

106TH CONGRESS  
2D SESSION

# H. R. 3823

To amend the Federal Deposit Insurance Act and the Truth in Lending Act to prohibit federally insured institutions from engaging in high-cost payday loans, to expand protections for consumers in connection with the making of such loans by uninsured entities, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 2000

Mr. LAFALCE (for himself, Mr. KANJORSKI, Mrs. MALONEY of New York, Mr. GUTIERREZ, Mr. MEEKS of New York, Ms. LEE, Ms. SCHAKOWSKY, Mr. MOORE, Mr. GONZALEZ, Mrs. JONES of Ohio, Mr. CAPUANO, and Mr. SANDERS) introduced the following bill; which was referred to the Committee on Banking and Financial Services

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## A BILL

To amend the Federal Deposit Insurance Act and the Truth in Lending Act to prohibit federally insured institutions from engaging in high-cost payday loans, to expand protections for consumers in connection with the making of such loans by uninsured entities, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federal Payday Loan  
3 Consumer Protection Amendments of 2000”.

4 **SEC. 2. FINDINGS AND PURPOSE.**

5 (a) FINDINGS.—The Congress makes the following  
6 findings:

7 (1) Payday lending is a rapidly expanding form  
8 of high-cost, short-term credit that uses a borrower’s  
9 personal check as collateral and targets individuals  
10 with limited access to affordable credit who are in  
11 desperate need of cash to meet immediate obliga-  
12 tions.

13 (2) Consumer group studies indicate that the  
14 average annual percentage rate on payday loans na-  
15 tionally is 474 percent for a two-week loan, and that  
16 a typical payday loan is renewed ten or more times  
17 before repayment at equivalent annual interest rates  
18 that exceed 1000 percent.

19 (3) While State law has traditionally prohibited  
20 such high cost lending through usury limits, small  
21 loan interest caps and other restrictions, these laws  
22 have either been revised to exempt payday loan  
23 transactions, or payday lenders have affiliated with  
24 insured depository institutions to invoke the most fa-  
25 vored lender principle under Federal law to cir-  
26 cumvent interest rate regulation in State law.

1           (4) Lending that fails to assess borrowers abil-  
2           ity to repay, that requires consumers to write checks  
3           on insufficient funds, that encourages perpetual debt  
4           or default on other obligations, and that facilitates  
5           violations of State law, is an unacceptable banking  
6           practice for insured depository institutions that  
7           threatens the safety of the participating institution  
8           and the broader banking system.

9           (5) While Congress clearly intended for the  
10          credit protections of the Truth in Lending Act to  
11          apply broadly to all credit transactions, including  
12          payday loan transactions, and such application to  
13          payday loan transactions has been correctly affirmed  
14          in recent court decisions, the provision of Truth in  
15          Lending credit disclosures is not standard practice  
16          among payday lenders across the country and should  
17          be a more explicit requirement in Federal statutes  
18          and regulations.

19          (b) PURPOSE.—It is the purpose of this Act to en-  
20          courage fair lending practices by prohibiting insured de-  
21          pository institutions from engaging in any form of payday  
22          lending, by restricting the use of personal checks drawn  
23          on, or forms of withdrawals from, accounts at insured de-  
24          pository institutions for purposes of making payday loans,  
25          and by clarifying what the Congress has always intended

1 by explicitly stating in the Truth in Lending Act that ap-  
2 propriate interest rate disclosure and other consumer pro-  
3 tections of the Act do apply to all payday loans.

4 **SEC. 3. FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.**

5 Section 18 of the Federal Deposit Insurance Act (12  
6 U.S.C. 1828) is amended by adding at the end the fol-  
7 lowing new subsection:

8 “(v) PROHIBITION ON CERTAIN UNSAFE AND UN-  
9 SOUND BANKING PRACTICES.—

10 “(1) IN GENERAL.—An insured depository in-  
11 stitution may not—

12 “(A) make any payday loan, either directly  
13 or indirectly; or

14 “(B) make any loan to any other lender  
15 for purposes of financing a payday loan or refi-  
16 nancing or extending any payday loan.

17 “(2) PAYDAY LOAN DEFINED.—For purposes of  
18 this subsection, the term ‘payday loan’ means any  
19 transaction in which a short-term cash advance is  
20 made to a consumer in exchange for—

21 “(i) a consumer’s personal check or  
22 share draft, in the amount of the advance  
23 plus a fee, where presentment or negotia-  
24 tion of such check or share draft is de-

1                   ferred by agreement of the parties until a  
2                   designated future date; or

3                   “(ii) a consumer’s authorization to  
4                   debit the consumer’s transaction account,  
5                   in the amount of the advance plus a fee,  
6                   where such account will be debited on or  
7                   after a designated future date.”.

8 **SEC. 4. TRUTH IN LENDING ACT AMENDMENTS.**

9           (a) **CLARIFICATION OF APPLICATION TO PAYDAY**  
10 **LOANS.**—For purposes of clarifying that payday loans  
11 have always been within the definition of credit, section  
12 103(e) of the Consumer Credit Protection Act (15 U.S.C.  
13 1602(e)) is amended, effective as of the date of the enact-  
14 ment of this Act, by inserting before the period at the end  
15 “, including any payday loan (as defined in section  
16 18(v)(2) of the Federal Deposit Insurance Act)”.

17           (b) **PROHIBITION ON CERTAIN UNSAFE AND UN-**  
18 **SOUND LENDING PRACTICES.**—Section 128 of the Truth  
19 in Lending Act (15 U.S.C. 1638) is amended by adding  
20 at the end the following new subsection:

21           “(e) **PROHIBITION ON PAYDAY LOANS BASED ON**  
22 **CHECKS DRAWN ON, OR AUTHORIZED WITHDRAWALS**  
23 **FROM, INSURED DEPOSITORY INSTITUTIONS.**—

1           “(1) IN GENERAL.—A creditor may not make a  
2           payday loan to any person if the creditor knows or  
3           has reasonable cause to believe that—

4                   “(A) the personal check or share draft the  
5                   creditor receives from the person, in exchange  
6                   for the loan, is drawn on an insured depository  
7                   institution or insured credit union; or

8                   “(B) the account the creditor receives per-  
9                   mission from the person to debit, in exchange  
10                  for the loan, is a transaction account or share  
11                  draft account at an insured depository institu-  
12                  tion or an insured credit union.

13           “(2) DEFINITIONS.—For purposes of this sub-  
14           section, the following definitions shall apply:

15                   “(A) INSURED CREDIT UNION.—The term  
16                   ‘insured credit union’ has the meaning given  
17                   the term in section 101 of the Federal Credit  
18                   Union Act.

19                   “(B) INSURED DEPOSITORY INSTITU-  
20                   TION.—The term ‘insured depository institu-  
21                   tion’ has the meaning given the term in section  
22                   3 of the Federal Deposit Insurance Act.

23                   “(C) PAYDAY LOAN DEFINED.—The term  
24                   ‘payday loan’ means any transaction in which a

1 short-term cash advance is made to a consumer  
2 in exchange for—

3 “(i) a consumer’s personal check or  
4 share draft, in the amount of the advance  
5 plus a fee, where presentment or negotia-  
6 tion of such check or share draft is de-  
7 ferred by agreement of the parties until a  
8 designated future date; or

9 “(ii) a consumer’s authorization to  
10 debit the consumer’s transaction or share  
11 draft account, in the amount of the ad-  
12 vance plus a fee, where such account will  
13 be debited on or after a designated future  
14 date.”.

15 (c) CIVIL LIABILITY.—

16 (1) IN GENERAL.—Section 130(a)(2) of the  
17 Truth in Lending Act (15 U.S.C. 1640(a)(2)) is  
18 amended—

19 (A) in subparagraph (A)—

20 (i) by inserting “clauses (i) and (ii)  
21 of” after “except that the liability under”;

22 (ii) by striking “\$100” and inserting  
23 “\$200”; and

24 (iii) by striking “\$1,000” and insert-  
25 ing “\$10,000”; and

1 (B) in subparagraph (B), by striking “  
2 lesser of \$500,000 or” and inserting “greater of  
3 (i) the maximum amount of liability determined  
4 under subparagraph (A) for each member of  
5 the class multiplied by the number of members  
6 of the class or (ii)”.

7 (2) TECHNICAL AND CONFORMING AMEND-  
8 MENTS.—Section 130(a) of the Truth in Lending  
9 Act is amended—

10 (A) in the matter preceding paragraph (1),  
11 by striking “equal to the sum of—” and insert-  
12 ing “equal to the sum of amounts determined  
13 under the following paragraphs, whichever  
14 apply:”; and

15 (B) in the 4th sentence which begins after  
16 the end of paragraph (4) by striking “disclo-  
17 sures referred to in section 128” and inserting  
18 “disclosures referred to in section 128(a)”.

19 **SEC. 5. EFFECTIVE DATE.**

20 Except as provided in section 4(a), which is a clari-  
21 fication of existing law, the requirements of this Act and  
22 the amendments made by this Act shall take effect at the  
23 end of the 90-day period beginning on the date of the en-  
24 actment of this Act and shall apply to payday loans initi-



- 1 ated on or after such date and to an extension or renewal
- 2 of a payday loan made on or after such date.

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