The very first proposal in Congress for a Fair Credit Reporting Act arose as a proposed amendment to the original Truth in Lending Act. During the 1968 debate on the Truth in Lending Act in the House of Representatives, Representative Zablocki offered an amendment which would have addressed the practices of CRAs. Although seldom recalled, Representative Zablocki might thus be considered the father of the FCRA. The amendment was defeated, but it captured the attention of Senator Proxmire and Representative Leonor Sullivan, the two legislators commonly credited with introducing credit reporting legislation.

Senator Proxmire acted first, before the year was out. Addressing himself to the incidence of cases where a “consumer is unjustly denied credit because of faults or incomplete information in a credit report, or because he has been confused with another individual,” he announced his intention to alleviate these types of problems with legislation addressing the abuses of consumer credit reporting. He announced that he would be introducing new legislation in the next session, and inserted a draft into the Congressional Record. The specifics of this announcement and this draft proposal are important because this is the bill that, with amendments, later became the FCRA.

The title of the bill bespoke its purpose: A Bill to Protect Consumers Against Arbitrary or Erroneous Credit Ratings, and the Unwarranted Publication of Credit Information. As summarized by Senator Proxmire, the bill was structured around three separate requirements. First, CRAs were required to have procedures for guaranteeing the confidentiality of the information they collected. Second, individuals were given the opportunity to correct adverse information in their credit records and to be notified when a derogatory item of public record is entered into their credit records. Third, CRAs must have procedures for discarding irrelevant and outdated information from individuals’ credit files. While these protections have been modified somewhat in the current law, they nevertheless continue to reflect the goals of the final legislation.

The necessity for legislation was clear to Senator Proxmire, and soon the entire Congress. Senator Proxmire explained the need for high standards in the credit reporting industry as follows:

> The increasing volume of complaints makes it clear that some regulations are vitally necessary to insure that higher standards are observed with respect to the information in the files of commercial credit bureaus. I cite what I consider to be the three most important criteria for judging the quality of these standards. They are first, confidentiality; second, accuracy; and third, currency of information.

These three standards bear further elaboration. They are the three overriding themes of today’s Fair Credit Reporting Act. Senator Proxmire explained each in greater detail:

**Confidentiality:**

[Credit] information is furnished for a specific purpose, namely, in support of the application for credit. Without the consumer’s knowledge or acquiescence this information should not be supplied to a noncreditor. It is the current practice for instance, of most CRAs, with the notable exception of the Credit Data Corp, to grant free access to their files to various governmental investigatory agencies such as the FBI and the IRS. There have also been many stories telling of the ease with which an unauthorized person can get a look at an individual’s file. Therefore, my bill requires that no one can engage in the business of credit reporting unless there are procedures in effect for guaranteeing the confidentiality of the information collected.

**Accuracy:**

There are many varieties of inaccurate information, but I shall mention only two. One is the case of mistaken identity, where two individuals with the same names are confused, and the deserving individual is denied credit because of something done by the other person. . . . A second type of inaccuracy, or more precisely, incompleteness, has to do with so-called derogatory items from public records. Consumer reporting agencies seem very anxious to record the fact that a person has been sued for nonpayment, but they are in many cases not so diligent in noting the disposition of the case. For example, if a consumer refuses to pay because he cannot get satisfaction from a merchant with respect to a shoddy piece of merchandise, the merchant may sue him for nonpayment, and this fact is recorded by the CRA. However, if the
suit is subsequently decided in favor of the consumer, this would not be recorded and the consumer’s credit rating would be unjustly jeopardized.

Currency of Information:

The bill further provides that there be in effect procedures of information for evaluating and for keeping the information in an individual’s credit file up to date. This requirement is related to the one I have just discussed: the requirement that the information be accurate. However, there is a further element here: that irrelevant and outdated information be discarded from the file.

These themes were made concrete in the draft bill presented by Senator Proxmire. His bill proposed that consumer reports could be disseminated only to creditors, unless the consumer gave permission otherwise. It also required procedures for insuring confidentiality, for providing on consumer request an opportunity to correct information in CRA files, for evaluating information about a consumer’s creditworthiness, for keeping information current, for notifying consumers whenever adverse public information has been obtained, and for permitting the consumer an opportunity to submit an explanatory statement.

Footnotes


130 [125] Id. at 24,904.

131 [126] Id. at 24,903.

132 [127] Id.

Source: National Consumer Law Center, Fair Credit Reporting [9th ed.], updated at www.nclc.org/library
Source URL: https://library.nclc.org/fcr/010402-0