

112TH CONGRESS
1ST SESSION

S. 1767

To amend the Truth in Lending Act to prohibit the distribution of any check or other negotiable instrument as part of a solicitation by a creditor for an extension of credit, to limit the liability of consumers in conjunction with such solicitations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 31, 2011

Mr. MERKLEY (for himself and Mr. BROWN of Ohio) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Truth in Lending Act to prohibit the distribution of any check or other negotiable instrument as part of a solicitation by a creditor for an extension of credit, to limit the liability of consumers in conjunction with such solicitations, 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 “Deceptive Loan Check
5 Elimination Act”.

1 **SEC. 2. UNSOLICITED LOAN CHECKS PROHIBITED.**

2 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
3 ing Act is amended by striking section 132 (15 U.S.C.
4 1642) and inserting the following:

5 **“SEC. 132. ISSUANCE OF CREDIT CARDS AND UNSOLICITED**
6 **LOAN CHECKS.**

7 “(a) APPLICATION OR REQUEST REQUIRED FOR
8 ISSUANCE OF CREDIT CARDS.—No person may issue a
9 credit card, except in response to a request or application
10 for such credit card, other than a credit card in renewal
11 of, or in substitution for, an accepted credit card.

12 “(b) UNSOLICITED LOAN CHECKS PROHIBITED.—No
13 person may extend any consumer credit which is otherwise
14 subject to this title through the use by the consumer of
15 a check or other negotiable instrument that the creditor
16 has sent to the consumer in connection with a solicitation
17 by the creditor for an extension of consumer credit, unless
18 the consumer submitted a written application for, or oth-
19 erwise requested in writing, the extension of credit before
20 the date on which the creditor sent the check or negotiable
21 instrument.

22 “(c) ‘LOOK-ALIKE’ CHECKS.—A certificate, voucher,
23 or other nonnegotiable instrument provided to a consumer
24 in connection with a solicitation for an extension of credit
25 that has the appearance of a check or other negotiable

1 instrument is not an application or request for an exten-
2 sion of credit for purposes of this section.

3 “(d) LIABILITY OF CONSUMER.—

4 “(1) LIABILITY OF CONSUMER.—A consumer
5 shall not be liable for—

6 “(A) the principal amount of a check or
7 other negotiable instrument sent to the con-
8 sumer in violation of this section; or

9 “(B) any interest, fee, or penalty charged
10 in connection with such check or negotiable in-
11 strument.

12 “(2) INFORMATION ON CONSUMER.—No infor-
13 mation relating to the liability of a consumer alleged
14 by a creditor to have been established through a
15 check or other negotiable instrument sent by a cred-
16 itor to the consumer in violation of subsection (b)
17 may be reported to or received by any consumer re-
18 porting agency or included in any consumer report
19 (as those terms are defined in section 603 of the
20 Fair Credit Reporting Act (15 U.S.C. 1681a)).

21 “(e) REGULATIONS.—Not later than 6 months after
22 the date of enactment of the Deceptive Loan Check Elimini-
23 nation Act, the Board shall prescribe final regulations to
24 implement this section.”

1 (b) CLERICAL AMENDMENT.—The item relating to
2 section 132 in the table of sections for chapter 2 of the
3 Consumer Credit Protection Act is amended to read as
4 follows:

“132. Issuance of credit cards and unsolicited loan checks.”.

5 (c) SCOPE OF APPLICATION.—The requirements of
6 this Act and the amendments made by this Act shall apply
7 to solicitations for extensions of credit made to consumers
8 after the date of enactment of this Act.

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