

117TH CONGRESS
1ST SESSION

H. R. 3854

To amend the Small Business Act to require that credit reporting companies provide certain protections to small businesses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 2021

Mr. STEUBE introduced the following bill; which was referred to the
Committee on Small Business

A BILL

To amend the Small Business Act to require that credit reporting companies provide certain protections to small businesses, and for other purposes.

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 “Small Business Credit
5 Protection Act of 2021”.

6 **SEC. 2. DATA BREACHES.**

7 (a) IN GENERAL.—The Small Business Act (15
8 U.S.C. 631 et seq.) is amended—

9 (1) by redesignating section 49 (15 U.S.C. 631
10 note) as section 50; and

1 (2) by inserting after section 48 (15 U.S.C.
2 657u) the following new section:

3 **“SEC. 49. DATA BREACHES.**

4 “(a) DEFINITION.—In this section—

5 “(1) the term ‘consumer report’ has the mean-
6 ing given the term in section 603 of the Fair Credit
7 Reporting Act (15 U.S.C. 1681a); and

8 “(2) the term ‘credit reporting company’—

9 “(A) has the meaning given the term ‘con-
10 sumer reporting agency’ in section 603 of the
11 Fair Credit Reporting Act (15 U.S.C. 1681a);
12 and

13 “(B) includes an entity that collects com-
14 mercial credit data.

15 “(b) REQUIREMENTS FOR REPORTING BREACHES.—

16 “(1) APPLICABLE STATE LAW.—

17 “(A) IN GENERAL.—Except as provided in
18 paragraph (2), if nonpublic data of a small
19 business concern that is collected or stored by
20 a credit reporting company has been breached,
21 the credit reporting company shall report the
22 breach promptly and not later than as required
23 under the law of the State in which the small
24 business concern is located.

1 “(B) LOCATIONS IN MULTIPLE STATES.—

2 If a small business concern that is affected by
3 a breach described in subparagraph (A) has lo-
4 cations in more than 1 State, for the purposes
5 of that subparagraph, the law of the State that
6 imposes the shortest period for the reporting of
7 the breach shall apply.

8 “(2) EXCEPTION.—

9 “(A) IN GENERAL.—If a small business
10 concern that is affected by a breach described
11 in paragraph (1)(A) is located in a State that
12 does not have a law that imposes a set period
13 for the reporting of the breach, the credit re-
14 porting company to which the requirement
15 under that paragraph applies shall report the
16 breach in the most expeditious manner prac-
17 ticable and without unreasonable delay.

18 “(B) RULE OF CONSTRUCTION REGARDING
19 A LAW ENFORCEMENT REQUEST.—For the pur-
20 poses of subparagraph (A), a delay with respect
21 to the reporting of a breach described in that
22 subparagraph that is caused by a requirement
23 to respond to a request submitted by a law en-
24 forcement agency shall be construed to be a
25 reasonable delay.

1 “(c) PROHIBITION.—During the 180-day period be-
 2 ginning on the date on which a breach described in sub-
 3 section (b)(1)(A) occurs, a credit reporting company may
 4 not charge a small business concern that is affected by
 5 that breach for providing the small business concern with
 6 the consumer report of the small business concern.

7 “(d) NO PREEMPTION.—Nothing in this section shall
 8 preempt any State law with respect to credit reporting
 9 companies.”.

10 (b) GAO REPORT.—

11 (1) DEFINITIONS.—In this subsection, the term
 12 “credit reporting company”—

13 (A) has the meaning given the term “con-
 14 sumer reporting agency” in section 603 of the
 15 Fair Credit Reporting Act (15 U.S.C. 1681a);
 16 and

17 (B) includes an entity that collects com-
 18 mercial credit data.

19 (2) REPORT.—Not later than 1 year after the
 20 date of enactment of this Act, the Comptroller Gen-
 21 eral of the United States shall submit to Congress
 22 a report regarding the economic harm incurred by
 23 small business concerns as a result of data breaches
 24 at credit reporting companies.

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