



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

12444

Hunter
SSA

B-197331

January 3, 1980

[Comments on S 1518, To Strengthen VA
Debt-collection and Program-Study
Efforts]
The Honorable Ray Roberts
Chairman, Committee on
Veterans' Affairs
House of Representatives

Dear Mr. Chairman:

Hze 03960

On December 11, 1979, your office requested that we provide you with a detailed analysis of S. 1518 (96th Congress, 1st Session) as revised December 10, 1979. The bill would amend title 38, United States Code, to strengthen the Veterans Administration's (VA's) debt-collection and program-study efforts by authorizing disclosures of certain information to consumer reporting agencies, and for other purposes. Our section-by-section analysis of the bill is enclosed.

We wish to call your attention to two matters of particular concern to us. First, several provisions of S. 1518, as presently worded, would require consumer reporting agencies to establish special procedures to accommodate VA, including penalties for noncompliance, which are different from their normal operations and procedures under the Fair Credit Reporting Act. Representatives from the credit bureau industry have stated that, while they are willing to work with the Federal Government on this matter, they will not do so if they are required to alter their operating procedures and computer programs. Because of the magnitude of debt collection problems throughout the Government, it is essential that we have the full cooperation and support of the credit bureau industry and that S. 1518 not impose any unique requirements on consumer reporting agencies that are peculiar to VA.

Second, a substantial portion of the provisions in the present version of S. 1518 would impose upon VA, by statute, detailed debt collection procedures. We believe that the main thrust of the proposed amendment should focus on granting VA an exception to the 38 U.S.C. 3301(a) prohibition against disclosure of data in veterans' claims files, and

008209
Letter

that the Senate Committee's views regarding detailed operating procedures should be handled as an expression of congressional intent in the Committee report accompanying the legislation and in VA's implementing regulations.

We appreciate the opportunity to assist you in this matter. Please do not hesitate to call should you have any questions regarding our analysis, or need further assistance.

Sincerely yours,

SIGNED ELMER B. STAATS

Comptroller General
of the United States

Enclosure

ANALYSIS OF S. 1518 (96th CONGRESS, 1ST SESSION)

AS REVISED DECEMBER 10, 1979
(Copy attached)

1. Page 1.--The stated purpose of S. 1518 may be too restrictive. Both the stated purpose and the language in the body of the bill could be interpreted as precluding VA from working through intermediary organizations such as service bureaus or marketing agents, to obtain the services of some of the smaller consumer reporting agencies. We suggest that the Committee include a statement in its report on S. 1518 to the effect that the language does not preclude VA from working through such organizations to obtain consumer reporting agency services.
2. Page 2, and page 3 through line 20.--No comments necessary.
3. Page 3, lines 21-24.--We concur with this provision of the amendment.
4. Page 4, lines 1-6.--We concur with the proposed language.
5. Page 4, lines 7-8.--As suggested in item 1 above, the Committee should include a statement in its report on S. 1518 regarding VA's use of intermediary organizations.

6. Page 4, lines 9-16.--We concur with this particular provision; however, we suggest that "(I)" on line 14 be deleted and that the comma after "other Federal law" be replaced with a period. (See comments below.)

7. Page 4, lines 16 through page 5.--This provision would require the Administrator to (1) compare alternatives and costs and (2) to consider the consequences of releasing identifying information to consumer reporting agencies for the purpose of locating an individual in order to conduct a study pursuant to 38 U.S.C. 219 or other Federal Laws, and to determine that such release would not create a substantial risk of being construed as indicating that the individual is indebted to the United States or otherwise cause an adverse effect on the individual's credit standing. VA believes this provision could be interpreted as requiring them to make a formal cost-benefit study of using a consumer reporting agency to locate an individual before each and every study or program evaluation to be conducted by VA. We believe VA should consider costs and alternatives in carrying out its 38 U.S.C. 219 evaluation requirements, but that this should not be made mandatory by statute. Also, the language in subsection (III)

beginning on page 4, line 23, implies that a routine inquiry for location or credit-history purposes could indicate indebtedness or otherwise have an adverse impact on an individual's credit standing or credit worthiness. Routine inquiries of this sort are considered as neutral data by consumer reporting agencies. Routine inquiries are frequently made for such beneficial purposes as verifying information reported by job applicants, persons seeking credit including home mortgages, and applicants for real estate licenses. Since inquiries are made for various reasons, no adverse implications can be drawn from the mere fact that an inquiry has been made. We suggest that this provision be deleted beginning with the "(II)" on page 4, line 16, through "credit worthiness" on page 5, line 5, and that the Committee express its views on this matter in the form of a statement in the Committee report on S. 1518.

8. Page 5, lines 6-15.--We concur with this provision, which would permit the Administrator to release other identifying information in addition to name and address, such as date of birth and social security number, since name and address only may not be sufficient for the consumer reporting agency to identify

the individual or distinguish him or her from others with the same or similar names.

9. Page 5, lines 15-18.--This clause would prohibit the Administrator from disclosing any information that would indicate the existence of an indebtedness or otherwise reflect adversely on the individual. We have no objection to this provision as it relates to routine inquiries. However, it could be interpreted as precluding VA from using the skip-trace services of consumer reporting agencies to locate individuals because "skips" are viewed as adverse information. We suggest that this provision be deleted from S. 1518 and that the Committee's views on this matter be clarified and incorporated in its report on the bill as part of the legislative history.

10. Page 5, line 18 through page 6, line 11.--We recommend that this entire section be deleted from the bill beginning with "Any such" on page 5, line 18, through "this section." on page 6, line 11. The provision would require the Administrator, by statute, to perform the nearly impossible task of determining how approximately 1,800 consumer reporting agencies record inquiries from their subscribers and determining that their methods of

recording such inquiries would not reflect adversely on the individual's credit history. We do not believe the "problem" warrants such a massive undertaking since consumer reporting agencies can only record the data provided to them by VA, and, as discussed above, routine inquiries are viewed as neutral data. If the Committee wants VA to look into the routine inquiry recording procedures of the major consumer reporting agencies it contracts with, this could be handled with a statement in the Committee report on the bill. Finally, the last sentence of this section (beginning on page 6, line 6) would impose penalties upon consumer reporting agencies for noncompliance violations which are different from those under the Fair Credit Reporting Act. Industry representatives have stated that they will not do business with the Federal Government under such circumstances.

11. Page 6, lines 12-20.--We concur with this section which will give VA the authority it needs to comply with the provisions of 4 CFR 102.4. On line 20, we recommend that a period be placed after "individual" and that "if" be deleted.
12. Page 6, line 21 through page 7, line 19.--The provisions in this portion of the bill outline specific and detailed

debt collection procedures to be followed by VA in utilizing consumer reporting agencies. Joint debt collection standards for all Federal agencies have been prescribed by the Comptroller General and the Attorney General pursuant to the Claims Collection Act of 1966. We do not believe that a separate set of detailed debt collection standards and procedures should be imposed by statute on an individual agency such as VA. Moreover, portions of the proposed debt collection procedures are redundant in that they are already required by 4 CFR. We also question the desirability and feasibility of requiring by statute (page 7, lines 7-12) that VA provide debtors with prior notice of the name and address of each consumer reporting agency to which VA planned to disclose information, particularly since consumer reporting agencies frequently buy and sell information to each other. Accordingly, providing an individual with the name and address of the specific consumer reporting agency or agencies to which VA disclosed the data may be of little value to the individual; in fact, it could be confusing 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 in

which a credit report was used in whole or in part in affecting the adverse decision. As required by the Fair Credit Reporting Act (15 U.S.C. 1681 et. seq. (1970)), in communicating such denial of a benefit to the individual, such individual must be informed of the nature and substance of the adverse item(s) contained in the credit report and the name and address of the consumer reporting agency from which the report was obtained, thereby meeting the Committee's intent in this legislation as expressed in this paragraph. We recommend that this entire portion of the bill be deleted and the views of the Committee regarding specific debt collection procedures be incorporated into the Committee report on S. 1518 as part of the legislative history.

13. Page 7, lines 19-22.--This provision would require VA to promptly respond to any requests from consumer reporting agencies for reverification or correction of data disclosed by VA. Although we have no objection to including this provision in the bill, it should be noted that a similar requirement is already included in other legislation pending before the Congress which would amend the Fair Credit Reporting Act. Also, that Act now provides that, if consumer reporting agencies are unable to obtain verification or correction of data,

they must delete such data from their files. Accordingly, the Committee may wish to address this matter in the Committee report rather than repeat this requirement in this legislation.

14. Page 7, line 23 through page 8, line 15.--Again, this provision of the bill sets out detailed debt collection standards for VA to follow and should be deleted rather than imposing on VA by statute a different set of debt collection standards than those prescribed for other Federal agencies (see item 12 above). Also, this provision has the practical effect of expanding the term "inaccurate," as it relates to section 611 of the Fair Credit Reporting Act, to include a situation involving notice, which is not related to accuracy. Further, in our view, assuming reasonable efforts by VA to notify veterans of the amount of their debts and their right to dispute it or request waiver, the adverse information should not be removed from consumer reporting agency files unless the Administrator determines that the information is in fact erroneous or that waiver is in fact appropriate. Finally, it is unclear how the Administrator would verify the validity of claims that notice had not been received. We recommend that this matter of detailed standards be covered by the Committee in its report on S. 1518.

15. Page 8, lines 16-19.--This provision would exclude contracts entered into with any consumer reporting agency or employee thereof for any of the purposes of this subsection from application of section 5 U.S.C. 552a. While we do not believe that 5 U.S.C. 552a applies to such contracts, the Justice Department has ruled otherwise in response to an inquiry from the Senate Committee on Veterans' Affairs. Therefore, we would strongly urge the Committee to include a statement in its report on S. 1518 that it is not the Committee's intent by providing for an exclusion to section 5 U.S.C. 552a to imply that 5 U.S.C. 552a is applicable to contracts between other Federal agencies and consumer reporting agencies.
16. Page 8, line 20 through end of page 9.--We concur with the provisions of the balance of the bill as presently written.