To prohibit depository institutions from assessing overdraft and nonsufficient fund fees during the novel coronavirus crisis and other disasters, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 2020

Mr. Cicilline (for himself and Mrs. Carolyn B. Maloney of New York) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To prohibit depository institutions from assessing overdraft and nonsufficient fund fees during the novel coronavirus crisis and other disasters, and for other purposes.

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 “Stop Overdraft Profiteering during COVID–19 Emergency Act of 2020”.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Overdraft coverage is a form of short-term credit that depository institutions market for con-
sumer transaction accounts. Historically, depository institutions covered overdrafts for a fee on an ad hoc basis.

(2) With the growth in specially designed software programs, and in consumer use of debit cards, overdraft coverage for a fee has become more prevalent.

(3) Many depository institutions market a range of overdraft options but aggressively encourage consumers to consent to the most expensive option, where a high flat fee is collected for each individual overdraft transaction.

(4) Many depository institutions—

(A) collect a high flat fee, including for small dollar transactions, each time the institution covers an overdraft, impose multiple overdraft coverage fees within a single day, and charge additional fees for each day during which the account remains overdrawn; and

(B) charge unreasonable nonsufficient fees.

(5) Such abusive practices in connection with overdraft coverage fees and nonsufficient fees have deprived consumers of meaningful options and placed significant financial burdens on low- and moderate-income consumers.
(6) During the public health and financial crisis caused by the novel coronavirus, consumers need relief from such abusive practices more than ever before.

(b) PURPOSE.—It is the purpose of this Act to protect consumers by eliminating abusive overdraft coverage fees, nonsufficient fund fees, and practices relating to the assessment of those fees during covered periods.

SEC. 3. DEFINITIONS.

In this Act:

(1) CHECK.—The term “check”—

(A) has the meaning given the term in section 3(6) of the Check Clearing for the 21st Century Act (12 U.S.C. 5002(6)); and

(B) does not include a traveler’s check.

(2) CHECKING ACCOUNT PENALTY FEE.—The term “checking account penalty fee” means a nonsufficient fund fee or an overdraft coverage fee.

(3) CONSUMER.—The term “consumer” has the meaning given the term in section 103(i) of the Truth in Lending Act (15 U.S.C. 1602(i)).

(4) CONSUMER REPORTING AGENCY.—The term “consumer reporting agency” has the meaning given the term in section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a).
(5) COVERED PERIOD.—The term “covered period” means—

(A) the period that begins 1 day after the date on which a major disaster is declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), where assistance is authorized under section 408 of that Act (42 U.S.C. 5174), and ending 120 days after the end of the incident period for that disaster; or

(B) the period that begins 1 day after the date on which the President determines an emergency exists under section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191(b)) and simultaneously covers all States for a single incident, event, or emergency and ending 120 days after the end of the incident period for that emergency.

(6) DEPOSITORY INSTITUTION.—The term “depository institution” has the same meaning as in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)).

(7) NONSUFFICIENT FUND FEE.—The term “nonsufficient fund fee” means a fee or charge as-
sessed in connection with an overdraft for which a depository institution declines payment.

(8) **OVERDRAFT.**—The term “overdraft” means, in a withdrawal by check or other debit from a consumer transaction account in which there are insufficient or unavailable funds in the account to cover such check or debit, the amount of such withdrawal that exceeds the available funds in the account.

(9) **OVERDRAFT COVERAGE.**—The term “overdraft coverage” means the payment of a check presented or other debit posted against a consumer transaction account by the depository institution in which such account is held, even though there are insufficient or unavailable funds in the account to cover such checks or other debit.

(10) **OVERDRAFT COVERAGE FEE.**—The term “overdraft coverage fee” means any fee or charge assessed in connection with overdraft coverage, or in connection with any negative account balance that results from overdraft coverage, excluding—

(A) a periodic rate in connection with an extension of credit through an overdraft line of credit program; or
(B) a fee or charge imposed in connection with any transfer from an account linked to another transaction account.

(11) OVERDRAFT COVERAGE PROGRAM.—The term “overdraft coverage program” means a service under which a depository institution assesses an overdraft coverage fee for overdraft coverage.

(12) TRANSACTION ACCOUNT.—The term “transaction account” has the meaning given the term in section 19(b)(1)(C) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(C)).

SEC. 4. CHECKING ACCOUNT PENALTY FEES.

(a) PROHIBITION.—

(1) IN GENERAL.—During a covered period, no depository institution may assess a checking account penalty fee for any transaction, including a transaction at an automated teller machine, a 1-time debit card transaction, a transaction that involves the use of a check, or an automatic recurring payment.

(2) CORRECTION.—If a depository institution assesses a checking account penalty fee during a covered period in violation of paragraph (1), the depository institution shall be considered to be in com-
pliance with that paragraph if the depository institution promptly reverses that assessment.

(b) REPORTS TO CONSUMER REPORTING AGENCIES.—During a covered period, no depository institution may report negative information regarding the use of overdraft coverage by a consumer to any consumer reporting agency.

(c) LIMITATION WITH RESPECT TO STATE-SPECIFIC DISASTERS.—With respect to a major disaster described under section 3(5)(A), this section shall only apply to a customer of a depository institution who is a resident of the State or Tribe where the major disaster was declared.

(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed as prohibiting a depository institution, during a covered period, from retaining the discretion to pay, without assessing a checking account penalty fee, an overdraft incurred by a consumer.