf with respect to the private education loan in the event of the student borrower's death.

Section 602 – Rehabilitation of private education loans

The Act amends the FCRA to allow a person to request the removal of a previously reported default regarding a private education loan from a consumer report if: (1) the lender chooses to offer a loan rehabilitation program that requires a number of consecutive on-time monthly payments demonstrating renewed ability and willingness to repay the loan; and (2) the consumer meets those requirements. A consumer may obtain such rehabilitation benefits only once per loan.

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