

115TH CONGRESS 2D SESSION

H. R. 4999

To amend the Truth in Lending Act to address certain issues relating to the extension of consumer credit, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

February 13, 2018

Ms. Bonamici (for herself, Mr. Cummings, Mr. Blumenauer, Ms. Judy Chu of California, Ms. Dellauro, Mr. Ellison, Mr. Grijalva, Ms. Jayapal, Ms. Norton, Mr. Raskin, Ms. Schakowsky, and Ms. Slaughter) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Truth in Lending Act to address certain issues relating to the extension of consumer credit, 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 "Stopping Abuse and
- 5 Fraud in Electronic Lending Act of 2018" or the "SAFE
- 6 Lending Act of 2018".

1 SEC. 2. CONSUMER CONTROL OVER BANK ACCOUNTS.

2	(a) Prohibiting Unauthorized Remotely Cre-
3	ATED CHECKS.—Section 905 of the Electronic Fund
4	Transfer Act (15 U.S.C. 1693c) is amended by adding at
5	the end the following:
6	"(d) Limitations on Remotely Created
7	CHECKS.—
8	"(1) Definition.—In this subsection—
9	"(A) the term 'remotely created check'
10	means a check, including a paper or electronic
11	check and any other payment order that the
12	Bureau, by rule, determines is appropriately
13	covered under this subsection, that—
14	"(i) is not created by the financial in-
15	stitution that holds the customer account
16	from which the check is to be paid; and
17	"(ii) does not bear a signature ap-
18	plied, or purported to be applied, by the
19	person from whose account the check is to
20	be paid; and
21	"(B) the term 'Federal consumer financial
22	law' has the meaning given the term in section
23	1002 of the Consumer Financial Protection Act
24	of 2010 (12 U.S.C. 5481).
25	"(2) Limitations.—Subject to the limitations
26	in paragraph (3) and any additional limitations that

1 the Bureau may establish, by rule, a remotely cre-2 ated check may only be issued by a person designated in writing by a consumer with that written 3 4 designation specifically provided by the consumer to the insured depository institution at which the con-5 6 sumer maintains the account from which the check 7 is to be drawn. "(3) Additional Limitations.— 8 9 "(A) IN GENERAL.—A designation pro-10 vided by a consumer under paragraph (2) may 11 be revoked at any time by the consumer. 12 "(B) Consumer financial protection 13 LAWS.—No payment order, including a re-14 motely created check, may be issued by any per-15 son in response to the exercise of, or attempt to 16 exercise, any right by a consumer under— 17 "(i) any Federal consumer financial 18 law; or 19 "(ii) any other provision of any law or 20 regulation within the jurisdiction of the 21 Bureau.". 22 (b) Consumer Protections for Certain One-Time Electronic Fund Transfers.—Section 913 of the Electronic Fund Transfer Act (15 U.S.C. 1693k) is amended— 25

1	(1) in the matter preceding paragraph (1), by
2	inserting "(a) In General.—" before "No person";
3	(2) in subsection (a)(1), as so designated, by
4	striking "preauthorized electronic fund transfers"
5	and inserting "an electronic fund transfer"; and
6	(3) by adding at the end the following:
7	"(b) Treatment for Electronic Fund Trans-
8	FERS IN CREDIT EXTENSIONS.—If a consumer voluntarily
9	agrees to repay an extension of a small-dollar consumer
10	credit transaction, as defined in section 110(a) of the
11	Truth in Lending Act, by means of an electronic fund
12	transfer, the electronic fund transfer shall be treated as
13	a preauthorized electronic fund transfer subject to the pro-
14	tections of this title.".
15	SEC. 3. TRANSPARENCY AND CONSUMER EMPOWERMENT
16	IN SMALL-DOLLAR LENDING.
17	(a) Small-Dollar Consumer Credit Trans-
18	ACTIONS.—
19	(1) IN GENERAL.—The Truth in Lending Act
20	(15 U.S.C. 1601 et seq.) is amended—
21	(A) by inserting after section 109 (15
22	U.S.C. 1608) the following:

1	"SEC. 110. REGISTRATION REQUIREMENT FOR SMALL-DOL-
2	LAR LENDERS.
3	"(a) Definition.—In this section, the term 'small-
4	dollar consumer credit transaction'—
5	"(1) means any transaction that extends credit
6	that is—
7	"(A) made to a consumer in an amount
8	that—
9	"(i) is not more than—
0	"(I) \$5,000; or
1	"(II) such greater amount as the
2	Bureau may, by rule, determine; and
3	"(ii) shall be adjusted annually to re-
4	flect changes in the Consumer Price Index
5	for all urban consumers published by the
6	Department of Labor; and
7	"(B) extended pursuant to an agreement
8	that is—
9	"(i)(I) other than an open end credit
20	plan; and
21	"(II) payable in one or more install-
22	ments of less than 12 months (or such
23	longer period as the Bureau may, by rule,
24	determine);
25	"(ii) an open end credit plan in which
26	each advance is fully repayable within a

1	defined time or in connection with a de-
2	fined event, or both; or
3	"(iii) any other plan as the Bureau
4	determines, by rule; and
5	"(2) includes any action that facilitates, bro-
6	kers, arranges, or gathers applications for a trans-
7	action described in paragraph (1).
8	"(b) REGISTRATION REQUIREMENT.—A person shall
9	register with the Bureau before issuing credit in a small-
10	dollar consumer credit transaction."; and
11	(B) in section 173 (15 U.S.C. 1666j), by
12	adding at the end the following:
13	"(d) Notwithstanding any other provisions of this
14	title, any small-dollar consumer credit transaction, as de-
15	fined in section 110(a), shall comply with the laws of the
16	State in which the consumer to which the transaction is
17	made resides with respect to annual percentage rates, in-
18	terest, fees, charges, and such other similar or related
19	matters as the Bureau may, by rule, determine if the
20	small-dollar consumer credit transaction is—
21	"(1) made over—
22	"(A) the Internet;
23	"(B) telephone;
24	"(C) facsimile;
25	"(D) mail;

1	"(E) electronic mail; or
2	"(F) other electronic communication; or
3	"(2) conducted by a national bank.".
4	(2) Technical and conforming amend-
5	MENT.—The table of sections for chapter 1 of the
6	Truth in Lending Act (15 U.S.C. 1601 et seq.) is
7	amended by inserting after the item relating to sec-
8	tion 109 the following:
	"110. Registration requirement for small-dollar lenders.".
9	(b) Prohibition on Certain Fees.—Section 915
10	of the Electronic Fund Transfer Act (15 U.S.C. 1693l–
11	1) is amended—
12	(1) in subsection (a)(2)(A), in the matter pre-
13	ceding clause (i), by striking "The term" and insert-
14	ing "Subject to subsection (d)(1), the term";
15	(2) by redesignating subsection (d) as sub-
16	section (e); and
17	(3) by inserting after subsection (c) the fol-
18	lowing:
19	"(d) Additional Fees Prohibited.—
20	"(1) Definition.—In this subsection, the term
21	'prepaid account' has the meaning given the term by
22	rule of the Bureau.
23	"(2) Prohibition.—With respect to the use of
24	a prepaid account by a consumer—

1	"(A) it shall be unlawful for any person to
2	charge the consumer a fee for an overdraft, in-
3	cluding a shortage of funds or a transaction
4	processed for an amount exceeding the account
5	balance of the prepaid account;
6	"(B) any transaction for an amount ex-
7	ceeding the account balance of the prepaid ac-
8	count may be declined, except that the con-
9	sumer may not be charged a fee for that pur-
10	pose; and
11	"(C) the Bureau may, by rule, prohibit the
12	charging of any fee so that the Bureau may—
13	"(i) prevent unfair, deceptive, or abu-
14	sive practices; and
15	"(ii) promote the ability of the con-
16	sumer to understand and compare the
17	costs of prepaid accounts.".
18	SEC. 4. RESTRICTIONS ON LEAD GENERATION IN SMALL-
19	DOLLAR CONSUMER CREDIT TRANSACTIONS.
20	(a) In General.—Chapter 2 of the Truth in Lend-
21	ing Act (15 U.S.C. 1631 et seq.) is amended by adding
22	at the end the following:

1	"SEC. 140B. RESTRICTIONS ON LEAD GENERATION IN
2	SMALL-DOLLAR CONSUMER CREDIT TRANS-
3	ACTIONS.
4	"(a) Definitions.—In this section—
5	"(1) the terms 'Internet access service' and
6	'Internet information location tool' have the mean-
7	ings given those terms in section 231(e) of the Com-
8	munications Act of 1934 (47 U.S.C. 231(e));
9	"(2) the term 'sensitive personal financial infor-
10	mation' means a Social Security number, financial
11	account number, bank routing number, bank ac-
12	count number, or security or access code that is im-
13	mediately necessary to permit access to the financial
14	account of an individual; and
15	"(3) the term 'small-dollar consumer credit
16	transaction' has the meaning given the term in sec-
17	tion 110(a).
18	"(b) Identification Information.—Any person
19	facilitating, brokering, arranging for, or gathering applica-
20	tions for, the distribution of sensitive personal financial
21	information in connection with a small-dollar consumer
22	credit transaction shall prominently disclose information
23	by which the person may be contacted or identified, includ-
24	ing for service of process and for identification of the reg-
25	istrant of any domain name registered or used

1	"(c) Prohibition on Lead Generation in Small-
2	DOLLAR CONSUMER CREDIT TRANSACTIONS.—No person
3	may facilitate, broker, arrange for, or gather applications
4	for the distribution of sensitive personal financial informa-
5	tion in connection with a small-dollar consumer credit
6	transaction, unless the person is directly providing the
7	small-dollar consumer credit to a consumer.
8	"(d) Rule of Construction.—
9	"(1) In general.—Nothing in this section
10	may be construed to limit the authority of the Bu-
11	reau to further restrict activities covered by this sec-
12	tion.
13	"(2) Clarification.—For the purposes of this
14	section, it shall not be considered facilitating the dis-
15	tribution of sensitive personal financial information
16	in connection with a small-dollar consumer credit
17	transaction to be engaged solely in one of the fol-
18	lowing activities:
19	"(A) The provision of a telecommuni-
20	cations service, an Internet access service, or an
21	Internet information location tool.
22	"(B) The transmission, storage, retrieval,
23	hosting, formatting, or translation (or any com-
24	bination thereof) of a communication, without
25	selection or alteration of the content of the

1	communication, except the deletion of a par-
2	ticular communication or material made by an-
3	other person in a manner that is consistent
4	with section 230(c) of the Communications Act
5	of 1934 (47 U.S.C. 230(e)).".
6	(b) Technical and Conforming Amendment.—
7	The table of sections for chapter 2 of the Truth in Lend-
8	ing Act (15 U.S.C. 1631 et seq.) is amended by adding
9	at the end the following:
	"140B. Restrictions on lead generation in small-dollar consumer credit transactions.".
10	SEC. 5. STUDIES.
11	(a) DEFINITIONS.—In this section—
12	(1) the term "appropriate committees of Con-
13	gress" means—
14	(A) the Committee on Banking, Housing,
15	and Urban Affairs of the Senate;
16	(B) the Committee on Indian Affairs of the
17	Senate;
18	(C) the Committee on Financial Services of
19	the House of Representatives; and
20	(D) the Committee on Natural Resources
21	of the House of Representatives; and
22	(2) the term "Indian tribe" has the meaning
23	given the term in section 4 of the Indian Self-Deter-

1	mination and Education Assistance Act (25 U.S.C.
2	5304).
3	(b) Study Required.—Not later than 180 days
4	after the date of enactment of this Act, the Comptroller
5	General of the United States shall conduct a study regard-
6	ing—
7	(1) the availability of capital on reservations of
8	Indian tribes; and
9	(2) the impact that small-dollar consumer credit
10	extended through Internet and non-Internet means
11	to members of Indian tribes has had on economic
12	opportunity and wealth for members of Indian
13	tribes.
14	(c) Consultation.—In conducting the study re-
15	quired under subsection (b), the Comptroller General of
16	the United States shall consult, as appropriate, with—
17	(1) the Bureau of Consumer Financial Protec-
18	tion;
19	(2) the Board of Governors of the Federal Re-
20	serve System;
21	(3) the Director of the Bureau of Indian Af-
22	fairs;
23	(4) federally recognized Indian tribes; and
24	(5) community development financial institu-
25	tions operating in Indian lands.

- 1 (d) Congressional Consideration.—The Comp-
- 2 troller General of the United States shall submit to the
- 3 appropriate committees of Congress the study required
- 4 under subsection (b).
- 5 SEC. 6. RULEMAKING.
- 6 Not later than 1 year after the date of enactment
- 7 of this Act, the Bureau of Consumer Financial Protection
- 8 shall adopt any final rules necessary to implement the pro-
- 9 visions of this Act and the amendments made by this Act.

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