

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.”.

15 (d) PROMPT ERROR RESOLUTION REQUIRED.—Section 908(a) of the Electronic Fund Transfer Act (15  
16 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—

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-

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

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

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

12                  “(ii) such confirmation shall be  
13                  deemed to have been timely received if the  
14                  consumer fails to receive the written con-  
15                  firmation form to sign from the financial  
16                  institution before the end of the 20-day pe-  
17                  riod beginning on such date.

18                  “(3) FAILURE TO TIMELY CONFIRM.—If a fi-  
19                  nancial institution which requires written confirma-  
20                  tion of a consumer's oral notice of an error in ac-  
21                  cordance with paragraph (2)(A) does not receive  
22                  such confirmation in accordance with subparagraph  
23                  (B) or (C)(i) of paragraph (2) before the end of the  
24                  applicable period described in the appropriate sub-  
25                  paragraph, 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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