

109TH CONGRESS
2D SESSION

H. R. 6072

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2006

Received

NOVEMBER 13, 2006

Read twice and referred to the Committee on Banking, Housing, and Urban
Affairs

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Financial Services
3 Regulatory Relief Amendments Act of 2006”.

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

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

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

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

24 (c) AMENDMENTS RELATING TO DISCLOSURES RE-
25 QUIRED, ADVERTISING, PREMISES.—Section 43(b)(2) of

1 the Federal Deposit Insurance Act (12 U.S.C.
2 1831t(b)(2)) is amended to read as follows:

3 “(2) ADVERTISING; PREMISES.—

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

14 “(B) EXCEPTIONS.—The following need
15 not include a notice that the institution is not
16 federally insured:

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

21 “(ii) Any sign, document, or other
22 item that contains the name of the deposi-
23 tory institution, its logo, or its contact in-
24 formation, but only if the sign, document,
25 or item does not include any information

1 about the institution's products or services
2 or information otherwise promoting the in-
3 stitution.

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

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

12 “(3) ACKNOWLEDGMENT OF DISCLOSURE.—

13 “(A) NEW DEPOSITORS OBTAINED OTHER
14 THAN THROUGH A CONVERSION OR MERGER.—

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

23 “(i) the institution is not federally in-
24 sured; and

1 “(ii) if the institution fails, the Fed-
2 eral Government does not guarantee that
3 the depositor will get back the depositor’s
4 money.

5 “(B) NEW DEPOSITORS OBTAINED
6 THROUGH A CONVERSION OR MERGER.—With
7 respect to a depositor at a federally insured de-
8 pository institution that converts to, or merges
9 into, a depository institution lacking Federal in-
10 surance after the effective date of the Financial
11 Services Regulatory Relief Amendments Act of
12 2006, receive any deposit for the account of
13 such depositor only if—

14 “(i) the depositor has signed a written
15 acknowledgment described in subparagraph
16 (A); or

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

22 “(C) CURRENT DEPOSITORS.—Receive any
23 deposit after the effective date of the Financial
24 Services Regulatory Relief Amendments Act of

2006 for the account of any depositor who was
a depositor on that date only if—

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

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

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

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

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

1 “(II) accompanying materials re-
2 questing the depositor to sign the
3 card, and return the signed card to
4 the institution.”.

5 (e) REPEAL OF PROVISION PROHIBITING NON-
6 DEPOSITORY INSTITUTIONS FROM ACCEPTING DEPOS-
7 ITS.—Section 43 of the Federal Deposit Insurance Act (12
8 U.S.C. 1831t) is amended—

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

10 (2) by redesignating subsections (f) and (g) as
11 subsections (e) and (f), respectively.

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

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

21 “(A) includes any entity described in sec-
22 tion 19(b)(1)(A)(iv) of the Federal Reserve Act;
23 and

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

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

7 “(f) ENFORCEMENT.—

8 “(1) LIMITED FTC ENFORCEMENT AUTHOR-
9 ITY.—Compliance with the requirements of sub-
10 sections (b) and (c), and any regulation prescribed
11 or order issued under any such subsection, shall be
12 enforced under the Federal Trade Commission Act
13 by the Federal Trade Commission.

14 “(2) BROAD STATE ENFORCEMENT AUTHOR-
15 ITY.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graph (C), an appropriate State supervisor of a
18 depository institution lacking Federal deposit
19 insurance may examine and enforce compliance
20 with the requirements of this section, and any
21 regulation prescribed under this section.

22 “(B) STATE POWERS.—For purposes of
23 bringing any action to enforce compliance with
24 this section, no provision of this section shall be
25 construed as preventing an appropriate State

1 supervisor of a depository institution lacking
2 Federal deposit insurance from exercising any
3 powers conferred on such official by the laws of
4 such State.

5 “(C) LIMITATION ON STATE ACTION
6 WHILE FEDERAL ACTION PENDING.—If the
7 Federal Trade Commission has instituted an
8 enforcement action for a violation of this sec-
9 tion, no appropriate State supervisor may, dur-
10 ing the pendency of such action, bring an action
11 under this section against any defendant named
12 in the complaint of the Commission for any vio-
13 lation of this section that is alleged in that com-
14 plaint.”.

15 **SEC. 3. CLARIFICATION OF SCOPE OF APPLICABLE RATE**
16 **PROVISION.**

17 Section 44(f) of the Federal Deposit Insurance Act
18 (12 U.S.C. 1831u(f)) is amended by adding at the end
19 the following new paragraphs:

20 “(3) OTHER LENDERS.—In the case of any
21 other lender doing business in the State described in
22 paragraph (1), the maximum interest rate or
23 amount of interest, discount points, finance charges,
24 or other similar charges that may be charged, taken,
25 received, or reserved from time to time in any loan,

1 discount, or credit sale made, or upon any note, bill
2 of exchange, financing transaction, or other evidence
3 of debt issued to or acquired by any other lender
4 shall be equal to not more than the greater of the
5 rates described in subparagraph (A) or (B) of para-
6 graph (1).

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

15 “(A) an insured depository institution; or

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

19 “(i) a consumer’s personal check or
20 share draft, in the amount of the advance
21 plus a fee, where presentment or negotia-
22 tion of such check or share draft is de-
23 ferred by agreement of the parties until a
24 designated future date; or

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

Passed the House of Representatives September 27,
2006.

Attest:

KAREN L. HAAS,
Clerk.