

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5775
OFFERED BY MR. LOUDERMILK OF GEORGIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “FCRA Liability Har-
3 monization Act”.

**4 SEC. 2. MAINTAINING CONSISTENCY IN CIVIL LIABILITY
5 UNDER THE FAIR CREDIT REPORTING ACT
6 FOR CLASS ACTIONS.**

7 (a) WILLFUL NONCOMPLIANCE.—Section 616 of the
8 Fair Credit Reporting Act (15 U.S.C. 1681n) is amend-
9 ed—

10 (1) in subsection (a)—

11 (A) in paragraph (1)(B), by inserting
12 “and” after the semicolon;

13 (B) by striking paragraph (2);

14 (C) by redesignating paragraph (3) as
15 paragraph (2); and

16 (D) in paragraph (2), as redesignated by
17 subparagraph (C), by striking “as determined
18 by the court.” and inserting “as determined by

1 the court, in an amount that does not exceed
2 the lesser of—

3 “(A) \$100,000; or

4 “(B) the amount that is 40 percent of any
5 damages awarded under paragraph (1)(A).”;

6 (2) by redesignating subsection (d) as sub-
7 section (e); and

8 (3) by inserting after subsection (c) the fol-
9 lowing new subsection:

10 “(d) CLASS ACTION LAWSUITS.—With respect to a
11 class action brought by a class made up of consumers
12 against a person who willfully fails to comply with a re-
13 quirement imposed under this title, such person shall be
14 liable to such consumers in such an amount as a court
15 may determine, except that—

16 “(1) the court may not apply a minimum
17 amount of damages for each member of the class;

18 “(2) the total recovery (excluding reasonable at-
19 torney’s fees as determined by the court) of the class
20 may not exceed the lesser of—

21 “(A) \$500,000; or

22 “(B) 1 percent of the net worth of such
23 person; and

1 “(3) the costs of the action together with rea-
2 sonable attorney’s fees, as determined by the court,
3 may not exceed the lesser—

4 “(A) of \$100,000;

5 “(B) the amount that is 40 percent of any
6 damages awarded by a court under this sub-
7 section; or

8 “(C) the sum of the costs of the action and
9 reasonable attorney’s fees, as determined by the
10 court, not to exceed the lower of \$100,000 or
11 an amount equal to 40 percent of actual dam-
12 ages.”.

13 (b) NEGLIGENT NONCOMPLIANCE.—Section 617 of
14 the Fair Credit Reporting Act (15 U.S.C. 1681o) is
15 amended—

16 (1) in subsection (a)(2), by striking the period
17 at the end and inserting “, not to exceed the lesser
18 of—

19 “(A) \$100,000; or

20 “(B) 40 percent of any actual damages de-
21 termined by the court.”; and

22 (2) by adding at the end the following new sub-
23 section:

24 “(c) CLASS ACTION LAWSUITS.—With respect to a
25 class action brought by consumers against a person who

1 negligently fails to comply with any requirement imposed
2 under this title, such person is liable to such consumers
3 in an amount equal to the sum of any actual damages
4 sustained by the consumers as a result of the failure, ex-
5 cept that the total recovery of the class (excluding reason-
6 able attorney's fees as determined by the court) shall not
7 exceed the lesser of—

8 “(1) \$500,000;

9 “(2) 1 percent of the net worth of such person;

10 or

11 “(3) the sum of the costs of the action and rea-
12 sonable attorney's fees, as determined by the court,
13 not to exceed the lower of \$100,000 or an amount
14 equal to 40 percent of actual damages.”.

