

Public Law 108–198
108th Congress

An Act

To prohibit the offer of credit by a financial institution to a financial institution examiner, and for other purposes.

Dec. 19, 2003

[S. 1947]

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 “Preserving Independence of Financial Institution Examinations Act of 2003”.

SEC. 2. OFFER AND ACCEPTANCE OF CREDIT.

(a) IN GENERAL.—Title 18, United States Code, is amended by striking sections 212 and 213 and inserting the following:

“§ 212. Offer of loan or gratuity to financial institution examiner

“(a) IN GENERAL.—Except as provided in subsection (b), whoever, being an officer, director, or employee of a financial institution, makes or grants any loan or gratuity, to any examiner or assistant examiner who examines or has authority to examine such bank, branch, agency, organization, corporation, association, or institution—

“(1) shall be fined under this title, imprisoned not more than 1 year, or both; and

“(2) may be fined a further sum equal to the money so loaned or gratuity given.

“(b) REGULATIONS.—A Federal financial institution regulatory agency may prescribe regulations establishing additional limitations on the application for and receipt of credit under this section and on the application and receipt of residential mortgage loans under this section, after consulting with each other Federal financial institution regulatory agency.

“(c) DEFINITIONS.—In this section:

“(1) EXAMINER.—The term ‘examiner’ means any person—

“(A) appointed by a Federal financial institution regulatory agency or pursuant to the laws of any State to examine a financial institution; or

“(B) elected under the law of any State to conduct examinations of any financial institutions.

“(2) FEDERAL FINANCIAL INSTITUTION REGULATORY AGENCY.—The term ‘Federal financial institution regulatory agency’ means—

“(A) the Office of the Comptroller of the Currency;

“(B) the Board of Governors of the Federal Reserve System;

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“(C) the Office of Thrift Supervision;
 “(D) the Federal Deposit Insurance Corporation;
 “(E) the Federal Housing Finance Board;
 “(F) the Farm Credit Administration;
 “(G) the Farm Credit System Insurance Corporation;

and

“(H) the Small Business Administration.

“(3) FINANCIAL INSTITUTION.—The term ‘financial institution’ does not include a credit union, a Federal Reserve Bank, a Federal home loan bank, or a depository institution holding company.

“(4) LOAN.—The term ‘loan’ does not include any credit card account established under an open end consumer credit plan or a loan secured by residential real property that is the principal residence of the examiner, if—

“(A) the applicant satisfies any financial requirements for the credit card account or residential real property loan that are generally applicable to all applicants for the same type of credit card account or residential real property loan;

“(B) the terms and conditions applicable with respect to such account or residential real property loan, and any credit extended to the examiner under such account or residential real property loan, are no more favorable generally to the examiner than the terms and conditions that are generally applicable to credit card accounts or residential real property loans offered by the same financial institution to other borrowers cardholders in comparable circumstances under open end consumer credit plans or for residential real property loans; and

“(C) with respect to residential real property loans, the loan is with respect to the primary residence of the applicant.

“§ 213. Acceptance of loan or gratuity by financial institution examiner

“(a) IN GENERAL.—Whoever, being an examiner or assistant examiner, accepts a loan or gratuity from any bank, branch, agency, organization, corporation, association, or institution examined by the examiner or from any person connected with it, shall—

“(1) be fined under this title, imprisoned not more than 1 year, or both;

“(2) may be fined a further sum equal to the money so loaned or gratuity given; and

“(3) shall be disqualified from holding office as an examiner.

“(b) DEFINITIONS.—In this section, the terms ‘examiner’, ‘Federal financial institution regulatory agency’, ‘financial institution’, and ‘loan’ have the same meanings as in section 212.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections of chapter 11 of title 18, United States Code, is amended

by striking the matter relating to sections 212 and 213 and inserting the following:

“212. Offer of loan or gratuity to financial institution examiner.

“213. Acceptance of loan or gratuity by financial institution examiner.”.

Approved December 19, 2003.

LEGISLATIVE HISTORY—S. 1947:

CONGRESSIONAL RECORD, Vol. 149 (2003):

Nov. 24, considered and passed Senate.

Dec. 8, considered and passed House.