

115TH CONGRESS  
2D SESSION

# S. 3734

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

DECEMBER 10, 2018

Mr. JONES (for himself, Mr. COTTON, and Mr. MERKLEY) 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 “Unsolicited Loan Act  
5 of 2018”.

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

2 (a) IN GENERAL.—Section 132 of the Truth in Lend-  
3 ing Act (15 U.S.C. 1642) is amended—

4 (1) by inserting “(a) CREDIT CARDS.—” before  
5 “No credit”; and

6 (2) by adding at the end the following:

7 “(b) UNSOLICITED LOAN CHECKS OR TRANSFERS.—

8 No person may extend any consumer credit that is other-  
9 wise subject to this title by—

10 “(1) making an unsolicited transfer of funds to  
11 the consumer’s credit or asset account; or

12 “(2) through the consumer’s use of an unsolic-  
13 ited check, other negotiable instrument, access de-  
14 vice or other means of initiating an electronic fund  
15 transfer as defined in section 903 of the Electronic  
16 Fund Transfer Act (15 U.S.C. 1693a), or such  
17 other similar instrument or device as the Bureau  
18 may, by rule, determine, that is sent to the con-  
19 sumer unless the consumer submitted a written ap-  
20 plication for, or otherwise requested in writing, the  
21 extension of credit before the date on which the  
22 creditor sent the check, negotiable instrument, ac-  
23 cess device or other similar instrument or device.

24 “(c) ‘LOOK-ALIKE’ CHECKS.—A certificate, voucher,  
25 or other nonnegotiable instrument provided to a consumer  
26 in connection with a solicitation for an extension of credit

1 that has the appearance of a check or other negotiable  
2 instrument is not an application or request for an exten-  
3 sion of credit for purposes of this section.

4 “(d) LIABILITY OF CONSUMER.—

5 “(1) DEFINITIONS.—In this subsection, the  
6 terms ‘consumer’, ‘consumer reporting agency’, and  
7 ‘consumer report’ have the meanings given the terms  
8 in section 603 of the Fair Credit Reporting Act (15  
9 U.S.C. 1681a).

10 “(2) AGREEMENT VOID.—Any purported credit  
11 agreement entered into or debt purportedly incurred  
12 as a result of a violation of subsection (a) or (b) is  
13 void and the consumer or cardholder shall not be lia-  
14 ble for and no person shall attempt to collect—

15 “(A) the principal amount sent or trans-  
16 ferred to the consumer in violation of this sec-  
17 tion; or

18 “(B) any interest, charge, fee, or penalty.

19 “(3) CONSUMER REPORTING.—No information  
20 relating to the liability of a consumer alleged by a  
21 creditor to have been established in violation of sub-  
22 section (a) or (b) may be reported to or received by  
23 any consumer reporting agency or included in any  
24 consumer report.

1       “(e) REGULATIONS.—Not later than 6 months after  
2 the date of enactment of the Deceptive Loan Check Elimination Act, the Bureau shall prescribe final regulations  
3 to implement this section.”.

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

“132. Unsolicited credit.”.

9       (c) EFFECTIVE DATE.—The requirements of this Act  
10 and the amendments made by this Act shall apply to solici-  
11 tations for extensions of credit made to consumers 180  
12 days after the date of enactment of this Act.

○