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B-202908

May 6, 1981

The Honorable Jack Brooks
Chairman, Committee on Government
Operations
House of Representatives

Dear Mr. Chairman:

By letter of April 1, 1981, you requested our [views on H.R. 2811] 97th Congress, 1st Session, a bill "To amend the Privacy Act of 1974 to increase the efficiency of Government-wide efforts to collect debts owed the United States, to require the reporting to Congress of information on debts owed the United States, and for other purposes."

House bill 2811 is similar to Senate bill 3160 that was introduced by Senator Percy in the 96th Congress. We testified on November 19, 1980, before the Senate Committee on Governmental Affairs in support of that proposed legislation; Senator Percy has introduced a similar bill, Senate bill 591, in the 1st session of the 97th Congress.

On April 23, 1981, we testified on a comprehensive Administration proposed bill before the Senate Committee on Governmental Affairs. This proposal includes the provisions of Senator Percy's S. 591 as well as other legislative proposals to strengthen debt collection. Further, H.R. 749 and H.R. 1243 (97th) have been introduced by Congressmen Edwards and yourself respectively. Both bills are either identical or similar to S. 3160 (96th). Moreover, three additional bills, S. 793, H.R. 2152, and H.R. 2543, have been introduced in the 97th Congress, each of which contain the provisions of S. 3160 (96th). We continue to support the purposes of S. 3160 (96th) and as provided in H.R. 2811.

House bill 2811 would remove an obstacle to the Government's use of the commercial practice of reporting an individual's delinquent financial obligations to credit bureaus. The bill also provides for making agencies more accountable for their collection activities.

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Reporting Delinquent Debts to Credit Bureaus

As a result of our comparison and analysis of the debt collection practices of the public and private sectors, 1/ we initiated an April 1979 revision to the Federal Claims Collection Standards 2/ to require that agencies establish procedures for reporting delinquent debts to commercial credit bureaus. These Government-wide regulations are issued jointly by the Comptroller General and the Attorney General under authority of the Federal Claims Collection Act of 1966. 3/

The new provision for reporting debts to credit bureaus has not been implemented primarily because a legal issue arose over whether participating credit bureaus, which are governed by the Fair Credit Reporting Act, 4/ must also comply with the Privacy Act of 1974. 5/ Specifically, the Department of Justice has taken the position that a credit bureau that enters into an agreement with a Government agency under which the credit bureau would retain information disclosed by the agency would be maintaining a subsystem of records subject to the Privacy Act.

A spokesman for the credit bureau industry stated that the industry will not participate with the Government in this effort of recording debts if doing so makes the bureaus subject to the Privacy Act. Aside from the fact that the industry is already heavily regulated, he expressed the view that modifying bureau systems for recording disclosures and debtor counter-arguments in a manner that would meet Privacy Act requirements would not be cost effective.

1/ "The Government Can Be More Productive in Collecting Its Debts by Following Commercial Practices," (FGMSD-78-59, Feb. 23, 1979.)

2/ 4 CFR 101-105

3/ 31 U.S.C. 951

4/ 15 U.S.C. 1681

5/ 5 U.S.C. 552a

Recently, legislation was enacted that will exempt credit bureaus from the Privacy Act for certain VA ^{1/} and Department of Education ^{2/} debts. We supported that legislation; however, we would have preferred legislation providing such exemptions for all Government agencies, as is provided by House bill 2811.

There are three technical amendments that we would like to suggest that you make in House bill 2811. First, in Sec. 2(1) of the bill, we propose that the definition of consumer reporting agency be expanded, for the purposes of this legislation, to include marketing agencies and service bureaus. These entities serve as intermediaries between smaller consumer reporting agencies and businesses which need access to information and which desire to report on an individual's delinquent financial obligations in geographic areas not covered by the larger consumer reporting agencies. Precedent has been established by the Congress for such expansion of the definition in P.L. 96-466, October 17, 1980.

Therefore, we suggest that on page 2, paragraph (8) be deleted, and the following inserted.

"(8) For the purposes of this section, the term 'consumer reporting agency' means --

- (A) A consumer reporting agency as such term is defined in subsection (f) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681 a(f)); or
- (B) any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of (I) obtaining credit or other information on consumers for the purpose of furnishing such information to consumer reporting agencies (as defined in clause (A) of this paragraph), or (II) serving as a marketing agent under arrangements enabling third parties to obtain such information from such reporting agencies."

We would suggest that you make a second technical amendment in Sec. 2 of the bill to provide that attempts made to collect claims of the United States be pursuant to the

^{1/} Public Law 96-466 October 17, 1980

^{2/} Public Law 96-374 October 3, 1980

Federal Claims Collection Act, if appropriate, otherwise pursuant to other pertinent authority. Therefore, we suggest that on page 3, line 3, you insert after "United States," the phrase "under section 3(a) of the Federal Claims Collection Act of 1966 (31 U.S.C. 952(a)) or other statutory authority,".

Finally, we would suggest a third technical amendment, also to section 2 of the bill, which would provide that all necessary information relating to a disclosed indebtedness be made available to the consumer reporting agency, allowing for technical differences of the data processing systems of the various entities in the industry.

We, therefore, would suggest that on page 4, line 20, you delete (ii), (iii), and (iv) of the provisions, and insert the phrase "(ii) and such information relating to the indebtedness for the purpose of making such information available for inclusion in consumer reports regarding such debtor."

Additionally there is one provision of the bill that we would suggest you delete. Section 2, page 3, line 19-22, provides that the initial notice to a person responsible for a claim include the name and address of each consumer reporting agency to which the agency intends to make a disclosure.

We strongly question the desirability and feasibility of requiring by statute that Government agencies provide an individual with the name and address of the specific consumer reporting agency or agencies (there are some 1800 in the United States) to which the Government agency plans to disclose the data. To insure nationwide coverage it may be necessary to develop a reporting system that would provide that this information be made available to multiple consumer reporting agencies.

✓ The implementation of this provision of the bill would not only create an unnecessary administrative burden on the Government agency, but it would be of little value to the individual; in fact, it could cause confusion if the individual checks with the consumer reporting agency before the adverse data is recorded in his or her file. From a practical standpoint, the adverse effect of the reporting does not occur until the individual is denied a benefit based, in whole or in part, on a credit report containing the adverse information. As required by the Fair

Credit Reporting Act (15 U.S.C. 1618 et. seq. (1970)), in communicating such denial of a benefit the individual must be informed of the name and address of the consumer reporting agency from which the report was obtained, thereby meeting the intent of this provision of House bill 2811.

Obtaining Better Information on Agencies
Debt Collection Activities

When we reviewed the debt collection programs of several agencies it became apparent that the information available on their activities was not adequate to meet the needs of the Congress or executive branch management. In February 1979, we sent a letter to the Secretary of the Treasury suggesting that his department expand agency reporting requirements to include amounts of accounts and loans receivable past due, aging schedules of delinquent accounts, and amounts written off during specified periods. In addition, we urged Treasury, in cooperation with OMB, to take an active role in monitoring, analyzing, and following up to ensure that agencies are doing as much as they can to collect amounts owed. At the same time, we wrote to the Director of OMB, suggesting a close cooperative effort with Treasury to assure that the Government has an aggressive and effective debt collection program.

Treasury issued special requirements for the fiscal 1979 financial reports. However, differing agency policies, procedures and accounting systems resulted in problems in complying with these requirements and the information reported was not complete and accurate. The requirements were suspended for fiscal 1980, pending study and revision.

The need for improving the reporting system received considerable attention during a Government-wide study made by OMB's Debt Collection Project staff and revised reporting requirements are being planned. House bill 2811 would provide further assurance, however, that the information needed by the Congress and executive branch management will be produced and that agencies will be more accountable for their collection activities.

There are two technical amendments that we would like to suggest you make to provide necessary consistency with other reporting provisions of Section 3 of House bill 2811. Provision (1) requires that "The total amount of loans and accounts receivable owed to the agency" and provision (2) that "The total amount

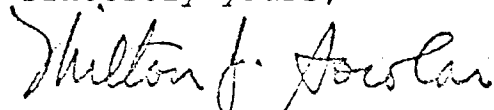
of receivables and number of claims that are at least thirty days past due" be reported as of the date submitted to the Director of OMB, but not later than November 15, beginning in 1982. However, provisions (3) thru (7) require the period of reporting to be as of the end of the preceding fiscal year.

We believe that all of these reporting provisions should be as of the end of the preceding fiscal year and, therefore, suggest that on page 5, line 23, "on such date" be deleted, and the phrase "as of the end of the preceding fiscal year" be inserted; and on page 6, line 2, we suggest you delete "on such date" and insert "as of the end of the preceding fiscal year."

Additional Legislative Actions Needed

In our recent reports and in our testimony on April 23, 1981, before the Senate Committee on Governmental Affairs we discussed other debt collection issues that are not addressed by House bill 2811. The growing volume of uncollectible debts that either must be referred to Justice for legal action or written off as losses shows that we must give agencies all appropriate tools for collecting debts without resorting to legal action. H.R. 2811 provides some of these tools, however, others are needed. We have attached a copy of our testimony which identifies these additional tools that we believe should be provided for either through legislation or regulation. We urge your consideration of these additional legislative changes and trust that all of the foregoing will be of assistance to you.

Sincerely yours,



Acting Comptroller General
of the United States

Enclosure