

107TH CONGRESS
1ST SESSION

H. R. 974

IN THE SENATE OF THE UNITED STATES

APRIL 4, 2001

Received; read twice and referred to the Committee on Banking, Housing, and
Urban Affairs

AN ACT

To repeal the prohibition on the payment of interest on demand deposits, to increase the number of interaccount transfers which may be made from business accounts at depository institutions, to authorize the Board of Governors of the Federal Reserve System to pay interest on reserves, 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 “Small Business Inter-
 5 est Checking Act of 2001”.

6 **SEC. 2. INTEREST-BEARING TRANSACTION ACCOUNTS AU-**
 7 **THORIZED.**

8 (a) REPEAL OF PROHIBITION ON PAYMENT OF IN-
 9 TEREST ON DEMAND DEPOSITS.—

10 (1) FEDERAL RESERVE ACT.—Section 19(i) of
 11 the Federal Reserve Act (12 U.S.C. 371a) is amend-
 12 ed to read as follows:

13 “(i) [Repealed]”.

14 (2) HOME OWNERS’ LOAN ACT.—The first sen-
 15 tence of section 5(b)(1)(B) of the Home Owners’
 16 Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended by
 17 striking “savings association may not—” and all
 18 that follows through “(ii) permit any” and inserting
 19 “savings association may not permit any”.

20 (3) FEDERAL DEPOSIT INSURANCE ACT.—Sec-
 21 tion 18(g) of the Federal Deposit Insurance Act (12
 22 U.S.C. 1828(g)) is amended to read as follows:

23 “(g) [Repealed]”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall take effect at the end of the 2-year
3 period beginning on the date of the enactment of this Act.

4 **SEC. 3. INTEREST-BEARING TRANSACTION ACCOUNTS AU-**
5 **THORIZED FOR ALL BUSINESSES.**

6 Section 2 of Public Law 93–100 (12 U.S.C. 1832)
7 is amended—

8 (1) in subsection (a), by adding at the end the
9 following new paragraph:

10 “(3) EXCEPTION FROM PARAGRAPH (2) LIMITA-
11 TION.—Paragraph (2) shall not apply to any deposi-
12 tory institution which is prohibited by the applicable
13 law of its chartering State from offering demand de-
14 posits and either—

15 “(A) does not engage in any lending activi-
16 ties; or

17 “(B) is not an affiliate of any company or
18 companies with assets that, in the aggregate,
19 represent more than 10 percent of the total as-
20 sets of the depository institution.”;

21 (2) by redesignating subsections (b) and (c) as
22 subsections (c) and (d), respectively; and

23 (3) by inserting after subsection (a) the fol-
24 lowing:

1 “(b) Notwithstanding any other provision of law, any
2 depository institution may permit the owner of any deposit
3 or account which is a deposit or account on which interest
4 or dividends are paid and is not a deposit or account de-
5 scribed in subsection (a)(2) to make up to 24 transfers
6 per month (or such greater number as the Board may de-
7 termine by rule or order), for any purpose, to another ac-
8 count of the owner in the same institution. Nothing in this
9 subsection shall be construed to prevent an account of-
10 fered pursuant to this subsection from being considered
11 a transaction account (as defined in section 19(b) of the
12 Federal Reserve Act for purposes of such Act).”.

13 **SEC. 4. PAYMENT OF INTEREST ON RESERVES AT FEDERAL**
14 **RESERVE BANKS.**

15 (a) IN GENERAL.—Section 19(b) of the Federal Re-
16 serve Act (12 U.S.C. 461(b)) is amended by adding at
17 the end the following new paragraph:

18 “(12) EARNINGS ON RESERVES.—

19 “(A) IN GENERAL.—Balances maintained
20 at a Federal reserve bank by or on behalf of a
21 depository institution may receive earnings to
22 be paid by the Federal reserve bank at least
23 once each calendar quarter at a rate or rates
24 not to exceed the general level of short-term in-
25 terest rates.

1 “(B) REGULATIONS RELATING TO PAY-
2 MENTS AND DISTRIBUTION.—The Board may
3 prescribe regulations concerning—

4 “(i) the payment of earnings in ac-
5 cordance with this paragraph;

6 “(ii) the distribution of such earnings
7 to the depository institutions which main-
8 tain balances at such banks or on whose
9 behalf such balances are maintained; and

10 “(iii) the responsibilities of depository
11 institutions, Federal home loan banks, and
12 the National Credit Union Administration
13 Central Liquidity Facility with respect to
14 the crediting and distribution of earnings
15 attributable to balances maintained, in ac-
16 cordance with subsection (c)(1)(B), in a
17 Federal reserve bank by any such entity on
18 behalf of depository institutions.”.

19 (b) AUTHORIZATION FOR PASS THROUGH RESERVES
20 FOR MEMBER BANKS.—Section 19(c)(1)(B) of the Fed-
21 eral Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by
22 striking “which is not a member bank”.

23 (c) SURVEY OF BANK FEES AND SERVICES.—Section
24 19 of the Federal Reserve Act (as amended by subsections

1 (a) and (b) of this section) is amended by adding at the
2 end the following new subsection:

3 “(n) SURVEY OF BANK FEES AND SERVICES.—

4 “(1) ANNUAL SURVEY REQUIRED.—The Board
5 shall obtain annually a sample, which is representa-
6 tive by type and size of the institution and geo-
7 graphic location, of the following retail banking serv-
8 ices and products provided by insured depository in-
9 stitutions and insured credit unions (along with re-
10 lated fees and minimum balances):

11 “(A) Checking and other transaction ac-
12 counts.

13 “(B) Negotiable order of withdrawal and
14 savings accounts.

15 “(C) Automated teller machine trans-
16 actions.

17 “(D) Other electronic transactions.

18 “(E) Credit Cards.

19 “(2) MINIMUM SURVEY REQUIREMENT.—The
20 annual survey described in paragraph (1) shall meet
21 the following minimum requirements:

22 “(A) CHECKING AND OTHER TRANSACTION
23 ACCOUNTS.—Data on checking and transaction
24 accounts shall include, at a minimum, the fol-
25 lowing:

1 “(i) Monthly and annual fees and
2 minimum balances to avoid such fees.

3 “(ii) Minimum opening balances.

4 “(iii) Check processing fees.

5 “(iv) Check printing fees.

6 “(v) Balance inquiry fees.

7 “(vi) Fees imposed for using a teller
8 or other institution employee.

9 “(vii) Stop payment order fees.

10 “(viii) Nonsufficient fund fees.

11 “(ix) Overdraft fees.

12 “(x) Deposit items returned fees.

13 “(xi) Availability of no-cost or low-
14 cost accounts for consumers who maintain
15 low balances.

16 “(B) NEGOTIABLE ORDER OF WITH-
17 DRAWAL ACCOUNTS AND SAVINGS ACCOUNTS.—
18 Data on negotiable order of withdrawal ac-
19 counts and savings accounts shall include, at a
20 minimum, the following:

21 “(i) Monthly and annual fees and
22 minimum balances to avoid such fees.

23 “(ii) Minimum opening balances.

24 “(iii) Rate at which interest is paid to
25 consumers.

1 “(iv) Check processing fees for nego-
2 tiable order of withdrawal accounts.

3 “(v) Check printing fees for negotiable
4 order of withdrawal accounts.

5 “(vi) Balance inquiry fees.

6 “(vii) Fees imposed for using a teller
7 or other institution employee.

8 “(viii) Stop payment order fees for ne-
9 gotiable order of withdrawal accounts.

10 “(ix) Nonsufficient fund fees for nego-
11 tiable order of withdrawal accounts.

12 “(x) Overdraft fees for negotiable
13 order of withdrawal accounts.

14 “(xi) Deposit items returned fees.

15 “(xii) Availability of no-cost or low-
16 cost accounts for consumers who maintain
17 low balances.

18 “(C) AUTOMATED TELLER TRANS-
19 ACTIONS.—Data on automated teller machine
20 transactions shall include, at a minimum, the
21 following:

22 “(i) Annual and monthly fees.

23 “(ii) Card fees.

24 “(iii) Fees charged to customers for
25 withdrawals, deposits, transfers between

1 accounts, balance inquiries through institu-
2 tion-owned machines.

3 “(iv) Fees charged to customers for
4 withdrawals, deposits, transfers between
5 accounts, balance inquiries through ma-
6 chines owned by others.

7 “(v) Fees charged to noncustomers
8 for withdrawals, deposits, transfers be-
9 tween accounts, balance inquiries through
10 institution-owned machines.

11 “(vi) Point-of-sale transaction fees.

12 “(vii) Surcharges.

13 “(D) OTHER ELECTRONIC TRANS-
14 ACTIONS.—Data on other electronic trans-
15 actions shall include, at a minimum, the fol-
16 lowing:

17 “(i) Wire transfer fees.

18 “(ii) Fees related to payments made
19 over the Internet or through other elec-
20 tronic means.

21 “(E) CREDIT CARD CHARGES AND FEES.—
22 Data related to credit cards shall include, at a
23 minimum, the following:

24 “(i) Application fees.

25 “(ii) Annual and monthly fees.

1 “(iii) Rates of interest charged for
2 purchases and cash advances, when an ac-
3 count is not in default.

4 “(iv) Rates of interest charged for
5 purchases and cash advances, when an ac-
6 count is in default.

7 “(v) Average annual finance charges
8 paid by customers.

9 “(vi) Late payment fees.

10 “(vii) Cash advance and convenience
11 check fees.

12 “(viii) Balance transfer fees.

13 “(ix) Over-the-credit-limit fees.

14 “(x) Foreign currency conversion fees.

15 “(F) OTHER FEES AND CHARGES.—Data
16 on any other fees and charges that the Board
17 determines to be appropriate to meet the pur-
18 poses of this section.

19 “(3) ANNUAL REPORT TO CONGRESS RE-
20 QUIRED.—

21 “(A) PREPARATION.—The Board shall pre-
22 pare a report of the results of each survey con-
23 ducted pursuant to paragraph (1) and (2).

24 “(B) CONTENTS OF THE REPORT.—In ad-
25 dition to the data required to be collected pur-

1 suant to paragraphs (1) and (2), each report
2 prepared pursuant to subparagraph (A) shall
3 include a description of any discernible trend, in
4 the Nation as a whole, in each of the 50 States,
5 and in each metropolitan statistical area (as de-
6 fined by the Director of the Office of Manage-
7 ment and Budget), in the cost and availability
8 of the retail banking services, including those
9 described in paragraphs (1) and (2) (including
10 related fees and minimum balances), that delin-
11 eates differences between institutions on the
12 basis of the type of institution, the size of the
13 institution and any engagement of the institu-
14 tion in multistate activity.

15 “(C) SUBMISSION TO CONGRESS.—The
16 Board shall submit an annual report to the
17 Congress under this paragraph not later than
18 June 1, 2002, and not later than June 1 of
19 each subsequent year.

20 “(4) DEFINITIONS.—For purposes of this sub-
21 section, the terms ‘insured depository institution’
22 and ‘insured credit union’ mean any depository insti-
23 tution (as defined in subsection (b)(1)(A)) the de-
24 posits or shares in which are insured under the Fed-

1 eral Deposit Insurance Act or the Federal Credit
2 Union Act.”.

3 (d) TECHNICAL AND CONFORMING AMENDMENTS.—
4 Section 19 of the Federal Reserve Act (12 U.S.C. 461)
5 is amended—

6 (1) in subsection (b)(4) (12 U.S.C. 461(b)(4)),
7 by striking subparagraph (C) and redesignating sub-
8 paragraphs (D) and (E) as subparagraphs (C) and
9 (D), respectively; and

10 (2) in subsection (c)(1)(A) (12 U.S.C.
11 461(c)(1)(A)), by striking “subsection (b)(4)(C)”
12 and inserting “subsection (b)”.

13 **SEC. 5. INCREASED FEDERAL RESERVE BOARD FLEXI-**
14 **BILITY IN SETTING RESERVE REQUIRE-**
15 **MENTS.**

16 Section 19(b)(2)(A) of the Federal Reserve Act (12
17 U.S.C. 461(b)(2)(A)) is amended—

18 (1) in clause (i), by striking “the ratio of 3 per
19 centum” and inserting “a ratio not greater than 3
20 percent (and which may be zero)”; and

21 (2) in clause (ii), by striking “and not less than
22 8 per centum,” and inserting “(and which may be
23 zero),”.

1 **SEC. 6. TRANSFER OF FEDERAL RESERVE SURPLUSES.**

2 (a) IN GENERAL.—Section 7(b) of the Federal Re-
3 serve Act (12 U.S.C. 289(b)) is amended by adding at
4 the end the following new paragraph:

5 “(4) ADDITIONAL TRANSFERS TO COVER IN-
6 TEREST PAYMENTS FOR FISCAL YEARS 2002
7 THROUGH 2006.—

8 “(A) IN GENERAL.—In addition to the
9 amounts required to be transferred from the
10 surplus funds of the Federal reserve banks pur-
11 suant to subsection (a)(3), the Federal reserve
12 banks shall transfer from such surplus funds to
13 the Board of Governors of the Federal Reserve
14 System for transfer to the Secretary of the
15 Treasury for deposit in the general fund of the
16 Treasury, such sums as are necessary to equal
17 the net cost of section 19(b)(12), as estimated
18 by the Office of Management and Budget, in
19 each of the fiscal years 2002 through 2006.

20 “(B) ALLOCATION BY FEDERAL RESERVE
21 BOARD.—Of the total amount required to be
22 paid by the Federal reserve banks under sub-
23 paragraph (A) for fiscal years 2002 through
24 2006, the Board of Governors of the Federal
25 Reserve System shall determine the amount
26 each such bank shall pay in such fiscal year.

1 “(C) REPLENISHMENT OF SURPLUS FUND
2 PROHIBITED.—During fiscal years 2002
3 through 2006, no Federal reserve bank may re-
4 plenish such bank’s surplus fund by the amount
5 of any transfer by such bank under subpara-
6 graph (A).”.

7 (b) TECHNICAL AND CONFORMING AMENDMENT.—
8 Section 7(a) of the Federal Reserve Act (12 U.S.C.
9 289(a)) is amended by adding at the end the following
10 new paragraph:

11 “(3) PAYMENT TO TREASURY.—During fiscal
12 years 2002 through 2006, any amount in the sur-
13 plus fund of any Federal reserve bank in excess of
14 the amount equal to 3 percent of the paid-in capital
15 and surplus of the member banks of such bank shall
16 be transferred to the Secretary of the Treasury for
17 deposit in the general fund of the Treasury.”.

18 **SEC. 7. RULE OF CONSTRUCTION.**

19 No provision of this Act, or any amendment made
20 by this Act, shall be construed as creating any presump-
21 tion or implication that, in the case of an escrow account
22 maintained at a depository institution in connection with
23 a real estate transaction—

1 (1) the absorption, by the depository institution,
2 of expenses incidental to providing a normal banking
3 function with respect to such escrow account;

4 (2) the forbearance, by the depository institu-
5 tion, from charging a fee for providing any such
6 banking function; and

7 (3) any benefit which may accrue to the holder
8 or the beneficiary of such escrow account as a result
9 of an action of the depository institution described
10 in paragraph (1) or (2),

11 may be treated as the payment or receipt of interest for
12 purposes of any provision of Public Law 93–100, the Fed-
13 eral Reserve Act, the Home Owners’ Loan Act, or the
14 Federal Deposit Insurance Act relating to the payment of
15 interest on accounts or deposits at depository institutions.

Passed the House of Representatives April 3, 2001.

Attest:

JEFF TRANDAHL,

Clerk.