

110TH CONGRESS
1ST SESSION

H. R. 2871

To amend the Truth in Lending Act and the Federal Deposit Insurance Act to prohibit payday loans based on checks drawn on, or authorized withdrawals from, depository institutions and to prohibit insured depository institutions from making payday loans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2007

Mr. UDALL of New Mexico (for himself, Mr. GUTIERREZ, Mr. ELLISON, and Ms. SCHAKOWSKY) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Truth in Lending Act and the Federal Deposit Insurance Act to prohibit payday loans based on checks drawn on, or authorized withdrawals from, depository institutions and to prohibit insured depository institutions from making payday loans, 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 “Payday Loan Reform
5 Act of 2007”.

1 **SEC. 2. PROHIBITION ON PAYDAY LOANS BASED ON**
2 **CHECKS DRAWN ON, OR AUTHORIZED WITH-**
3 **DRAWALS FROM, DEPOSITORY INSTITUTIONS.**

4 Section 128 of the Truth in Lending Act (15 U.S.C.
5 1638) is amended by adding at the end the following new
6 subsection:

7 “(e) PROHIBITION ON PAYDAY LOANS BASED ON
8 CHECKS DRAWN ON, OR AUTHORIZED WITHDRAWALS
9 FROM, DEPOSITORY INSTITUTIONS.—

10 “(1) IN GENERAL.—A creditor may not make a
11 payday loan to any person, if the creditor knows or
12 has reasonable cause to believe that—

13 “(A) any personal check or share draft
14 that the creditor receives from the person in ex-
15 change for the loan is drawn on a depository in-
16 stitution; or

17 “(B) any account that will be debited in
18 exchange for the loan is a transaction account
19 or share draft account at a depository institu-
20 tion.

21 “(2) DEFINITIONS.—For purposes of this sub-
22 section, the following definitions shall apply:

23 “(A) DEPOSITORY INSTITUTION.—The
24 term ‘depository institution’ has the same
25 meaning as in section 19(b)(1)(A) of the Fed-
26 eral Reserve Act.

1 “(B) PAYDAY LOAN.—The term ‘payday
2 loan’ means any transaction in which a short-
3 term cash advance is made to a consumer in ex-
4 change for—

5 “(i) the personal check or share draft
6 of the consumer, in the amount of the ad-
7 vance plus a fee, where presentment or ne-
8 gotiation of such check or share draft is
9 deferred by agreement of the parties until
10 a designated future date; or

11 “(ii) the authorization of a consumer
12 to debit the transaction account or share
13 draft account of the consumer, in the
14 amount of the advance plus a fee, where
15 such account will be debited on or after a
16 designated future date.”.

17 **SEC. 3. PROHIBITION ON INSURED DEPOSITORY INSTITU-**
18 **TIONS MAKING PAYDAY LOANS.**

19 Section 18 of the Federal Deposit Insurance Act (12
20 U.S.C. 1828) is amended by adding at the end the fol-
21 lowing:

22 “(y) PROHIBITION ON INSURED DEPOSITORY INSTI-
23 TUTIONS MAKING PAYDAY LOANS.—

24 “(1) IN GENERAL.—An insured depository in-
25 stitution may not make or extend—

1 “(A) any payday loan, either directly or in-
2 directly; or

3 “(B) any loan or credit to any other lender
4 for purposes of financing a payday loan or refi-
5 nancing or extending any payday loan.

6 “(2) PAYDAY LOAN DEFINED.—For purposes of
7 this subsection, the term ‘payday loan’ means any
8 transaction in which a short-term cash advance is
9 made to a consumer in exchange for—

10 “(A) the personal check or share draft of
11 the consumer, in the amount of the advance
12 plus a fee, where presentment or negotiation of
13 such check or share draft is deferred by agree-
14 ment of the parties until a designated future
15 date; or

16 “(B) the authorization of the consumer to
17 debit the transaction account or share draft ac-
18 count of the consumer, in the amount of the ad-
19 vance plus a fee, where such account will be
20 debited on or after a designated future date.”.

21 **SEC. 4. PENALTIES AND REMEDIES.**

22 (a) CONTRACT VOID.—Any credit agreement, promiss-
23 sory note, or other contract prohibited under any amend-
24 ment made by this Act shall be void from the inception
25 of such agreement, note, or contract.

1 (b) CLARIFICATION OF LIABILITY.—Section 130(a)
2 of the Truth in Lending Act (15 U.S.C. 1640(a)) is
3 amended by inserting after the penultimate sentence the
4 following new sentence: “Any creditor who violates section
5 128(e) with respect to any person shall be liable to such
6 person under paragraphs (1), (2) and (3).”

7 (c) PRESERVATION OF OTHER REMEDIES.—The
8 remedies and rights provided under any amendment made
9 by this Act are in addition to and do not preclude any
10 remedy otherwise available under law to the person claim-
11 ing relief under any provision of law, including any award
12 for general, consequential, or punitive damages.

13 **SEC. 5. EFFECTIVE DATE.**

14 The amendments made by this Act shall take effect
15 at the end of the 30-day period beginning on the date of
16 the enactment of this Act and shall apply to all loans initi-
17 ated on or after such date and to any extension or renewal
18 of loans made on or after such date.

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