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PERC URGES SENATE TO RECONSIDER FACT ACT REVISIONS

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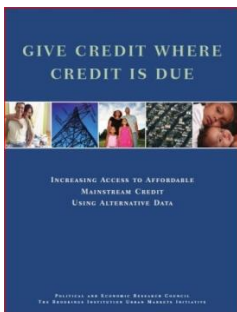
Congress is considering an amendment to the Fair and Accurate Credit Transactions Act (FACT Act) in the Red Flag Program Clarification Act of 2010 (S.3987). The aim of this act is to exempt certain organizations from the FCRA's Red Flags Rules.

Given the broad definition of "creditor" in the FACT Act, PERC agrees in principle that small creditors—such as physician private practices—should be exempted from Red Flags Rules. This approach was considered by the House during the current Congress. Redefining "creditor" as any party that either uses credit information or reports customer payment data to a nationwide consumer reporting agency (CRA) is not an optimal approach.

Although the Red Flags Rules could go a long way toward reducing identity theft and fraud, given the exemptions and carve outs that would occur with the proposed new definition of "creditor," they could also have serious unintended consequences, such as creating disincentives for non-financial data furnishers to fully report to nationwide CRAs (and incentives to report "negative-only" data) and disincentives for large health care providers to aggressively identify fraud.

The Senate bill under consideration could exempt certain healthcare providers from having to implement the Red Flags Rules, which would enable continued healthcare fraud and create disincentive for non-financial credit reporters (such as utility and telecom providers) to fully report customer payment data to credit bureaus.

A better approach may be simply to exempt certain small business, such as health care, legal, and accounting practices with 20 or fewer employees, as in S.3416 introduced by Senators Thune and Begich.



PERC's 2007 research summarized in the report "Give Credit Where Credit is Due," showed the value of non-traditional credit data. This showed that alternative data can help up to ten percent of consumers gain credit files or credit scores, that nearly ten percent could gain access to mainstream affordable credit, better credit decisions could be made, and these benefits disproportionately accrued to those with thin credit files, low-income households, and ethnic and racial minorities. These benefits are particularly important during the credit crunch.

PERC urges the Senate to reconsider FACT act revisions and to reshape this approach to one that exempts firms based on size and does not create disincentives for firms to furnish data to credit bureaus.

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