

111TH CONGRESS  
2D SESSION

# S. 3416

To amend the Fair Credit Reporting Act to provide for an exclusion from Red Flag Guidelines for certain businesses.

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IN THE SENATE OF THE UNITED STATES

MAY 25, 2010

Mr. THUNE (for himself and Mr. BEGICH) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

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 Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. EXCLUSION FOR CERTAIN SMALL BUSINESSES.**

4 (a) IN GENERAL.—Section 615(e) of the Fair Credit  
5 Reporting Act (15 U.S.C. 1681m(e)) is amended by add-  
6 ing at the end the following:

7 “(4) EXCLUSION FOR CERTAIN BUSINESSES.—

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

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

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

5           “(C) a legal practice with 20 or fewer em-  
6 ployees; or

7           “(D) any other business, if the Commis-  
8 sion determines, following an application for ex-  
9 clusion by such business, that such business—

10           “(i) knows all of its customers or cli-  
11 ents individually;

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

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

17           “(5) LIMITATION ON EXCLUSION FOR BUSI-  
18 NESSES NO-LONGER ELIGIBLE.—To the extent that  
19 a business can no longer demonstrate that it meets  
20 the criteria under paragraph (4) that permitted its  
21 exclusion from the term ‘creditor’, such exclusion  
22 shall no longer apply.

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

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

5           “(B) HEALTH CARE PRACTICE.—

6           “(i) IN GENERAL.—The term ‘health  
7           care practice’ means a business, the pri-  
8           mary service of which is providing health  
9           care through health care professionals em-  
10          ployed by the business.

11          “(ii) HEALTH CARE PROFESSIONAL.—

12          For purposes of clause (i), the term ‘health  
13          care professional’ means an individual en-  
14          gaged in providing health care and licensed  
15          under State law, including a physician, a  
16          dentist, a podiatrist, a chiropractor, a  
17          physical therapist, an occupational thera-  
18          pist, a marriage or family therapist, an op-  
19          tometrist, a speech therapist, a language  
20          therapist, a hearing therapist, and a veteri-  
21          narian.”.

22          (b) PROCESS FOR EXCLUSION APPLICATIONS.—Not  
23          later than 180 days after the date of the enactment of  
24          this Act, the Federal Trade Commission shall issue regula-  
25          tions, in accordance with section 553 of title 5, United

- 1 States Code, that set forth the process by which a business
- 2 may apply for an exclusion under section 615(e)(4)(D) of
- 3 the Fair Credit Reporting Act, as added by this Act.

