

107TH CONGRESS  
1ST SESSION

# H. R. 1057

To amend the Truth in Savings Act to enhance civil liability and other enforcement, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 2001

Mr. LAFALCE (for himself, Mr. GUTIERREZ, Ms. LEE, Mrs. JONES of Ohio, Mr. CAPUANO, Mr. CLAY, Mr. HINCHEY, and Ms. SCHAKOWSKY) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Truth in Savings Act to enhance civil liability and other enforcement, 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 “Truth in Savings En-  
5       hancement Act of 2001”.

6       **SEC. 2. IMPROVED ENFORCEMENT AUTHORITY.**

7       Section 270 of the Truth in Savings Act (12 U.S.C.  
8       4309) is amended by adding at the end the following new  
9       subsection:

1 “(d) STATE ACTION FOR VIOLATIONS.—

2 “(1) AUTHORITY OF THE STATES.—In addition  
3 to such other remedies as are provided under State  
4 law, if the attorney general of a State, or an officer  
5 authorized by the State, has reason to believe that  
6 any depository institution has violated or is violating  
7 this subtitle, the State may—

8 “(A) bring an action on behalf of the resi-  
9 dents of the State to enjoin such violation in  
10 any appropriate United States district court or  
11 in any other court of competent jurisdiction;  
12 and

13 “(B) bring an action on behalf of the resi-  
14 dents of the State to enforce compliance with  
15 this subtitle, to obtain damages, restitution, or  
16 other compensation on behalf of the residents of  
17 such State, or to obtain such further and other  
18 relief as the court may deem appropriate.

19 “(2) RIGHTS OF FEDERAL AGENCIES.—

20 “(A) NOTICE.—The State shall serve prior  
21 written notice of any action commenced under  
22 paragraph (1) with respect to any depository in-  
23 stitution upon the Federal agency described in  
24 subsection (a) with respect to such depository  
25 institution and shall provide such agency with a

1 copy of the complaint unless such prior notice  
2 is not feasible, in which case the State shall  
3 serve such notice immediately upon instituting  
4 such action.

5 “(B) INTERVENING ACTION.—Any agency  
6 described in subsection (a) which receives a no-  
7 tice from a State under subparagraph (A) with  
8 respect to any action described in such subpara-  
9 graph shall have the right—

10 “(i) to move to stay the action, pend-  
11 ing the final disposition of a pending Fed-  
12 eral matter as described in paragraph (4);

13 “(ii) to intervene in an action under  
14 paragraph (1);

15 “(iii) upon so intervening, to be heard  
16 on all matters arising therein;

17 “(iv) to remove the action to the ap-  
18 propriate United States district court; and

19 “(v) to file petitions for appeal.

20 “(3) INVESTIGATORY POWERS.—For purposes  
21 of bringing any action under this subsection, nothing  
22 in this subsection shall prevent the attorney general,  
23 or officers of such State who are authorized by such  
24 State to bring such actions, from exercising the pow-  
25 ers conferred on the attorney general or such offi-

cers by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

“(4) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If any Federal agency described in subsection (a) has instituted an enforcement action for a violation of this subtitle, no State may, during the pendency of such action, bring an action under this subsection against any depository institution named in the enforcement action for any violation of this subtitle that is alleged in that action.”.

### **SEC. 3. CIVIL LIABILITY PROVISIONS.**

(a) CIVIL LIABILITY PROVISION CONTINUED IN EFFECT.—

(1) IN GENERAL.—Subsection (a) of section 2604 of Public Law 104–208 (110 Stat. 3009–470) is amended to read as follows:

“(a) [Repealed]”.

(2) RULE OF CONSTRUCTION.—The enactment of section 2604(a) of Public Law 104–208, as in effect prior to the repeal of such section by paragraph (1) of this subsection) shall not be construed as affecting the continued application of section 271 of

1 the Truth in Savings Act (12 U.S.C. 4310) after the  
2 end of the 5-year period beginning on the date of the  
3 enactment of Public Law 104–208.

4 (b) ADJUSTMENT OF CIVIL LIABILITY AMOUNTS FOR  
5 INFLATION.—Paragraph (2) of section 271(a) of the  
6 Truth in Savings Act (12 U.S.C. 4310(a)) is amended—

7 (1) in subparagraph (A)—

8 (A) by striking “\$100” and inserting  
9 “\$200”; and

10 (B) by striking “\$1,000” and inserting  
11 “\$5,000”; and

12 (2) in subparagraph (B)(ii), by striking “lesser  
13 of \$500,000 or 1 percent of the net worth of the de-  
14 pository institution involved” and inserting “the  
15 greater of—

16 “(I) the amount determined by  
17 multiplying the maximum amount of  
18 liability under subparagraph (A) for  
19 such failure to comply in an individual  
20 action by the number of members in  
21 the certified class; or

22 “(II) the amount equal to 2 per-  
23 cent of the net worth of the depository  
24 institution.”.

1       (c) STATUTE OF LIMITATIONS.—Subsection (f) of  
 2 section 271 of the Truth in Savings Act (12 U.S.C.  
 3 4310(e)) is amended by striking “within 1 year after the  
 4 date of the occurrence of the violation involved” and in-  
 5 serting “before the end of the 1-year period beginning on  
 6 the later of—

7               “(1) the date of the occurrence of the violation  
 8 involved; or

9               “(2) the date on which the customer first  
 10 learned, or reasonably should have learned, based on  
 11 all the facts and circumstances and information  
 12 available to the public, of the violation.”.

13       (d) ACCESS TO COURT PROVISION.—Section 271 of  
 14 the Truth in Savings Act (12 U.S.C. 4310) is amended  
 15 by adding at the end the following new subsection:

16       “(j) AVAILABILITY OF STATUTORY REMEDIES.—

17               “(1) IN GENERAL.—No provision of any agree-  
 18 ment or contract between a consumer and any de-  
 19 pository institution, relating to a deposit account,  
 20 which requires binding arbitration or any other non-  
 21 judicial procedure to resolve any controversy or set-  
 22 tle any claim arising out of such contract or any  
 23 transaction covered by the contract, or the refusal to  
 24 perform the whole or any part of the transaction,  
 25 shall be enforceable to the extent that the construc-

1       tion or application of such provision with respect to  
 2       such controversy, claim, or refusal would deny the  
 3       consumer the right to bring any action under this  
 4       section or any other provision of this subtitle for any  
 5       liability of the depository institution to the consumer  
 6       under this subtitle.

7               “(2) RULE OF CONSTRUCTION.—Paragraph (1)  
 8       shall not be construed as creating any inference that  
 9       any provision of any contract or agreement described  
 10      in such paragraph could be construed so as to deny  
 11      any consumer the right to bring an action under this  
 12      subtitle absent this subsection.”.

13 **SEC. 4. EFFECT ON STATE LAW.**

14       Section 273 of the Truth in Savings Act (12 U.S.C.  
 15      4312) is amended by adding at the end the following new  
 16      sentence: “The Board may not determine that any State  
 17      law is inconsistent with any provision of this subtitle if  
 18      the Board determines that the protection such State law  
 19      affords any consumer is greater than the protection pro-  
 20      vided by this subtitle.”.

21 **SEC. 5. EFFECTIVE DATE.**

22       The amendments made by this Act to the Truth in  
 23      Savings Act shall take effect at the end of the 60-day pe-  
 24      riod beginning on the date of the enactment of this Act.

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