

December 6, 2010

The Honorable Nancy Pelosi
Speaker, House of Representatives
H-232, The Capitol
Washington, DC 20515

The Honorable John Boehner
Republican Leader
H-204, The Capitol
Washington, DC 20515

Dear Speaker Pelosi and Leader Boehner:

The undersigned organizations write to respectfully request that the House of Representatives consider and approve the “Red Flag Program Clarification Act of 2010” (S. 3987) prior to adjourning the 111th Congress. This legislation was approved by the Senate on November 30.

S. 3987 seeks to narrow the scope of Section 114 of the Fair and Accurate Credit Transactions Act (P.L. 108-159). This section of the law directed the Federal Trade Commission (FTC) and other regulatory agencies, to promulgate rules requiring “creditors” and “financial institutions” to implement programs to detect and respond to Red Flags (patterns, practices, or specific activities) that could indicate identity theft. The FTC’s Red Flags Rule, implementing section 114 of Public Law 108-159, became effective on January 1, 2008.

The rule defined “creditors” as any person that sells a product or service for which the consumer can pay later. This definition expanded previously accepted definitions and created concern for our organizations. We immediately expressed these concerns to the FTC. The FTC delayed enforcement of the rule several times over the past two years in an attempt to allow all covered entities time to come into compliance with the regulation, but there was minimal movement on establishing an equitable definition of “creditor.” As a result, several organizations sought relief from the regulation through the courts.

On May 28, the FTC announced that it would delay enforcing the Red Flags Rule through December 31. Additionally, they requested that Congress approve legislation that would clarify which entities should be covered as “creditors.” S. 3987, as approved by the Senate, meets the request of the FTC and the concerns raised by our organizations. Therefore, we urge the House to take immediate action to approve this important legislation, facilitating its enactment into law prior to the December 31 deadline.

Academy of General Dentistry
American Academy of Family Physicians
American Academy of Ophthalmology
American Academy of Oral and Maxillofacial Pathology
American Academy of Otolaryngology-Head and Neck Surgery
American Academy of Pediatric Dentistry
American Academy of Periodontology
American Academy of Physical Medicine and Rehabilitation
American Association of Endodontists
American Association of Neurological Surgeons
American Association of Nurse Anesthetists
American Association of Orthopaedic Surgeons
American College of Osteopathic Internists
American College of Osteopathic Family Physicians
American College of Osteopathic Surgeons
American College of Physicians
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American College of Surgeons
American Dental Association
American Gastroenterological Association
American Medical Association
American Osteopathic Academy of Orthopedics
American Osteopathic Association
American Physical Therapy Association
American Society of Cataract and Refractive Surgery
American Urological Association
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