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1ST SESSION

# H. R. 1909

To create a charter for Federal Financial Services and Credit Companies.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2011

Mr. BACA (for himself, Mr. MEEKS, Mr. SIRES, and Mrs. SCHMIDT) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To create a charter for Federal Financial Services and Credit Companies.

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 “FFSCC Charter Act  
5 of 2011”.

6 **SEC. 2. FINDINGS; PURPOSE.**

7 (a) FINDINGS.—The Congress finds the following:

8 (1) According to the Federal Deposit Insurance  
9 Corporation, more than 60 million low- and mod-

1 erate-income consumers in America remain  
2 unbanked, underbanked, or underserved.

3 (2) The proportion of United States households  
4 that are unbanked varies considerably across racial  
5 and ethnic groups with certain racial and ethnic  
6 groups being more likely to be unbanked than the  
7 population as a whole. Minorities more likely to be  
8 unbanked include Blacks (21.7 percent of Black  
9 households), Hispanics (19.3 percent), and American  
10 Indian/Alaskans (15.6 percent). Racial groups less  
11 likely to be unbanked are Asians (3.5 percent) and  
12 Whites (3.3 percent).

13 (3) Certain racial and ethnic minorities are  
14 more likely to be underbanked than the population  
15 as a whole. Minorities more likely to be underbanked  
16 include Blacks (an estimated 31.6 percent), Amer-  
17 ican Indian/Alaskans (28.9 percent), and Hispanics  
18 (24.0 percent). Asians and Whites are less likely to  
19 be underbanked (7.2 percent and 14.9 percent, re-  
20 spectively).

21 (4) Households with income under \$30,000 ac-  
22 count for at least 71 percent of unbanked house-  
23 holds. As income increases, the share of households  
24 that are unbanked declines considerably. Nationally,  
25 nearly 20 percent of lower-income United States

1 households—almost 7 million households earning  
2 below \$30,000 per year—do not currently have a  
3 bank account. In contrast, only 4.2 percent of house-  
4 holds with annual income between \$30,000 and  
5 \$50,000 and less than 1 percent of households with  
6 yearly income of \$75,000 or higher are unbanked.

7 (5) Lack of access to affordable banking prod-  
8 ucts and services deters the economic advancement  
9 of low- and moderate-income consumers and stunts  
10 the economic growth of communities in which they  
11 live.

12 (b) PURPOSE.—The purpose of this Act is to estab-  
13 lish a vibrant, safe, and commercially viable market for  
14 underbanked and unbanked individuals to gain access to  
15 financial services and products.

16 **SEC. 3. FEDERAL FINANCIAL SERVICES AND CREDIT COM-**  
17 **PANY.**

18 (a) IN GENERAL.—The Comptroller of the Currency  
19 shall—

20 (1) under such regulations as the Comptroller  
21 of the Currency may prescribe, provide for the orga-  
22 nization, incorporation, examination, operation, reg-  
23 ulation, and chartering of companies to be known as  
24 Federal Financial Services and Credit Companies

1 (hereinafter in this Act referred to as “FFSCCs”);  
2 and

3 (2) have the responsibility to ensure that credit  
4 alternatives are available to the underbanked.

5 (b) ELIGIBILITY.—The Comptroller of the Currency  
6 may not issue an FFSCC charter to a company unless  
7 the company satisfies the following requirements, as rea-  
8 sonably determined by the Comptroller of the Currency:

9 (1) The company has a demonstrated history of  
10 experience in providing underbanked persons with a  
11 financial product from within the following services:

12 (A) Credit extended to consumers or, in an  
13 amount less than \$10,000, to small businesses.

14 (B) The issuing of reloadable stored value  
15 cards to consumers or small businesses.

16 (C) Ancillary financial services extended to  
17 consumers or small businesses, including  
18 issuing money orders, sending and receiving  
19 wire transfers, check cashing services, bill pay-  
20 ment services, and tax preparation services.

21 (D) Such other short-term consumer credit  
22 services as the Comptroller of the Currency de-  
23 termines appropriate.

1           (2)(A) No person who is a director, officer,  
2 partner, agent, sole proprietor, owner, or controlling  
3 person of the company—

4                   (i) has been convicted of a felony within  
5 ten years of the charter application date; or

6                   (ii) is associated with any person who has  
7 been convicted of a felony within ten years of  
8 the charter application date.

9           (B) For purposes of subparagraph (A)—

10                   (i) the term “controlling person” means a  
11 person owning or controlling 10 percent or  
12 more of the total outstanding ownership of the  
13 company; and

14                   (ii) with respect to two people, the term  
15 “associated with” means one person—

16                           (I) is a partner, officer, or director (or  
17 any person occupying a similar status or  
18 performing similar functions) of the other  
19 person; or

20                           (II) directly or indirectly controls, is  
21 controlled by, or is under common control  
22 with the other person.

23           (3) The company submits a business plan or  
24 operating plan that adequately addresses the appro-

1        appropriate statutory and policy considerations. Such plan  
2        shall—

3                (A) reflect sound financial principles and  
4                demonstrate realistic assessments of risk in  
5                light of economic and competitive conditions in  
6                the market for serving underbanked and  
7                unbanked populations;

8                (B) include information sufficient to per-  
9                mit the Comptroller of the Currency to evaluate  
10               the overall management ability of the company,  
11               especially the ability to provide financial serv-  
12               ices to the underbanked and unbanked popu-  
13               lation; and

14               (C) demonstrate that the company is  
15               aware of, and understands, Federal and State  
16               consumer credit laws and sound consumer cred-  
17               it operations and practices in the context of  
18               serving the needs of the underbanked and  
19               unbanked populations.

20               (4) The company has senior management offi-  
21               cials who are familiar with applicable Federal and  
22               State consumer credit laws and regulations, and the  
23               credit needs of underbanked and unbanked con-  
24               sumers.

1           (5) The company has competent management,  
2           with ability and experience relevant to the types of  
3           services to be provided, especially the ability and ex-  
4           perience to design and provide financial services to  
5           the underbanked and unbanked consumer popu-  
6           lation.

7           (c) REQUIREMENTS PLACED ON FFSCCs.—

8           (1) CREDIT DISCLOSURES.—

9           (A) SHORT-TERM CREDIT.—With respect  
10          to an extension of short-term credit by an  
11          FFSCC, the FFSCC shall provide the person to  
12          whom credit is being extended a clear and  
13          prominent statement in the loan agreement that  
14          states the true cost of the loan in terms of an  
15          actual finance charge per dollar of credit ex-  
16          tended to such person instead of the annual  
17          percentage rate disclosure required under the  
18          Truth in Lending Act.

19          (B) LONG-TERM CREDIT.—With respect to  
20          an extension of long-term credit by an FFSCC,  
21          the FFSCC shall provide the person to whom  
22          credit is being extended a disclosure of the fi-  
23          nance charge to be paid by the person, ex-  
24          pressed as an “annual percentage rate”, using  
25          that term.

1           (2) ACCOUNT ACCESS.—Each FFSCC shall  
2 provide continuous account access to the customers  
3 of the FFSCC, either through a toll-free telephone  
4 number, the Internet, or both.

5           (3) FINANCIAL LITERACY PROGRAMS.—Each  
6 FFSCC shall implement a financial literacy pro-  
7 gram, which shall include—

8                   (A) making financial literacy materials  
9 available to its customers; and

10                   (B) assisting customers in building and  
11 improving their credit scores.

12           (4) FINANCIAL PRODUCTS OFFERED.—Each  
13 FFSCC shall provide to underbanked persons at  
14 least three financial products from within the serv-  
15 ices listed under the subparagraphs of subsection  
16 (b)(1).

17           (5) ADDITIONAL REQUIREMENTS.—Each  
18 FFSCC shall comply with the following:

19                   (A) Have a primary mission of providing a  
20 comprehensive array of financial services to the  
21 underbanked, unbanked, and consumers with  
22 low credit scores.

23                   (B) Serve as a vehicle for providing access  
24 to credit products predominately to unbanked  
25 or underbanked consumers.



1           (C) File articles of association, articles of  
2           incorporation, or other appropriate organiza-  
3           tional documents with the Comptroller of the  
4           Currency.

5           (D) Submit to the Comptroller of the Cur-  
6           rency for approval a business plan which,  
7           among other things, provides in reasonable de-  
8           tail evidence of the knowledge, understanding,  
9           and experience of the institution and senior  
10          management of the unique challenges that  
11          unbanked and underbanked individuals face  
12          with respect to access to financial credit.

13          (d) FFSCC POWERS.—Subject to such regulations as  
14          the Comptroller of the Currency may issue, in addition  
15          to general corporate powers, an FFSCC shall have the au-  
16          thority to provide any financial products authorized by the  
17          Comptroller of the Currency under section 4(2).

18          (e) PENALTY.—Whoever knowingly violates any pro-  
19          vision of this section, or any regulation issued pursuant  
20          to this section, shall be fined not more than \$20,000 for  
21          each day such violation continues or imprisoned for not  
22          more than 3 years, or both. The Comptroller of the Cur-  
23          rency may authorize any State attorney general to enforce  
24          violations of this Act, or regulations issued pursuant to  
25          this Act.

1 (f) FFSCC FEE.—All FFSCCs shall pay an annual  
 2 fee to the Comptroller of the Currency in an amount that  
 3 the Comptroller of the Currency determines is sufficient,  
 4 in the aggregate, to offset the cost to the Comptroller of  
 5 the Currency of carrying out the provisions of this section.

6 (g) PREEMPTION OF STATE LAW.—A law of a State  
 7 or political subdivision thereof shall be preempted if the  
 8 application of such law would have a discriminatory effect  
 9 on a company because such company is chartered as an  
 10 FFSCC.

11 (h) MODEL FORMS.—The Comptroller of the Cur-  
 12 rency shall draft approved, model product and disclosure  
 13 forms that may be utilized by FFSCCs with any approved  
 14 credit products or services offered by an FFSCC.

15 **SEC. 4. RATES AND TERMS STUDY; DEVELOPMENT OF FI-**  
 16 **NANCIAL PRODUCTS.**

17 The Comptroller of the Currency shall—

18 (1) conduct a study on rates and terms used in  
 19 the extension of credit; and

20 (2) develop a suite of financial products that  
 21 FFSCCs may offer to underbanked persons, that  
 22 will—

23 (A) contain transparent and full disclosure  
 24 of all fees and terms related to such products;  
 25 and

1 (B) be economically viable for FFSCCs to  
2 offer to consumers.

3 **SEC. 5. DEFINITIONS.**

4 For purposes of this Act:

5 (1) COMPANY DEFINED.—For purposes of this  
6 subsection, the term “company” shall include—

7 (A) the entity applying for an FFSCC  
8 charter;

9 (B) any wholly owned subsidiary of such  
10 entity applying for an FFSCC charter; and

11 (C) any other entity that is part of an af-  
12 filiated control group with such entity applying  
13 for an FFSCC charter.

14 (2) CONSUMER.—The term “consumer” shall  
15 have the meaning given such term under section  
16 103(h) of the Truth in Lending Act (15 U.S.C.  
17 1602(h)).

18 (3) INSURED CREDIT UNION.—The term “in-  
19 sured credit union” shall have the meaning given  
20 such term under section 101(7) of the Federal Cred-  
21 it Union Act.

22 (4) INSURED DEPOSITORY INSTITUTION.—The  
23 term “insured depository institution” shall have the  
24 meaning given such term under section 3(c) of the  
25 Federal Deposit Insurance Act.

1           (5) LONG-TERM CREDIT.—The term “long-term  
2           credit” means an extension of credit with an initial  
3           term of one year or more.

4           (6) SHORT-TERM CREDIT.—The term “short-  
5           term credit” means an extension of credit with an  
6           initial term of less than one year.

7           (7) SMALL BUSINESS.—The term “small busi-  
8           ness” means a company with no more than 500 em-  
9           ployees.

10          (8) UNDERBANKED.—The term “underbanked”  
11          means a natural person or a small business that—

12                 (A) has a deposit account with an insured  
13                 depository institution or an insured credit  
14                 union; and

15                 (B) has limited or no ability to access non-  
16                 depository services from insured depository in-  
17                 stitutions or insured credit unions, as reason-  
18                 ably determined by the Comptroller of the Cur-  
19                 rency.

20          (9) UNDERBANKED PERSON.—The term  
21          “underbanked person” means a natural person or a  
22          small business that is underbanked, unbanked, or  
23          has a low credit score.

24          (10) OTHER TERMS.—The Comptroller of the  
25          Currency may issue regulations to define such other

- 1 terms as the Comptroller of the Currency determines
- 2 necessary to carry out this Act.

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