

113TH CONGRESS
1ST SESSION

H. R. 3137

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.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 19, 2013

Ms. SCHAKOWSKY (for herself, Mr. CONYERS, Mr. DEFazio, Mr. ELLISON, Mr. GRIJALVA, Mr. GUTIÉRREZ, Ms. LEE of California, and Ms. NORTON) introduced the following bill; which was referred to the Committee on Financial Services

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; RULEMAKING.—

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 paragraph (1) shall include, at
6 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 the Congress and the Bureau of Consumer Fi-
13 nancial Protection on the study required under
14 subparagraph (A), including any findings and
15 determinations made by the Comptroller Gen-
16 eral in carrying out such study.

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

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

24 “(B) if the Bureau determines that such
25 regulations should be issued, the Bureau shall,

1 in consultation with each agency referred to in
2 section 270(a), and after public notice and op-
3 portunity for comment, issue such regula-
4 tions.”; and

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

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

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

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