

113TH CONGRESS  
1ST SESSION

# S. 1534

To provide a framework establishing the rights, liabilities, and responsibilities of participants in closing procedures for certain types of consumer deposit accounts, to protect individual consumer rights, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 2013

Mr. HARKIN introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To provide a framework establishing the rights, liabilities, and responsibilities of participants in closing procedures for certain types of consumer deposit accounts, to protect individual consumer rights, 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 “Freedom and Mobility  
5       in Consumer Banking Act”.

1 **SEC. 2. CONSUMER RIGHTS WITH RESPECT TO CLOSED AC-**  
2 **COUNTS.**

3 The Truth in Savings Act (12 U.S.C. 4301 et seq.)  
4 is amended—

5 (1) by striking section 262 and inserting the  
6 following:

7 **“SEC. 262. FINDINGS AND PURPOSES.**

8 “(a) FINDINGS.—Congress finds that—

9 “(1) economic stability would be enhanced,  
10 competition between depository institutions would be  
11 improved, and the ability of the consumer to make  
12 informed decisions regarding deposit accounts, and  
13 to verify accounts, would be strengthened if there  
14 were uniformity in the disclosure of terms and con-  
15 ditions on which interest is paid and fees are as-  
16 sessed in connection with such accounts; and

17 “(2) consumers lack meaningful choices for  
18 managing household funds because—

19 “(A) despite dissatisfaction with rising ac-  
20 count fees at some depository institutions, con-  
21 sumers often find it too difficult to move their  
22 funds to new deposit accounts;

23 “(B) the process of moving funds to new  
24 deposit accounts often involves several steps  
25 and substantial time to complete, and it is not  
26 always clear what the proper procedures are for

1 closing an account at a given depository institu-  
2 tion;

3 “(C) depository institutions have no obliga-  
4 tion and may lack the technical capabilities to  
5 help consumers transfer automated deposits or  
6 debits from old accounts to new accounts, caus-  
7 ing delays and confusion;

8 “(D) depository institutions may charge  
9 fees to close an account and withdraw available  
10 funds, which can impede banking mobility for  
11 low-income consumers; and

12 “(E) some depository institutions have en-  
13 gaged in the practice of reopening closed ac-  
14 counts without the consent of the consumer.

15 “(b) PURPOSES.—The purposes of this Act are—

16 “(1) to allow consumers to make a meaningful  
17 comparison between competing claims of depository  
18 institutions with regard to deposit accounts by re-  
19 quiring the clear and uniform disclosure of—

20 “(A) the rates of interest that are payable  
21 on deposit accounts by depository institutions;  
22 and

23 “(B) the fees that are assessable against  
24 deposit accounts; and

1           “(2) to protect rights of consumers by providing  
2           a framework establishing the rights, liabilities, and  
3           responsibilities of depository institutions and con-  
4           sumers in closing procedures for certain types of  
5           consumer deposit accounts.”;

6           (2) by inserting after section 268 the following:

7   **“SEC. 268A. CLOSURE OF COVERED ACCOUNTS.**

8           “(a) IN GENERAL.—A depository institution may  
9   not—

10           “(1) prohibit a consumer from closing a covered  
11           account at the depository institution, regardless of  
12           whether the balance in the covered account is posi-  
13           tive, zero, or negative;

14           “(2) charge any fee to close a covered account;  
15   or

16           “(3) reopen a covered account that a consumer  
17           has requested to be closed in accordance with this  
18           section to apply subsequent debits, whether  
19           preauthorized or otherwise, or for any other reason,  
20           unless the consumer expressly requests that the cov-  
21           ered account be reopened.

22           “(b) DISCLOSURES REQUIRED.—A depository insti-  
23   tution shall provide to any consumer that opens a covered  
24   account at the depository institution a description of the

1 policies and procedures that the depository institution has  
2 in place to close a covered account—

3 “(1) at the time the consumer opens the cov-  
4 ered account;

5 “(2) at any time, upon request of a consumer;  
6 and

7 “(3) on the website of the depository institu-  
8 tion.

9 “(c) REGULATIONS RELATING TO CLOSURE OF COV-  
10 ERED ACCOUNTS.—

11 “(1) IN GENERAL.—Not later than 1 year after  
12 the date of enactment of this section, the Bureau,  
13 after consultation with each agency referred to in  
14 section 270(a), and public notice and opportunity for  
15 comment, shall prescribe final regulations to carry  
16 out this section.

17 “(2) CONTENT.—The regulations required by  
18 this subsection shall—

19 “(A) require that a depository institution  
20 close a covered account not later than 5 busi-  
21 ness days after the date on which a consumer  
22 makes a request to close the covered account,  
23 except that the closure of the covered account  
24 may be delayed—

1           “(i) if a Federal or State law enforce-  
2           ment agency notifies the depository institu-  
3           tion that the closure will interfere with a  
4           criminal investigation; or

5           “(ii) pursuant to any other exception  
6           that the Bureau determines is appropriate;

7           “(B) prescribe the methods by which a  
8           consumer may make a request to a depository  
9           institution to close a covered account, which,  
10          except as provided in subparagraph (C), shall  
11          include requests made in person, over the  
12          phone, or by other electronic or remote means;

13          “(C) allow a depository institution to re-  
14          quire that a request by a consumer to close a  
15          covered account shall be made in person if the  
16          covered account contains an amount on deposit  
17          exceeding a certain monetary threshold, as de-  
18          termined and established by the Bureau;

19          “(D) establish procedures that require a  
20          depository institution to positively verify the  
21          identity of a consumer requesting to close a  
22          covered account before the depository institu-  
23          tion closes the covered account, including proce-  
24          dures for a depository institution to follow if

1 the depository institution is unable to verify the  
2 identity of the consumer;

3 “(E) establish procedures for a depository  
4 institution to provide a consumer with the  
5 funds contained in a covered account that the  
6 consumer has requested to close, which shall in-  
7 clude procedures—

8 “(i) that ensure that the consumer  
9 whose identity has been positively verified  
10 by the depository institution has access to  
11 any funds available for withdrawal at the  
12 time the consumer makes a request to the  
13 depository institution to close the covered  
14 account;

15 “(ii) that establish a reasonable  
16 amount of time for the depository institu-  
17 tion to remit to the consumer the remain-  
18 der of any funds in the closed covered ac-  
19 count, including funds that are subject to  
20 a dispute between the depository institu-  
21 tion and the consumer; and

22 “(iii) that allow a consumer whose  
23 identity has been positively verified by the  
24 depository institution to receive available  
25 funds from a covered account that the con-

1 consumer has requested to close in the form  
2 of—

3 “(I) a cashier’s check provided to  
4 the consumer;

5 “(II) an electronic funds transfer  
6 to an account designated by the con-  
7 sumer;

8 “(III) any means offered by the  
9 depository institution that the con-  
10 sumer has requested; or

11 “(IV) any means that the Bureau  
12 determines appropriate;

13 “(F) except as provided under subpara-  
14 graph (G), prohibit a depository institution  
15 from imposing any fee or charge on a covered  
16 account at the depository institution after the  
17 consumer has requested to close the covered ac-  
18 count;

19 “(G) allow a depository institution to as-  
20 sess an overdraft fee after a consumer has re-  
21 quested to close a covered account, if such over-  
22 draft fee is associated with a transaction that  
23 was initiated by the consumer before the date  
24 on which the consumer made a request to the



1           depository institution to close the covered ac-  
2           count;

3           “(H) not limit the ability of a consumer to  
4           earn interest that a covered account had ac-  
5           crued before the date on which the consumer  
6           made a request to the depository institution to  
7           close the covered account;

8           “(I) establish procedures for a depository  
9           institution and a consumer to follow if a per-  
10          sonal check written by the consumer is depos-  
11          ited by a person other than the consumer after  
12          the date on which the consumer has closed a  
13          covered account;

14          “(J) require the depository institution to  
15          provide the consumer with certain information  
16          before the depository institution closes a cov-  
17          ered account of the consumer, including—

18                 “(i) a list of any preauthorized trans-  
19                 actions relating to the covered account that  
20                 occurred within the 60 days preceding the  
21                 date on which the consumer made a re-  
22                 quest to the depository institution to close  
23                 the covered account;

24                 “(ii) a list of any preauthorized trans-  
25                 actions scheduled to occur in the 60 days

1 after the date on which the consumer made  
2 a request to the depository institution to  
3 close the covered account;

4 “(iii) a list of any direct deposits into  
5 the covered account in the 60 days pre-  
6 ceding the date on which the consumer  
7 made a request to the depository institu-  
8 tion to close the covered account; and

9 “(iv) any other information that the  
10 Bureau determines is necessary to provide  
11 consumers with adequate information  
12 about potential preauthorized activity re-  
13 lating to the covered account;

14 “(K) prohibit a depository institution from  
15 reporting an outstanding balance or any other  
16 adverse information with respect to a covered  
17 account at the depository institution to any con-  
18 sumer reporting agency, as defined in section  
19 603(f) of the Fair Credit Reporting Act (15  
20 U.S.C. 1681a), if—

21 “(i) at the time the covered account is  
22 closed, the covered account has a negative  
23 balance resulting solely from any fee as-  
24 sessed by the depository institution; and

1           “(ii) that information could be used to  
2           adversely affect the ability of the consumer  
3           to open an account at another depository  
4           institution;

5           “(L) establish the terms under which a de-  
6           pository institution may report that a covered  
7           account had a negative balance at the time of  
8           the closure of the covered account to a con-  
9           sumer reporting agency, as defined in section  
10          603(f) of the Fair Credit Reporting Act (15  
11          U.S.C. 1681a), if the depository institution—

12           “(i) notifies the consumer of the nega-  
13          tive balance; and

14           “(ii) provides the consumer with a  
15          reasonable period of time, as determined  
16          and established by the Bureau, to repay  
17          the negative balance; and

18           “(M) include any other provisions, guid-  
19          ance, or exceptions that the Bureau determines  
20          are appropriate in order to facilitate the pur-  
21          poses of this section.

22          “(d) STUDY REQUIRED.—

23           “(1) STUDY.—

24           “(A) IN GENERAL.—The Comptroller Gen-  
25          eral of the United States shall conduct a study

1 to determine additional barriers that could limit  
2 the ability of a consumer to close a covered ac-  
3 count.

4 “(B) CONTENTS OF STUDY.—The study  
5 required under subparagraph (A) shall include,  
6 at a minimum, analysis of—

7 “(i) potential reforms to payment  
8 clearing and settlement systems that would  
9 enable depository institutions to notify con-  
10 sumers if a preauthorized recurring debit  
11 is directed to a covered account after the  
12 covered account has been closed;

13 “(ii) potential reforms to payment  
14 clearing and settlement systems that would  
15 automatically transfer any direct deposit,  
16 preauthorized transaction, or other similar  
17 scheduled activity relating to a closed cov-  
18 ered account to another account designated  
19 by the consumer;

20 “(iii) other factors, including techno-  
21 logical barriers, in payment clearing and  
22 scheduling systems that limit the ability of  
23 consumers to efficiently close a covered ac-  
24 count and transfer funds to another ac-  
25 count; and

1           “(iv) recommendations to Congress  
2           and the appropriate Federal banking agen-  
3           cies, including steps that the appropriate  
4           Federal banking agencies could take  
5           through rulemaking to facilitate the auto-  
6           matic transfer of funds from a closed cov-  
7           ered account to another account designated  
8           by the consumer.

9           “(C) REPORT.—Not later than 1 year  
10          after the date of enactment of this subsection,  
11          the Comptroller General shall issue a report to  
12          Congress and the Bureau on the study required  
13          under subparagraph (A), including any findings  
14          and determinations made by the Comptroller  
15          General in carrying out the study.

16          “(2) RULEMAKING.—Not later than 1 year  
17          after the Bureau receives the report issued under  
18          paragraph (1)(C), the Bureau shall—

19                 “(A) determine whether regulations should  
20                 be issued to remove barriers that limit the abil-  
21                 ity of a consumer to close a covered account;  
22                 and

23                 “(B) if the Bureau determines that such  
24                 regulations should be issued, the Bureau shall,  
25                 in consultation with each agency referred to in

1 section 270(a), and after public notice and op-  
2 portunity for comment, issue such regula-  
3 tions.”; and

4 (3) in section 274, by adding at the end the fol-  
5 lowing:

6 “(9) AVAILABLE FOR WITHDRAWAL.—The term  
7 ‘available for withdrawal’, with respect to funds de-  
8 posited, means available for all uses generally per-  
9 mitted to the customer for actually and finally col-  
10 lected funds under the account agreement with the  
11 depository institution or policies of the depository in-  
12 stitution, such as for payment of checks drawn on  
13 the account, certification of checks drawn on the ac-  
14 count, electronic payments, withdrawals by cash, and  
15 transfers between accounts.

16 “(10) COVERED ACCOUNT.—The term ‘covered  
17 account’ means any checking, savings, or any other  
18 account that the Bureau may include, by regula-  
19 tion.”.

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