How Prohibiting Trigger Leads May Affect Mortgage Marketing

By **Joel Herberman, Rob Robilliard and Leah Dempsey** (September 23, 2025)

Joel Herberman

Rob Robilliard

Leah Dempsey

On Sept. 5, President Donald Trump signed the Homebuyers Privacy Protection Act into law, following the U.S. Senate's voice vote on the measure on Aug. 2.[1]

The law amends the Fair Credit Reporting Act to prohibit the sale of trigger leads to mortgage brokers, originators and other third parties unless certain circumstances apply. Trigger leads often result when credit bureaus sell information about a consumer to a third party after the party fills out an application for a mortgage.

This new legislation marks a significant shift in the regulatory landscape for mortgage lenders, third-party lead generators and their legal counsel. By restricting the use of trigger leads, the law aims to curb aggressive marketing tactics and protect consumer privacy.

For mortgage lenders and brokers, this means a reevaluation of lead generation strategies and compliance protocols. Legal counsel will need to guide clients through the nuances of the new requirements, particularly around obtaining consumer consent and verifying existing relationships. Proactive compliance will be essential to avoid enforcement risks.

Current State of Play

Currently under the FCRA, consumer reporting agencies may resell consumer data to prospective creditors without consent if the creditor is ready to make a firm offer of credit.

When a borrower applies for a mortgage and a credit pull is made, the credit bureaus flag this activity and sell it as a trigger lead to competing lenders and brokers. These leads can be sold dozens or even hundreds of times.

In the absence of federal action, several states have enacted statutes restricting how mortgage brokers and lenders may use trigger leads in connection with mortgage solicitations. Common requirements include prohibitions on unfair or deceptive acts or practices, adherence to the FCRA's firm offer of credit provisions, and clear affirmative disclosures stating that the broker or lender is not affiliated with the borrower's current lender.

Reps. John Rose, R-Tenn., and Ritchie Torres, D-N.Y., alongside Sens. Jack Reed, D-R.I., and Bill Hagerty, R.-Tenn., introduced the Homebuyers Privacy Protection Act, or HPPA, in the 118th Congress.

The bill had bipartisan support and was also included as an amendment in an early version of the National Defense Authorization Act for the 2025 fiscal year. However, it was dropped from the measure after negotiators decided to limit the scope of the package.

In the 119th Congress, the measure advanced out of the U.S. House of Representatives by voice vote on June 23, and passed out of the Senate on Aug. 2 by unanimous consent.

HPPA Analysis

Specifically, under the law, trigger leads cannot be shared with a third party unless that third party is making a firm offer of credit or insurance, and:

- The consumer has consented to receive the offer;
- The third party is the originator or servicer of the consumer's existing mortgage; or
- The third party is a bank or credit union that has a relevant, existing banking relationship with the consumer.

By limiting the sale of mortgage trigger leads following a hard credit inquiry, the law will reduce the number of refinance solicitations for consumers.

Once the law goes into effect, the current servicer, the original lender and the borrower's bank may still purchase trigger leads. As a result, they can continue to target pending originations, such as cash-out refinances tied to loans already in their portfolios.

Market participants without an existing relationship with the consumer will likely attempt to receive consumer consent for mortgage trigger leads as part of their origination process, as permitted by the HPPA's opt-in provision.

The HPPA also requires the U.S. Government Accountability Office, within 12 months after enactment, to conduct a study on the value of trigger leads received by text message. The report must include input from state regulatory agencies, mortgage lenders, depository institutions, credit reporting agencies and consumers.

CFPB Application

The Consumer Financial Protection Bureau has jurisdiction over the FCRA with regard to rulemaking and enforcement authority. The law, however, does not provide any additional authorities to the CFPB, or require a rulemaking from it. Notably, the CFPB has in the past aligned with efforts to target abusive actions related to trigger leads.

In a memo to CFPB staff, Chief Legal Officer Mark Paoletta noted that the CFPB will focus on "actual fraud" and "tangible harms" to consumers.[2] He further noted that both mortgages and FCRA violations will be among the CFPB's highest priorities.

While the Trump administration's CFPB has not formally weighed in on this legislation, the bipartisan support, combined with a focus on actual harm, could mean that they will prioritize any violations of these new requirements in future months.

As the current CFPB moves away from novel interpretations of the FCRA and creating new requirements through guidance or rulemakings, this change in the actual text of the FCRA with bipartisan support signals that there is consensus around consumer harm, which Congress is directing the CFPB to address. With a change in law that does not require any additional CFPB action, courts and regulators can begin to enforce the HPPA immediately after its effective date.

This aligns with the U.S. Supreme Court's 2024 decision in Loper Bright Enterprises v. Raimondo, which put the onus on Congress to give clear statutory directives.

Next Steps

The law received the support of a wide range of organizations, including America's Credit Unions, the American Bankers Association, the Mortgage Bankers Association, the Center for Responsible Lending and the National Association of Attorneys General, among many others.[3]

The law will go into effect March 5, 2026. Credit bureaus, mortgage lenders and lead generators should review compliance standards and practices to comply with the incoming statutory restrictions. Financial institutions should also continue to limit data access to only eligible entities and maintain firm compliance under the FCRA.

Joel Herberman is a policy analyst at Brownstein Hyatt Farber Schreck LLP.

Rob Robilliard is a senior policy adviser at the firm.

Leah Dempsey is a shareholder and co-chair of the financial services practice at the firm.

Brownstein Hyatt shareholder Dave Cohen contributed to this article.

Disclosure: Brownstein Hyatt represents America's Credit Unions. Neither the author or firm has been retained to advocate the positions discussed here.

[1] U.S. Congress. House. Homebuyers Privacy Protection Act. H.R. 2808, 119th Cong., 1st sess. (enacted September 5, 2025; now Pub. L. No. 119–36). Congress.gov. https://www.congress.gov/bill/119th-congress/house-bill/2808/text.

[2] National Treasury Employees Union, et al. v. Russell Vought, et al. Declaration of Mark Paoletta, No. 1:25-cv-00381-ABJ (D.D.C.), filed April 18, 2025. PDF, CourtListener. https://storage.courtlistener.com/recap/gov.uscourts.dcd.277287/gov.uscourts.dcd.277287.109.0_4.pdf.

[3] American Bankers Association. "Joint Letter to Congress Supporting the Rose Amendment in the Nature of a Substitute for H.R. 2808, the Homebuyers Privacy Protection Act." Published June 10, 2025. https://www.aba.com/advocacy/policy-analysis/letter-to-congress-on-hr-2808-amendment; National Association of Attorneys General. "Bipartisan Coalition of 42 Attorneys General Urges Passage of Homebuyers Privacy Protection Act." Press release, June 9, 2025. Accessed September 12, 2025. https://www.naag.org/press-releases/bipartisan-coalition-of-42-attorneys-general-urges-passage-of-homebuyers-privacy-protection-act/.