December 6, 2011

CONGRESSIONAL RECORD — HOUSE

H8161

Currently a $2 billion redevelopment plan pending to renovate this area, which is only a short distance from the United States Capitol building.

We hope this redevelopment plan will accomplish its goal of spurring economic development and bringing jobs to the city of Washington, D.C.

This legislation was approved by the Committee on Oversight and Government Reform by a voice vote. I again would like to thank my colleague, Ms. HOLMES Norton from the District of Columbia and Ranking Member CUMMINGS. Mr. Davis, the ranking member of the subcommittee, as my colleague so aptly pointed out, also deserves credit.

With that, I would urge all of our fellow Members to support the passage of H.R. 2297, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from South Carolina (Mr. GOWDY) that the House suspend the rules and pass H.R. 2297, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 2:45 p.m. today. According to the clerk’s clock and 54 minutes p.m., the House stood in recess until approximately 2:45 p.m.

Online consent for sharing video service use

Mr. GOODLATTE. Mr. Speaker, I urge passage of the bill. I yield back the balance of my time.

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Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume. I want to thank the chairman of the full committee, Mr. Issa and my good friend on the other side who is managing the bill for the committee, the chair of the subcommittee, Mr. GOWDY, for working closely with us on this bill so that we could get it to the floor today. I also thank the ranking member of the full committee and Mr. DAVIS, the subcommittee ranking member, for their very important consultation.

H.R. 2297 will allow development of the waterfront area in Southwest Washington, D.C., by making technical changes concerning land owned by the District of Columbia. The District has owned the Southwest waterfront since the early 1960s, but the legislation that transferred the land to the District contained restraints typical of the pre-home-rule period.

H.R. 2297 updates that outdated legislation to allow for the highest and best use of the land. The limitations serve no Federal purpose, but the unintended effect was to make a wasted asset of land that could be productive and revenue- and jobs-producing. Federal agencies have been consulted on H.R. 2297 and raised no objections.

The bill will allow mixed-use development on the waterfront for the first time and will create jobs and raise local and Federal revenue at a time when they are needed most. The Federal Government has no interest in the Southwest waterfront other than the Maine Lobsterman Memorial and the Titanic Memorial, which the District and the National Park Service have worked together to preserve.

The bill also expands the types of goods that can be sold at the fish market on the waterfront—a market well known in the region. The bill includes language that we developed with Senator SUSAN COLLINS of Maine to ensure the protection of the Maine Lobsterman Memorial, which is located at the Southwest waterfront near Maine Avenue.

Mr. Speaker, this is a noncontroversial piece of legislation that passed committee by voice vote that removes out-of-date restrictions. It involves no cost to the Federal Government.

I urge passage of the bill. I yield back the balance of my time.

Mr. GOWDY. Mr. Speaker, I would once again thank my colleague Ms. HOLMES Norton and Ranking Member CUMMINGS. Mr. Davis, the ranking member of the subcommittee, as my colleague so aptly pointed out, also deserves credit.

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Online consent for sharing video service use

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2471) to amend section 2710 of title 18, United States Code, to clarify that a videotape service provider may obtain a consumer’s informed, written consent on an ongoing basis and that consent may be obtained through the Internet, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2471

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT.

Section 2710(b)(2) of title 18, United States Code, is amended by striking subparagraph (B) and inserting the following:

“(B) to any person with the informed, written consent (including through an electronic means using the Internet) in a form distinct and separate from any form setting forth other legal or financial obligations of the consumer given at one or both of the following times—

“(i) the time the disclosure is sought; and

“(ii) in a separate set of time or until consent is withdrawn by such consumer;”;

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.
through the Internet and can be withdrawn at any time.

Finally, thanks to an amendment from the gentleman from New York, the ranking member of the Constitution Subcommittee, Mr. NADLER, the amendment bill we are considering today requires that the consent be distinct and separate from any other form setting forth other legal and financial obligations.

The bill is truly pro-consumer and places the decision of whether or not to share video rentals with one's friends squarely in the hands of the consumer. In fact, the cochair of the Future of Privacy Forum correctly pointed out, in an opinion piece in Roll Call on November 29, that "the antiquated law on the books is a hindrance to consumers."

This legislation does not change the scope of who is covered by the VPPA or the definition of "personally identifiable information." In addition, it preserves the requirement that the user provide affirmative, written consent.

It is time that Congress updates the VPPA to keep up with today's technology and the consumer marketplace. This bill does just that. I hope my colleagues will join me in supporting this important piece of bipartisan legislation.

I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman from Virginia (Mr. GOODLATTE) for his excellent presentation with him that what probably triggered this bill in 1988 was Supreme Court nominee Robert Bork's video rental history in which his privacy was violated in a very major way. And so I join him and the members of the House Judiciary Committee in supporting the Video Privacy Protection Act, which provides continued consumer protection. H.R. 2471 is very important in this respect because, over the course of the 23 years since this measure became law, there have been significant changes in the ways and the means by which people view technological content.

Movies can now be downloaded to mobile phones; live events can be streamed in real-time to laptops using mobile Internet services. There were so many other things happening in the transformation that go on at all times that could not have been contemplated in 1988. So there was ambiguity about whether the statute applies only to physical goods, such as videocassettes and DVDs.

Under this bill, a videotape service provider means anybody engaged in the business of leasing or selling or delivering or prerecorded videocassette tapes or similar audiovisual materials. It's the phrase "similar audiovisual materials" that has created some ambiguity. So what we've done is specified the type of materials that are covered.
support the bipartisan effort to enact a commonsense modernization of the Video Privacy Protection Act. Hulu, Google, Facebook, IAC, Apple, the Center for Democracy and Technology, and the Future of Privacy Forum are among those who see H.R. 2471 for the simple modernizing amendment that it is.

The VPPA contains a strict standard of privacy: Opt-in consent. The proposed amendment to the VPPA, H.R. 2471, is standard fully intact. H.R. 2471 enhances the protection provided by the VPPA by ensuring that the opt-in consent required must be separate and distinct from any other end-user agreement. This measure further empowers consumers by placing decisions about their information in a manner that is fully informed.

None of the examples provided by Mr. WATT illustrated disagreement between the commenters he highlighted with the consumer empowerment measures that H.R. 2471 provides. H.R. 2471 simply gives consumers the freedom to share what they’ve watched with their friends if they would like to. It grants consumers the right to share movies or television shows that they’ve enjoyed, as is already possible for music, news, and books. He correctly notes that someone can right now go on Facebook or some other social media and say, I watched this movie or that television show, and I like it or don’t like it. The difference, however, is that consumers do not understand why they can have an arrangement for the music they listen to to immediately go online so that their friends can listen to the same music simultaneously, but with regard to movies they have to take additional steps that can, under circumstances, be inconvenient to them. That’s why they like the convenience, and that’s why consumers should have it. And that’s why this bill empowers consumers in ways that they are not empowered today, and why it is a real consumer bill.

H.R. 2471 ensures that the VPPA’s high standard of privacy protection remains untouched. Consumers must affirmatively opt in to share with friends the movies and television shows they’ve watched. A consumer can withdraw his or her consent at any time. And H.R. 2471 is narrowly tailored to update the VPPA, a 1980s law, to make it compatible with consumers’ desires, with consumers’ communication, with consumers’ socializing on the Internet in the 21st century.

The committee has indicated in its report language that there is no intention for this clarification to negate in any way existing laws, regulations, and practices designed to protect and provide the privacy of children on the Internet. As always, however, the first line of defense to protecting a child’s privacy while online is the parents.

Social networking Web sites allow users to share personal information about themselves with their friends; but used inappropriately, personal information can be shared beyond a user’s friends. Just as parents are responsible for teaching their children not to talk to strangers, the committee expects parents to play an active role in ensuring the proper use of social networking or any other Web sites on the Internet.

This legislation in no way changes the privacy protection for children on the Internet. And that law, as the VPPA itself with regard to privacy and its opt-in requirements, is not changed. This is simply a modern way for people to be able to communicate with their friends in ways that are convenient to them and that they already use and do not understand why, if they can use it with music, with news, with books, with other forms of communication and speech, that they can’t do it with regard to their movie—电影—and television shows.

I reserve the balance of my time. Mr. CONYERS. Mr. Speaker, I yield my colleague from North Carolina (Mr. WATT) as much time as he may consume.

Mr. WATT. I thank the gentleman for yielding once again.

And in response to my colleague from Virginia (Mr. GOODLATTE), we have in fact been trying to work out our differences. The problem is that his definition of protecting privacy is not as extensive as my definition of protecting privacy. And I think my definition of protecting privacy is more consistent with consumers, because consumers keep filing these lawsuits to try to protect themselves from the disclosure of their personal information.

The Electronic Privacy Information Center, which has been at the forefront of ensuring privacy protections for consumers in the information age, just last week came out with a privacy bill for Facebook users when its complaint to the Federal Trade Commission resulted in a settlement requiring Facebook to establish an extensive privacy program. Analytics Company and Web video Hulu.com have been hit with another privacy lawsuit over their alleged use of supercookies to track people.

There is case after case after case of consumers’ information being used, abused, and that we are making it easier for that to occur by saying you can give one time—they already have the authority to release the information when they download a movie now, but this will give one-time, universal, consumer privacy to anyone who meets the definition of protected media. And that’s inconsistent with what I think is necessary to protect the privacy of people in this electronic age.

Now, I understand that there are people who have an interest in this; I mean, there’s some profit to be had from examining this kind of information. But our interest should be in protecting the rights of consumers, protecting them from having this kind of private information—I would think since the original Video Privacy Protection Act was about protecting the privacy of Judge Robert Bork and people going into his records to review his video viewing privacy, that my colleagues on the opposite side of the aisle would be very much in trying to protect this. But here we are giving in to the interests that will make money out of this and exposing our children and our own viewing habits to this kind of intrusive action on the part of companies doing it without the benefit of any testimony at a hearing to talk about this. We should simply not be doing this.

I would like to submit for the Record a letter dated December 5, 2012, from the Electronic Privacy Information Center in which they aggressively oppose this legislation. They say they are a nonpartisan public interest research organization.

The Video Privacy Protection Act was passed in 1988 following disclosure of the private video rental records of a Supreme Court nominee by a video rental store to a news organization. There was broad-based support for passage, and the act was signed by President Ronald Reagan. This act considered a model privacy act in many respects. It is technology neutral.

And this bill undermines this Video Privacy Act that was the model act that was designed to protect a Republican nominee to the Supreme Court and was signed into law by a Republican President. And here we are in this Congress getting ready to send a bill over to the Senate—which hopefully they won’t act on; they will save us from our own ineptitude—which would undermine the key provision of the Video Protection Act, which is the right of users to give meaningful consent to the disclosure of their personal information.

The blanket consent, according to the Electronic Privacy Information Center—and I agree with them wholeheartedly. The blanket consent provisions transfer control from the individual user to the company in possession of the data and diminish the control that Netflix customers would have in the use and disclosure of their personal information.

“We While we recognize that other companies routinely report on the activities of their customers, we note that Facebook users have never been particularly happy about this. The history of Beacon is well known—and also that the routine disclosure of video viewing activities is not something that most Facebook users are clamoring for.”

In fact, Facebook users have just indicated, just entered into a settlement of a privacy lawsuit. And here we are on the floor of the House saying that we value the business interests more than we value the personal privacy interests of individual citizens. The VPPA is vitally important.

This is a bad idea. It shouldn’t be here on the suspension calendar as if it’s a noncontroversial clarification of
the law. This is a dramatic undermining of the Video Privacy Protection Act. We are doing a disservice to our constituents by giving this authority. They already have the authority to do it on a case-by-case-by-case basis. It may be inconvenient, but the companies to get to the truth, but given them that way, but that's the way it should be given to them, not in some blanket authority that just allows the companies to go in and use this information willy-nilly and without regard to the privacy.

I thank the gentleman for yielding again. And I may ask him to yield again depending on what happens—oh, he says he's not going to yield to me anymore. I just think my colleagues should vote against this bill, defeat it on suspension, and let's at least debate it under regular order on the floor of the House or send it back to the committee so we can have some hearings about the privacy implications so we can get this done.

ELECTRONIC PRIVACY
INFORMATION CENTER.
Washington, DC, December 5, 2011.
Congressman Mel WATT,
Rayburn HOB,
Washington, DC.

DEAR CONGRESSMAN WATT: Thank you for your recent letter for comments from the Electronic Privacy Information Center ("EPIC") regarding H.R. 2471, which would amend the Video Privacy Protection Act ("VPPA"). EPIC provides comments in full support of a hearing on the bill, but as the sponsors of the legislation chose to push through the legislation without the opportunity for public discussion, we appreciate the opportunity to share our views in response to your request.

EPIC is a nonpartisan, public interest research organization, established in 1994 to focus public attention on emerging privacy and civil liberties issues. We maintain two of the most popular privacy sites on the Internet—EPIC.ORG and PRIVACY.ORG—and testify regularly in Congress. We have represented the interests of Facebook users over the years in a wide range of privacy matters.

The Video Privacy Protection Act was passed in 1988 following the disclosure of the video rental records of a Supreme Court Justice by a video rental store to a news organization. There was broad-based support for passage and the Act was signed into law by President Reagan. The VPPA is considered a model privacy law in many respects—it is technology neutral, focusing on the obligations of businesses and the rights of customers in the collection and use of personal information, and makes clear the circumstances when personal information may be disclosed and it provides a private right of action when violations occur.

This bill makes no specific references to particular technologies. First Amendment concerns are addressed in the Act by recognizing that when the press seeks to publish information, Congress may not limit the rights of the press. However, businesses that collect information from their customers have an obligation to safeguard that information and to make clear with regard to their movie and television viewing, communications with their friends that they already have with music, they already have with news, they already have with books or magazine articles that they read; and we should have that kind of consistency in the law.

The Video Privacy Protection Act remains strong, and its principal purposes remain there intact; and it has an opt-in requirement, an opt-in requirement that anyone who wants to avail the optional convenience it has to give informed consent to do so. I urge my colleagues to support this very bipartisan legislation. It has strong support on both sides of the aisle.

I have no further requests for time, and I reserve the balance of my time.

Mr. CONyers. Mr. Speaker, I am pleased to yield the time of my day to a distinguished magistrate from Georgia (Mr. JOHNSON), now a member of the Judiciary Committee.

The SPEAKER pro tempore. The gentleman is recognized for 2 minutes.

Mr. JOHNSON of Georgia. Thank you, mister ranking member.

Mr. Speaker, I rise today in opposition to passage of H.R. 2471. This bill will make it easy for video producers to share people's viewing activities with the public. At the same time we're getting serious about health care, this legislation makes it easier for companies to use personal information about video viewing activities. This is a dramatic underestimation of the privacy implications and of the harm that could come to consumers if this bill becomes law.

We have a right to privacy, and that right should not just be given away without adequate knowledge on behalf of the consumer what they're giving away.

This bill has proceeded to the suspension calendar without any kind of hearing before the Judiciary Committee on whether or not the bill should be marked up or not. We have not heard from experts. We don't know what kind of waiver by Internet, we don't know the mechanics of that waiver. We don't know how easy it will be to waive your right. It could be as easy as waiving your right to a jury trial in a cell phone contract.

For these reasons, I ask that this bill be denied.

Mr. GOOLDBATTE. Mr. Speaker, I yield myself such time as I may consume.

In no way does this legislation in any way undercut the principal purpose of the Video Privacy Protection Act because the power rests with the consumer.

I urge my colleagues to support the legislation, and I yield back the balance of my time.

Mr. CONNOLLY of Virginia. Mr. Speaker, I rise in support of H.R. 2471. This bill would update the Video Privacy Protection Act by giving consumers the ability to use social media to discuss movies they have been watching. When it was passed in 1988, Internet users were not available, so the law needs an update for the digital age.

This legislation explicitly prevents businesses from using an "opt out" mechanism
which businesses might abuse to consumers’ detriment. Instead, it requires that consumers proactively choose to share their movie preferences with their friends. For this reason, the Future of Privacy Forum, a consumer advocacy group, supports this legislation.

This update ensures that consumers can use existing social media outlets to discuss movies they have watched. It may also contribute to the health of the movie industry by integrating it more fully into new modes of internet communications used by consumers.

I applaud my colleague from Virginia, Mr. Goodlatte, for his work on this legislation and urge my colleagues to support it.

**The SPEAKER pro tempore.** The question is on the motion offered by the gentleman from Virginia (Mr. Goodlatte) that the House suspend the rules and pass the bill, H.R. 2471, as amended.

The question was taken.

**The SPEAKER pro tempore.** In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it. Mr. WATT. Mr. Speaker, on that I demand the yeas and nays. The yeas and nays were ordered.

**The SPEAKER pro tempore.** Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

### TEMPORARY BANKRUPTCY JUDGESHIP EXTENSION ACT OF 2011

Mr. SMITH of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1021) to prevent the termination of the temporary office of bankruptcy judges in certain judicial districts, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1021

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Temporary Bankruptcy Judgeships Extension Act of 2011”.

**SEC. 2. EXTENSION OF TEMPORARY OFFICE OF BANKRUPTCY JUDGES IN CERTAIN JUDICIAL DISTRICTS.**

(a) **TEMPORARY OFFICE OF BANKRUPTCY JUDGES AUTHORIZED BY PUBLIC LAW 109–8.**—

(1) **EXTENSIONS.**—The temporary office of bankruptcy judges authorized for the following districts by section 1223(b) of Public Law 109–8 (28 U.S.C. 152 note) are extended until the applicable vacancy specified in paragraph (2) occurs.

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(b) **EXPENDITURE LIMITATION.**—Incremental amounts collected by reason of the enactment of subsection (a) shall be deposited in a special fund in the Treasury to be established after the date of enactment of this Act. Such amounts shall be available for the purposes specified in section 1223(a)(3) of title 28, United States Code, but only to the extent specifically appropriated by an Act of Congress enacted after the date of enactment of this Act.

(c) **EFFECTIVE DATE.**—This section shall take effect 180 days after the date of enactment of this Act.

**APPENDIX OF OTHER PROVISIONS.**—Except as provided in paragraphs (1) and (2), all other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to the temporary office of bankruptcy judges referred to in paragraph (1).

**SPECIAL OFFICE OF THE BANKRUPTCY JUDGE AUTHORIZED BY PUBLIC LAW 102–361 FOR THE MIDDLE DISTRICT OF NORTH CAROLINA.**—The temporary office of the bankruptcy judge authorized by section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) for the middle district of North Carolina is extended until the vacancy specified in paragraph (2) occurs.

**APPLICATION OF OTHER PROVISIONS.**—Except as provided in paragraphs (1) and (2), all other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to the temporary office of the bankruptcy judge referred to in paragraph (1).

**SECTION 3. BANKRUPTCY FILING FEE.**

(a) **BANKRUPTCY FILING FEE.**—Section 1930(a)(3) of title 28, United States Code, is amended by striking "$1,000" and inserting "$1,042".

(b) **EXPENDITURE LIMITATION.**—Incremental amounts collected by reason of the enactment of subsection (a) shall be deposited in a special fund in the Treasury to be established after the date of enactment of this Act. Such amounts shall be available for the purposes specified in section 1931(a) of title 28, United States Code, but only to the extent specifically appropriated by an Act of Congress enacted after the date of enactment of this Act.

**APPLICATION OF OTHER PROVISIONS.**—Except as provided in paragraphs (1) and (2), all other provisions of title 28, United States Code, remain applicable to the temporary office of the bankruptcy judge referred to in paragraph (1).

**EFFECTIVE DATE.**—This section shall take effect 180 days after the date of enactment of this Act.