

110TH CONGRESS  
1ST SESSION

# H. R. 2911

To amend the Electronic Fund Transfer Act to provide similar protections under that Act for consumers as apply under the Truth in Lending Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2007

Mr. ACKERMAN (for himself, Mr. GRIJALVA, Ms. KAPTUR, Ms. JACKSON-LEE of Texas, Mr. CAPUANO, Mr. COHEN, Ms. ZOE LOFGREN of California, Mr. PRICE of North Carolina, Mr. RANGEL, Ms. SCHAKOWSKY, Mr. McDERMOTT, Ms. LEE, and Mr. CLEAVER) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Electronic Fund Transfer Act to provide similar protections under that Act for consumers as apply under the Truth in Lending Act, 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 “Electronic Funds  
5 Transfer Equal Consumer Protection Act”.

1 **SEC. 2. EQUAL CONSUMER PROTECTION.**

2 (a) DEFINITION OF ERROR.—Section 908(f) of the  
3 Electronic Fund Transfer Act (15 U.S.C. 1693f(f)) is  
4 amended—

5 (1) by redesignating paragraphs (5) and (6) as  
6 paragraphs (6) and (7); and

7 (2) by inserting after paragraph (4) the fol-  
8 lowing new paragraphs:

9 “(5) an electronic fund transfer affecting the  
10 customer’s account in connection with a transaction  
11 for goods or services not accepted by the customer  
12 or a designee of the customer or not delivered to the  
13 customer or any such designee, or that is not in ac-  
14 cordance with the agreement made at the time of a  
15 transaction;”.

16 (b) COVERED TRANSACTIONS.—Section 903(6) of the  
17 Electronic Fund Transfer Act (15 U.S.C. 1693a(6)) is  
18 amended by inserting after the 2nd sentence the following  
19 new sentence: “Such term also includes any transaction  
20 initiated through an electronic terminal, telephonic instru-  
21 ment, or computer, including transactions initiated  
22 through the use of a check card or a card commonly re-  
23 ferred to as a debit card, without regard to the manner  
24 in which the third party conveys the order, instruction,  
25 or authorization to the financial institution to credit or  
26 debit the consumer’s account at the financial institution.”.

1       (c) PROMPT PROVISIONAL RECREDIT REQUIRED.—  
2 Section 908(c) of the Electronic Fund Transfer Act (15  
3 U.S.C. 1693f(c)) is amended by striking the first sentence  
4 and inserting the following new sentence: “PROMPT PRO-  
5 VISIONAL RECREDIT REQUIRED.—If a financial institu-  
6 tion receives notice of an error in the manner and within  
7 the time period specified in subsection (a), the financial  
8 institution shall, within 1 business day after receiving such  
9 notice, provisionally recredit the consumer’s account for  
10 the amount alleged to be in error, subject to section 909,  
11 including interest where applicable, pending the conclusion  
12 of the investigation by the financial institution under sub-  
13 section (a) and the determination of whether an error has  
14 occurred.”.

15       (d) PROMPT ERROR RESOLUTION REQUIRED.—Sec-  
16 tion 908(a) of the Electronic Fund Transfer Act (15  
17 U.S.C. 1693f(a) is amended to read as follows:

18       “(a) INVESTIGATION OF REPORTED ERROR RE-  
19 QUIRED.—

20               “(1) IN GENERAL.—If, before the end of the  
21 60-day period beginning on the date a financial in-  
22 stitution transmits consumer documentation pursu-  
23 ant to subsection (a), (c), or (d) of section 906 or  
24 a notice relating to a consumer account pursuant to  
25 section 906(b) to a consumer, the financial institu-

1       tion receives oral or written notice in which the con-  
2       sumer—

3               “(A) provides sufficient information to  
4               allow the financial institution to identify the  
5               name and account number of the consumer;

6               “(B) indicates the consumer’s belief that  
7               the documentation transmitted, or the con-  
8               sumer’s account to which the notice related,  
9               contains an error and the amount of such error;  
10              and

11              “(C) indicates the reasons for the con-  
12              sumer’s belief (where applicable) that an error  
13              has occurred,

14       the financial institution shall investigate the alleged  
15       error, determine whether an error has occurred, and  
16       report or mail the results of such investigation and  
17       determination to the consumer within 1 business  
18       day.

19              “(2) WRITTEN CONFIRMATION OF ORAL NO-  
20       TICE.—

21              “(A) IN GENERAL.—In any case in which  
22              a consumer provides oral notice of an error to  
23              a financial institution in accordance with para-  
24              graph (1), the financial institution may require  
25              written confirmation to be provided to the insti-

1           tution by the consumer if the financial institu-  
2           tion—

3                   “(i) advises the consumer of such re-  
4                   quirement at the time the oral notice is  
5                   made and the manner in which the con-  
6                   firmation shall be provided; and

7                   “(ii) provides the consumer with the  
8                   address to which such confirmation should  
9                   be sent.

10                  “(B) TIMELY RECEIPT OF CONSUMER  
11                  STATEMENT.—If a requirement by a financial  
12                  institution for a written confirmation pursuant  
13                  to subparagraph (A) of an oral notice by a con-  
14                  sumer may be satisfied by a written statement  
15                  prepared and submitted by the consumer, such  
16                  confirmation shall be timely if the financial in-  
17                  stitution receives such confirmation before the  
18                  end of the 15-day period beginning on the date  
19                  the financial institution provided the notice to  
20                  the consumer under subparagraph (A).

21                  “(C) TIMELY RETURN OF FINANCIAL IN-  
22                  STITUTION’S CONFIRMATION FORM.—If a re-  
23                  quirement by a financial institution for a writ-  
24                  ten confirmation pursuant to subparagraph (A)  
25                  of an oral notice by a consumer may be only be

confirmed by the consumer's signature on a written confirmation form sent by the financial institution to the consumer for such purpose—

“(i) such confirmation shall be timely if the financial institution receives such confirmation form from the consumer with the consumer's signature before the end of the 30-day period beginning on the date the financial institution provided the notice to the consumer under subparagraph (A); and

“(ii) such confirmation shall be deemed to have been timely received if the consumer fails to receive the written confirmation form to sign from the financial institution before the end of the 20-day period beginning on such date.

“(3) FAILURE TO TIMELY CONFIRM.—If a financial institution which requires written confirmation of a consumer's oral notice of an error in accordance with paragraph (2)(A) does not receive such confirmation in accordance with subparagraph (B) or (C)(i) of paragraph (2) before the end of the applicable period described in the appropriate subparagraph, the financial institution—

1           “(A) need not provisionally recredit the  
2           consumer’s account in accordance with sub-  
3           section (c) ; and

4           “(B) shall not be liable under subsection  
5           (e).

6           “(4) BURDEN OF PROOF.—In any investigation  
7           or resolution of an alleged error under this section,  
8           the burden of proof is on the financial institution to  
9           show that an error did not occur.”.

10          (e) TECHNICAL AND CONFORMING AMENDMENTS.—

11           (1) Section 908(b) of the Electronic Fund  
12           Transfer Act (15 U.S.C. 1693f(b)) is amended by  
13           inserting “subsection (c) and” after “, subject to”.

14           (2) The first sentence of section 908(d) of the  
15           Electronic Fund Transfer Act (15 U.S.C. 1693f(d))  
16           is amended by striking “or (c)”.

17           (3) Section 908(e)(1) of the Electronic Fund  
18           Transfer Act (15 U.S.C. 1693f(e)(1)) is amended by  
19           striking “ten-day period” and inserting “1-day pe-  
20           riod”.

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