

111TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend the Fair Credit Reporting Act with respect to the applicability of identity theft guidelines to creditors.

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IN THE SENATE OF THE UNITED STATES

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Mr. THUNE (for himself and Mr. BEGICH) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Fair Credit Reporting Act with respect to the applicability of identity theft guidelines to creditors.

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 “Red Flag Program  
5 Clarification Act of 2010”.

6 **SEC. 2. SCOPE OF CERTAIN CREDITOR REQUIREMENTS.**

7 (a) AMENDMENT TO FCRA.—Section 615(e) of the  
8 Fair Credit Reporting Act (15 U.S.C. 1681m(e)) is  
9 amended by adding at the end the following:

1           “(4) DEFINITIONS.—As used in this subsection,  
2           the term ‘creditor’—

3                   “(A) means a creditor, as defined in sec-  
4                   tion 702 of the Equal Credit Opportunity Act  
5                   (15 U.S.C. 1691a), that regularly and in the  
6                   ordinary course of business—

7                           “(i) obtains or uses consumer reports,  
8                           directly or indirectly, in connection with a  
9                           credit transaction;

10                           “(ii) furnishes information to con-  
11                           sumer reporting agencies, as described in  
12                           section 623, in connection with a credit  
13                           transaction; or

14                           “(iii) advances funds to or on behalf  
15                           of a person, based on an obligation of the  
16                           person to repay the funds or repayable  
17                           from specific property pledged by or on be-  
18                           half of the person;

19                           “(B) does not include a creditor described  
20                           in subparagraph (A)(iii) that advances funds on  
21                           behalf of a person for expenses incidental to a  
22                           service provided by the creditor to that person;  
23                           and

24                           “(C) includes any other type of creditor, as  
25                           defined in that section 702, as the agency de-

1           scribed in paragraph (1) having authority over  
2           that creditor may determine appropriate by rule  
3           promulgated by that agency, based on a deter-  
4           mination that such creditor offers or maintains  
5           accounts that are subject to a reasonably fore-  
6           seeable risk of identity theft.”.

7           (b) **EFFECTIVE DATE.**—The amendment made by  
8 this section shall become effective on the date of enact-  
9 ment of this Act.