

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2410/P1dn

ARG:cjs:nwn

April 19, 2007

ATTN: Eric Knight

Please review the attached draft carefully to ensure that it is consistent with your intent.

As requested, the draft is patterned on language that appears to originate from an Alabama bill. I also reviewed the language from what I understand is proposed legislation in Connecticut, Massachusetts, and Minnesota.

It is unclear to me how the "opt-in" provision will work. The proposed legislation in Connecticut, Massachusetts, and Minnesota keys off the credit reporting agencies, but the provisions of this bill (and the Alabama legislation) are broader. Under this bill, a person would not "opt-in" by providing notice to a credit reporting agency, so who will the person be notifying to "opt-in"? In the bill I have not attempted to answer this question. In addition, even if the bill were narrowed and a person could "opt-in" by providing notice to the credit reporting agency, it is unclear to what extent the credit reporting agency would be obligated to take any action on this "opt-in" notice.

Portions of the language in the Alabama and Connecticut legislation are similar, but I read this similar language as having very different meanings. I read the "in a solicitation" language of the Alabama legislation to mean that this loan identification information cannot appear in the printed solicitation material. However, I read the "to solicit" language in the Connecticut legislation to mean that a person cannot base the decision whether to make a solicitation on this loan identification information.

I note that "lender" in the attached draft includes federally-chartered financial institutions. It is possible that application of the bill's provisions to federally-chartered financial institutions could be found to be preempted by federal law.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

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