

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6072

To amend the Federal Deposit Insurance Act to provide further regulatory relief for depository institutions and clarify certain provisions of law applicable to such institutions, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2006

Mr. ROSS (for himself and Mr. OXLEY) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Federal Deposit Insurance Act to provide further regulatory relief for depository institutions and clarify certain provisions of law applicable to such institutions, 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 “Financial Services  
5       Regulatory Relief Amendments Act of 2006” .

1 **SEC. 2. AMENDMENTS RELATING TO NONFEDERALLY IN-**  
2 **SURED CREDIT UNIONS.**

3 (a) IN GENERAL.—Subsection (a) of section 43 of the  
4 Federal Deposit Insurance Act (12 U.S.C. 1831t(a)) is  
5 amended by adding at the end the following new para-  
6 graph:

7 “(3) ENFORCEMENT BY APPROPRIATE STATE  
8 SUPERVISOR.—Any appropriate State supervisor of a  
9 private deposit insurer, and any appropriate State  
10 supervisor of a depository institution which receives  
11 deposits that are insured by a private deposit in-  
12 surer, may examine and enforce compliance with this  
13 subsection under the applicable regulatory authority  
14 of such supervisor.”.

15 (b) AMENDMENT RELATING TO DISCLOSURES RE-  
16 QUIRED, PERIODIC STATEMENTS AND ACCOUNT  
17 RECORDS.—Section 43(b)(1) of the Federal Deposit In-  
18 surance Act (12 U.S.C. 1831t(b)(1)) is amended by strik-  
19 ing “or similar instrument evidencing a deposit” and in-  
20 serting “or share certificate”.

21 (c) AMENDMENTS RELATING TO DISCLOSURES RE-  
22 QUIRED, ADVERTISING, PREMISES.—Section 43(b)(2) of  
23 the Federal Deposit Insurance Act (12 U.S.C.  
24 1831t(b)(2)) is amended to read as follows:

25 “(2) ADVERTISING; PREMISES.—

1           “(A) IN GENERAL.—Include clearly and  
2 conspicuously in all advertising, except as pro-  
3 vided in subparagraph (B); and at each station  
4 or window where deposits are normally received,  
5 its principal place of business and all its  
6 branches where it accepts deposits or opens ac-  
7 counts (excluding automated teller machines or  
8 point of sale terminals), and on its main Inter-  
9 net page, a notice that the institution is not  
10 federally insured.

11           “(B) EXCEPTIONS.—The following need  
12 not include a notice that the institution is not  
13 federally insured:

14           “(i) Statements or reports of financial  
15 condition of the depository institution that  
16 are required to be published or posted by  
17 State or Federal law or regulation.

18           “(ii) Any sign, document, or other  
19 item that contains the name of the depository  
20 institution, its logo, or its contact in-  
21 formation, but only if the sign, document,  
22 or item does not include any information  
23 about the institution’s products or services  
24 or information otherwise promoting the in-  
25 stitution.

1           “(iii) Small utilitarian items that do  
2           not mention deposit products or insurance  
3           if inclusion of the notice would be imprac-  
4           tical.”.

5           (d) AMENDMENTS RELATING TO ACKNOWLEDGMENT  
6 OF DISCLOSURE.—Section 43(b)(3) of the Federal De-  
7 posit Insurance Act (12 U.S.C. 1831t(b)(3)) is amended  
8 to read as follows:

9           “(3) ACKNOWLEDGMENT OF DISCLOSURE.—

10           “(A) NEW DEPOSITORS OBTAINED OTHER  
11           THAN THROUGH A CONVERSION OR MERGER.—

12           With respect to any depositor who was not a  
13           depositor at the depository institution before  
14           the effective date of the Financial Services Reg-  
15           ulatory Relief Amendments Act of 2006, and  
16           who is not a depositor as described in subpara-  
17           graph (B), receive any deposit for the account  
18           of such depositor only if the depositor has  
19           signed a written acknowledgment that—

20           “(i) the institution is not federally in-  
21           sured; and

22           “(ii) if the institution fails, the Fed-  
23           eral Government does not guarantee that  
24           the depositor will get back the depositor’s  
25           money.

1           “(B) NEW DEPOSITORS OBTAINED  
2 THROUGH A CONVERSION OR MERGER.—With  
3 respect to a depositor at a federally insured de-  
4 pository institution that converts to, or merges  
5 into, a depository institution lacking Federal in-  
6 surance after the effective date of the Financial  
7 Services Regulatory Relief Amendments Act of  
8 2006, receive any deposit for the account of  
9 such depositor only if—

10           “(i) the depositor has signed a written  
11 acknowledgment described in subparagraph  
12 (A); or

13           “(ii) the institution makes an attempt,  
14 as described in subparagraph (D) and sent  
15 by mail no later than 45 days after the ef-  
16 fective date of the conversion or merger, to  
17 obtain the acknowledgment.

18           “(C) CURRENT DEPOSITORS.—Receive any  
19 deposit after the effective date of the Financial  
20 Services Regulatory Relief Amendments Act of  
21 2006 for the account of any depositor who was  
22 a depositor on that date only if—

23           “(i) the depositor has signed a written  
24 acknowledgment described in subparagraph  
25 (A); or

1           “(ii) the institution makes an attempt,  
2           as described in subparagraph (D) and sent  
3           by mail no later than 45 days after the ef-  
4           fective date of the Financial Services Reg-  
5           ulatory Relief Amendments Act of 2006, to  
6           obtain the acknowledgment.

7           “(D) ALTERNATIVE PROVISION OF NOTICE  
8           TO CURRENT DEPOSITORS AND NEW DEPOSI-  
9           TORS OBTAINED THROUGH A CONVERSION OR  
10          MERGER.—

11           “(i) IN GENERAL.—Transmit to each  
12          depositor who has not signed a written ac-  
13          knowledgment described in subparagraph  
14          (A)—

15           “(I) a conspicuous card con-  
16          taining the information described in  
17          clauses (i) and (ii) of subparagraph  
18          (A), and a line for the signature of  
19          the depositor; and

20           “(II) accompanying materials re-  
21          questing the depositor to sign the  
22          card, and return the signed card to  
23          the institution.”.

24          (e) REPEAL OF PROVISION PROHIBITING NON-  
25          DEPOSITORY INSTITUTIONS FROM ACCEPTING DEPOS-

1 ITS.—Section 43 of the Federal Deposit Insurance Act (12  
2 U.S.C. 1831t) is amended—

3 (1) by striking subsection (e); and

4 (2) by redesignating subsections (f) and (g) as  
5 subsections (e) and (f), respectively.

6 (f) REPEAL OF PROVISION CONCERNING NON-  
7 DEPOSITORY INSTITUTIONS MASQUERADING AS DEPOSI-  
8 TORY INSTITUTIONS AND CLARIFICATION OF DEPOSITORY  
9 INSTITUTIONS COVERED BY THE STATUTE.—Subsection  
10 (e)(2) (as so redesignated by subsection (e) of this section)  
11 of section 43 of the Federal Deposit Insurance Act (12  
12 U.S.C. 1831t) is amended to read as follows:

13 “(2) DEPOSITORY INSTITUTION.—The term ‘de-  
14 pository institution’—

15 “(A) includes any entity described in sec-  
16 tion 19(b)(1)(A)(iv) of the Federal Reserve Act;  
17 and

18 “(B) does not include any national bank,  
19 State member bank, or Federal branch.”.

20 (g) REPEAL OF FTC AUTHORITY TO ENFORCE INDE-  
21 PENDENT AUDIT REQUIREMENT; CONCURRENT STATE  
22 ENFORCEMENT.—Subsection (f) (as so redesignated by  
23 subsection (e) of this section) of section 43 of the Federal  
24 Deposit Insurance Act (12 U.S.C. 1831t) is amended to  
25 read as follows:

1 “(f) ENFORCEMENT.—

2 “(1) LIMITED FTC ENFORCEMENT AUTHOR-  
3 ITY.—Compliance with the requirements of sub-  
4 sections (b) and (c), and any regulation prescribed  
5 or order issued under any such subsection, shall be  
6 enforced under the Federal Trade Commission Act  
7 by the Federal Trade Commission.

8 “(2) BROAD STATE ENFORCEMENT AUTHOR-  
9 ITY.—

10 “(A) IN GENERAL.—Subject to subpara-  
11 graph (C), an appropriate State supervisor of a  
12 depository institution lacking Federal deposit  
13 insurance may examine and enforce compliance  
14 with the requirements of this section, and any  
15 regulation prescribed under this section.

16 “(B) STATE POWERS.—For purposes of  
17 bringing any action to enforce compliance with  
18 this section, no provision of this section shall be  
19 construed as preventing an appropriate State  
20 supervisor of a depository institution lacking  
21 Federal deposit insurance from exercising any  
22 powers conferred on such official by the laws of  
23 such State.

24 “(C) LIMITATION ON STATE ACTION  
25 WHILE FEDERAL ACTION PENDING.—If the



1 Federal Trade Commission has instituted an  
2 enforcement action for a violation of this sec-  
3 tion, no appropriate State supervisor may, dur-  
4 ing the pendency of such action, bring an action  
5 under this section against any defendant named  
6 in the complaint of the Commission for any vio-  
7 lation of this section that is alleged in that com-  
8 plaint.”.

9 **SEC. 3. CLARIFICATION OF SCOPE OF APPLICABLE RATE**  
10 **PROVISION.**

11 Section 44(f) of the Federal Deposit Insurance Act  
12 (12 U.S.C. 1831u(f)) is amended by adding at the end  
13 the following new paragraphs:

14 “(3) OTHER LENDERS.—In the case of any  
15 other lender doing business in the State described in  
16 paragraph (1), the maximum interest rate or  
17 amount of interest, discount points, finance charges,  
18 or other similar charges that may be charged, taken,  
19 received, or reserved from time to time in any loan,  
20 discount, or credit sale made, or upon any note, bill  
21 of exchange, financing transaction, or other evidence  
22 of debt issued to or acquired by any other lender  
23 shall be equal to not more than the greater of the  
24 rates described in subparagraph (A) or (B) of para-  
25 graph (1).

1           “(4) OTHER LENDER DEFINED.—For purposes  
2 of paragraph (3), the term ‘other lender’ means any  
3 person engaged in the business of selling or financ-  
4 ing the sale of personal property (and any services  
5 incidental to the sale of personal property) in such  
6 State, except that, with regard to any person or en-  
7 tity described in such paragraph, such term does not  
8 include—

9                   “(A) an insured depository institution; or

10                   “(B) any person or entity engaged in the  
11 business of providing a short-term cash advance  
12 to any consumer in exchange for—

13                   “(i) a consumer’s personal check or  
14 share draft, in the amount of the advance  
15 plus a fee, where presentment or negotia-  
16 tion of such check or share draft is de-  
17 ferred by agreement of the parties until a  
18 designated future date; or

19                   “(ii) a consumer authorization to  
20 debit the consumer’s transaction account,  
21 in the amount of the advance plus a fee,  
22 where such account will be debited on or  
23 after a designated future date.”.

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