

119<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1652

To amend the Consumer Financial Protection Act of 2010 to clarify standards for UDAAP enforcement actions brought by the Bureau of Consumer Financial Protection, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2025

Mr. BARR introduced the following bill; which was referred to the Committee on Financial Services

---

## A BILL

To amend the Consumer Financial Protection Act of 2010 to clarify standards for UDAAP enforcement actions brought by the Bureau of Consumer Financial Protection, 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 “Rectifying Undefined  
5 Descriptions of Abusive Acts and Practices Act” or the  
6 “Rectifying UDAAP Act”.

1 **SEC. 2. MITIGATING FACTORS IN ASSESSING CIVIL PEN-**  
2 **ALTIES.**

3 Section 1055(c) of the Consumer Financial Protec-  
4 tion Act of 2010 (12 U.S.C. 5565(c)) is amended by add-  
5 ing at the end the following:

6 “(6) RULEMAKING.—The Bureau shall, not  
7 later than 180 days after the date of the enactment  
8 of this paragraph, issue a rule that establishes poli-  
9 cies and procedures relating to the imposition of civil  
10 monetary penalties sought under this subsection, in-  
11 cluding the application of the mitigating factors de-  
12 scribed in paragraph (3).”.

13 **SEC. 3. RULEMAKING RELATING TO UNFAIR, DECEPTIVE**  
14 **OR ABUSIVE ACTS OR PRACTICES.**

15 (a) IN GENERAL.—Section 1031 of the Consumer Fi-  
16 nancial Protection Act of 2010 (12 U.S.C. 5531) is  
17 amended by striking subsection (b) and inserting the fol-  
18 lowing:

19 (b) RULEMAKING.—

20 “(1) IN GENERAL.—The Bureau may prescribe  
21 rules applicable to a covered person or service pro-  
22 vider identifying as unlawful unfair, deceptive, or  
23 abusive acts or practices in connection with any  
24 transaction with a consumer for a consumer finan-  
25 cial product or service, or the offering of a consumer  
26 financial product or service. Rules under this section

1 may include requirements for the purpose of pre-  
2 venting such acts or practices.

3 “(2) COST BENEFIT ANALYSIS REQUIRED.—  
4 Any final rule issued by the Bureau relating to abu-  
5 sive, unfair, or deceptive acts or practices shall in-  
6 clude a cost-benefit analysis.

7 “(3) DEFINITION OF ABUSIVE ACT OR PRAC-  
8 TICE.—The Bureau shall, not later than 180 days  
9 after the date of the enactment of this subsection,  
10 issue a rule that defines the term ‘abusive act or  
11 practice’ for the purposes of this section.”.

12 (b) OPPORTUNITY FOR COMMENT.—The Bureau of  
13 Consumer Financial Protection shall, not later than 180  
14 days after the date of the enactment of this subsection,  
15 allow the public to submit comments with respect to any  
16 confusion about how the Bureau of Consumer Financial  
17 Protection uses its authority with respect to unfair, decep-  
18 tive, or abusive acts or practices.

19 **SEC. 4. AUTHORITY TO DECLARE AN ACT UNLAWFUL**  
20 **BASED ON DISCRIMINATION.**

21 The Bureau of Consumer Financial Protection may  
22 not interpret the authority of the Bureau of Consumer Fi-  
23 nancial Protection relating to unfair, deceptive, or abusive  
24 acts and practices, as such term is used in section 1031

1 of the Consumer Financial Protection Act of 2010, to in-  
2 clude discriminatory practices.

3 **SEC. 5. CLARIFYING THE ABUSIVE STANDARD FOR THE BU-**  
4 **REAU OF CONSUMER FINANCIAL PROTEC-**  
5 **TION.**

6 Section 1031 of the Consumer Financial Protection  
7 Act of 2010 (12 U.S.C. 5531) is amended by striking sub-  
8 section (d) and inserting the following:

9 “(d) ABUSIVE.—

10 “(1) IN GENERAL.—The Bureau shall have no  
11 authority to declare an act or practice of a covered  
12 person abusive in connection with the provision of a  
13 consumer financial product or service, unless the act  
14 or practice—

15 “(A) intentionally and materially interferes  
16 with the ability of a consumer to understand a  
17 term or condition of a consumer financial prod-  
18 uct or service; or

19 “(B) takes unreasonable advantage of—

20 “(i) a lack of understanding by the  
21 consumer with respect to the possible im-  
22 pact, material risks, costs, or conditions of  
23 the product or service, or the likelihood of  
24 the risks, costs, or conditions of the prod-

1           uct or service negatively affecting the con-  
2           sumer; and

3                   “(ii) the reasonable reliance the con-  
4           sumer places on an affirmative action or  
5           representation of such covered person to  
6           induce such consumer to rely on such ac-  
7           tion or representation.

8           “(2) ABUSIVE ACTIONS.—Conduct of a covered  
9           person shall be considered abusive if—

10                   “(A) the act or practice causes or is likely  
11           to cause substantial injury to consumers which  
12           is not reasonably avoidable by consumers, pro-  
13           vided, however, that if the act or practice was  
14           timely, clearly and conspicuously disclosed to  
15           consumers, the injury is presumed to be reason-  
16           ably avoidable; or

17                   “(B) such substantial injury is not out-  
18           weighed by countervailing benefits to consumers  
19           or to competition.

20           “(e) GOOD-FAITH EFFORT TO COMPLY.—

21                   “(1) IN GENERAL.—The Bureau may not seek  
22           monetary relief from a covered person under this  
23           section unless the covered person has not established  
24           by a preponderance of the evidence that they made  
25           a good-faith effort to comply.

1           “(2) **AUTHORITY TO SEEK LEGAL OR EQUI-**  
2           **TABLE REMEDIES.**—The limitation described in sub-  
3           paragraph (A) shall not restrict the authority of the  
4           Bureau to seek legal or equitable remedies, such as  
5           damages and restitution, to redress an identifiable  
6           consumer injury caused by the abusive acts or prac-  
7           tices of such covered person.”.

8           **SEC. 6. NOTICE AND OPPORTUNITY TO CURE.**

9           Section 1031 of the Consumer Financial Protection  
10          Act of 2010 (12 U.S.C. 5531) is amended by adding at  
11          the end the following:

12          “(g) **NOTICE AND OPPORTUNITY TO CURE.**—

13                 “(1) **IN GENERAL.**—If a covered person self-  
14                 identifies a potential unfair, deceptive, or abusive act  
15                 or practice carried out by such covered person, the  
16                 Bureau shall, not later than 90 days after such self-  
17                 identification, provide a written notice in the form of  
18                 a potential action and request for response letter or  
19                 a notice and opportunity to respond and advise let-  
20                 ter of the potential unfair, deceptive, or abusive act  
21                 or practice to such covered person and inform the  
22                 covered person that such person has 180 days after  
23                 the date the covered person receives such notice to  
24                 cure such potential unfair, deceptive, or abusive act  
25                 before the Bureau may pursue other legal action.

1           “(2) TOLLING OF STATUTE OF LIMITATIONS.—  
2           Any applicable statute of limitations that applies to  
3           conduct under which the Bureau has given notice  
4           and an opportunity to cure shall not toll until—

5                   “(A) the covered person cures the potential  
6                   abusive, unfair, or deceptive act or practice and  
7                   notifies the Bureau that such act or practice  
8                   has been cured;

9                   “(B) the covered person notifies the Bu-  
10                  reau that such covered person will not cure the  
11                  act or practice; or

12                  “(C) the 180-day period to cure ends.”.

13 **SEC. 7. ABUSIVE, UNFAIR, OR DECEPTIVE ACTS OR PRAC-**  
14 **TICES ENFORCEMENT ACTIONS.**

15           (a) IN GENERAL.—Subtitle E of title X of the Con-  
16           sumer Financial Protection Act of 2010 (12 U.S.C. 5561  
17           et seq.) is amended by adding at the end the following  
18           new section:

19 **“SEC. 1059. UNFAIR, DECEPTIVE, OR ABUSIVE ACTS OR**  
20 **PRACTICES ENFORCEMENT ACTIONS.**

21           “Enforcement actions brought by the Bureau under  
22           section 1031 under this title shall be brought in—

23                   “(1) the United States district court located  
24                   where the covered person has its headquarters loca-  
25                   tion; or

1           “(2) the United States District Court for the  
2           District of Columbia.”.

3           (b) ACTIONS UNDER SECTION 1031.—Section 1031  
4 of the Consumer Financial Protection Act of 2010 is  
5 amended by adding at the end the following:

6           “(g) ENFORCEMENT ACTIONS.—

7           “(1) IN GENERAL.—If the Bureau brings an  
8 enforcement action under this section, the Bureau  
9 shall state with particularity the circumstances that  
10 the Bureau alleges constitute violation of this sec-  
11 tion.

12           “(2) ALTERNATIVE CLAIMS.—If the Bureau  
13 brings an enforcement action under this section—

14           “(A) claiming that an activity is unfair or  
15 deceptive, the Bureau may not claim in the al-  
16 ternative that the activity is abusive; and

17           “(B) claiming that an activity is abusive,  
18 the Bureau may not claim in the alternative  
19 that the activity is unfair or deceptive.”.

20 **SEC. 8. LOOK-BACK PROVISIONS FOR THE CONSUMER FI-**  
21 **NANCIAL PROTECTION BUREAU.**

22           Subtitle B of title X of the Consumer Financial Pro-  
23 tection Act of 2010 (12 U.S.C. 5511 et seq.) is amended  
24 by adding at the end the following new section:

1 **“SEC. 1029B EXAMINATION PERIOD LIMITATIONS.**

2       “(a) IN GENERAL.—When enforcing Federal con-  
3 sumer financial laws, the Bureau may not seek a civil  
4 money penalty for any violating conduct that occurred  
5 prior to the most recent assignment of a consumer compli-  
6 ance rating.

7       “(b) RULE OF CONSTRUCTION.—This limitation de-  
8 scribed in subsection (a) may not be construed to restrict  
9 the ability of the Bureau to seek other forms of legal or  
10 equitable relief available under subparagraphs (A) through  
11 (G) of section 1055(a)(2) for any violating conduct that  
12 occurred prior to the most recent assignment of a con-  
13 sumer compliance rating.”.

○