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March 30, 2017

The Honorable Barry Loudermilk
U.S. House of Representatives
Washington, DC 20515-1011

Dear Representative Loudermilk:

The U.S. Chamber Institute for Legal Reform (ILR) supports your legislation, the “FCRA Liability Harmonization Act of 2017,” which would help bring litigation under the Fair Credit Reporting Act (FCRA) in line with other consumer financial protection statutes.

Currently, the FCRA allows for both uncapped statutory damages in class action litigation and punitive damages, making it an outlier among consumer financial protection statutes. This combination places companies in the tenuous position of having to settle even questionable claims or risking trials in which they would face potentially crippling statutory damage awards in addition to excessive punitive damages. In many circumstances, these large-dollar cases are fueled by aggressive trial lawyers whose fees are increased by this unfair damages regime.

The proposed legislation would help fix this troubling dynamic by adding a damages cap for class action litigation brought for willful noncompliance and eliminating punitive damages, similar to the precedent set by other consumer financial protection statutes, including the Electronic Funds Transfer Act, Fair Debt Collection Practices Act, Expedited Funds Availability Act, and the Homeowner Protection Act. At the same time, the language would still protect consumers in class actions or lawsuits brought under FCRA sections 616 and 617 by allowing the recovery of the costs of the action, including attorneys’ fees.

While consumers deserve recourse for violations of the FCRA, businesses should not be subjected to speculative and abusive class actions that are incentivized by large trial lawyer payouts. ILR supports this balanced, narrowly tailored proposal and urges similar support from your colleagues.

Sincerely,

A handwritten signature in black ink that reads "Lisa A. Rickard". The signature is written in a cursive, flowing style.

Lisa A. Rickard