

108TH CONGRESS  
1st Session

# S. 1947

To prohibit the offer of credit by a financial institution to a financial institution examiner, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 24, 2003

Mr. LEAHY (for himself and Mr. HATCH) introduced the following bill; which was read twice, considered, read the third time, and passed

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## A BILL

To prohibit the offer of credit by a financial institution to a financial institution examiner, 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,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Preserving Independ-  
5       ence of Financial Institution Examinations Act of 2003”.

6       **SEC. 2. OFFER AND ACCEPTANCE OF CREDIT.**

7       (a) IN GENERAL.—Title 18, United States Code, is  
8       amended by striking sections 212 and 213 and inserting  
9       the following:

1 **“§ 212. Offer of loan or gratuity to financial institu-**  
 2 **tion examiner**

3 “(a) IN GENERAL.—Except as provided in subsection  
 4 (b), whoever, being an officer, director or employee of a  
 5 financial institution, makes or grants any loan or gratuity,  
 6 to any examiner or assistant examiner who examines or  
 7 has authority to examine such bank, branch, agency, orga-  
 8 nization, corporation, association, or institution—

9 “(1) shall be fined under this title, imprisoned  
 10 not more than 1 year, or both; and

11 “(2) may be fined a further sum equal to the  
 12 money so loaned or gratuity given.

13 “(b) REGULATIONS.—A Federal financial institution  
 14 regulatory agency may prescribe regulations establishing  
 15 additional limitations on the application for and receipt  
 16 of credit under this section and on the application and  
 17 receipt of residential mortgage loans under this section,  
 18 after consulting with each other Federal financial institu-  
 19 tion regulatory agency.

20 “(c) DEFINITIONS.—In this section:

21 “(1) EXAMINER.—The term ‘examiner’ means  
 22 any person—

23 “(A) appointed by a Federal financial in-  
 24 stitution regulatory agency or pursuant to the  
 25 laws of any State to examine a financial institu-  
 26 tion; or

1           “(B) elected under the law of any State to  
2           conduct examinations of any financial institu-  
3           tions.

4           “(2) FEDERAL FINANCIAL INSTITUTION REGU-  
5           LATORY AGENCY.—The term ‘Federal financial insti-  
6           tution regulatory agency’ means—

7           “(A) the Office of the Comptroller of the  
8           Currency;

9           “(B) the Board of Governors of the Fed-  
10          eral Reserve System;

11          “(C) the Office of Thrift Supervision;

12          “(D) the Federal Deposit Insurance Cor-  
13          poration;

14          “(E) the Federal Housing Finance Board;

15          “(F) the Farm Credit Administration;

16          “(G) the Farm Credit System Insurance  
17          Corporation; and

18          “(H) the Small Business Administration.

19          “(3) FINANCIAL INSTITUTION.—The term ‘fi-  
20          nancial institution’ does not include a credit union,  
21          a Federal Reserve Bank, a Federal home loan bank,  
22          or a depository institution holding company.

23          “(4) LOAN.—The term ‘loan’ does not include  
24          any credit card account established under an open  
25          end consumer credit plan or a loan secured by resi-

1       dential real property that is the principal residence  
2       of the examiner, if—

3               “(A) the applicant satisfies any financial  
4               requirements for the credit card account or res-  
5               idential real property loan that are generally  
6               applicable to all applicants for the same type of  
7               credit card account or residential real property  
8               loan;

9               “(B) the terms and conditions applicable  
10              with respect to such account or residential real  
11              property loan, and any credit extended to the  
12              examiner under such account or residential real  
13              property loan, are no more favorable generally  
14              to the examiner than the terms and conditions  
15              that are generally applicable to credit card ac-  
16              counts or residential real property loans offered  
17              by the same financial institution to other bor-  
18              rowers cardholders in comparable circumstances  
19              under open end consumer credit plans or for  
20              residential real property loans; and

21              “(C) with respect to residential real prop-  
22              erty loans, the loan is with respect to the pri-  
23              mary residence of the applicant.

1 **“§ 213. Acceptance of loan or gratuity by financial in-**  
 2 **stitution examiner**

3 “(a) IN GENERAL.—Whoever, being an examiner or  
 4 assistant examiner, accepts a loan or gratuity from any  
 5 bank, branch, agency, organization, corporation, associa-  
 6 tion, or institution examined by the examiner or from any  
 7 person connected with it, shall—

8 “(1) be fined under this title, imprisoned not  
 9 more than 1 year, or both;

10 “(2) may be fined a further sum equal to the  
 11 money so loaned or gratuity given; and

12 “(3) shall be disqualified from holding office as  
 13 an examiner.

14 “(b) DEFINITIONS.—In this section, the terms ‘exam-  
 15 iner’, ‘Federal financial institution regulatory agency’, ‘fi-  
 16 nancial institution’, and ‘loan’ have the same meanings as  
 17 in section 212.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
 19 The table of sections of chapter 11 of title 18, United  
 20 States Code, is amended by striking the matter relating  
 21 to sections 212 and 213 and inserting the following:

“212. Offer of loan or gratuity to financial institution examiner.

“213. Acceptance of loan or gratuity by financial institution examiner.”.

