

September 12, 2012

The Honorable Jim Renacci
130 Cannon House Office Building
Washington, DC 20515

Dear Congressman Renacci:

The undersigned advocates are writing to raise concerns about H.R. 6363, which promotes the practice of full file utility credit reporting. We have concerns about the scope of the bill, which goes far beyond the topic of utility credit reporting. The bill eliminates any provisions or regulations under the Fair Credit Reporting Act (FCRA) that restrict furnishing information to consumer reporting agencies, such as restrictions on identifying information, public records, or tenancy information. Thus, it will take away authority from the Consumer Financial Protection Bureau (CFPB) to regulate abuses in the furnishing of information. The CFPB would be prevented from establishing regulations that prohibit the furnishing of outdated, irrelevant or sensitive personal information.

We note that the bill is designed so it does not state explicitly that it preempts state laws or regulation. However, the bill adds provisions to a section of the FCRA that has broad preemptive effect, and it is not inconceivable that a court could rule that the provision preempts state laws even though it does not specifically so state. If this provision were to have a preemptive effect on state laws, it would go much further than just reporting utility information to preempt state laws that attempt to reform background check agencies,¹ govern furnishing of criminal records, and govern reporting of eviction records.²

Thank you for your attention. If you have any questions about this letter, please contact Chi Chi Wu (cwu@nclc.org) at (617) 542-8010.

Chi Chi Wu
National Consumer Law Center
(on behalf of its low-income clients)

Maurice Emsellem
National Employment Law Project

Judy Whiting
Community Service Society
New York, New York

James Fishman
Fishman & Mallon, LLP

Jeffrey Chester
Center for Digital Democracy

¹ For a discussion of the problems with background check agencies, see Persis Yu, National Consumer Law Center, *Broken Records: How Errors by Criminal Background Checking Companies Harm Workers and Businesses*, April 11, 2012, available at www.nclc.org/issues/broken-records.html.

² In some states, rental housing providers often categorically reject applicants who have been sued for eviction—even if the case is dismissed or found to be without merit. States may wish to restrict the reporting of certain eviction lawsuits to protect individuals and families from being unfairly excluded from rental housing based on unfairly-stigmatizing eviction records.