

112TH CONGRESS  
1ST SESSION

# H. R. 3077

To amend the Federal Deposit Insurance Act to ensure that customers have the right to immediately close any account at any insured depository institutions on demand, without cost to the consumer, that consumers receive any balance in their account immediately, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 3, 2011

Mr. MILLER of North Carolina introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Federal Deposit Insurance Act to ensure that customers have the right to immediately close any account at any insured depository institutions on demand, without cost to the consumer, that consumers receive any balance in their account immediately, 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. FEDERAL DEPOSIT INSURANCE ACT AMENDMENTS.**

2 The Federal Deposit Insurance Act (12 U.S.C. 1811  
3 et seq.) is amended by adding at the end the following  
4 new section:

5 **“SEC. 51. RIGHT TO CLOSE PERSONAL CHECKING AND SAV-**  
6 **INGS ACCOUNTS.**

7 “(a) IN GENERAL.—An insured depository institution  
8 may not—

9 “(1) prohibit any person from closing a check-  
10 ing or savings account, regardless of whether the  
11 balance in the account is positive, zero, or negative;  
12 or

13 “(2) charge any fee to close any such account.

14 “(b) TIME LIMIT.—An account at any insured depos-  
15 itory institution shall be closed by the institution not later  
16 than 48 hours after receiving a request from the customer  
17 to close the account.

18 “(c) METHODS OF REQUESTING CLOSURE OF AN AC-  
19 COUNT.—

20 “(1) IN GENERAL.—Any accountholder of an  
21 account at an insured depository institution may re-  
22 quest that the account be closed in person, over the  
23 phone, or by other electronic or remote means, as  
24 may be prescribed by regulation.

25 “(2) EXCEPTION FOR LARGE ACCOUNTS.—Not-  
26 withstanding paragraph (1), any insured depository

1 institution may require an accountholder of an ac-  
2 count which has an outstanding balance of \$25,000  
3 or more on deposit at the depository institution to  
4 close the account in person, to the extent the depository  
5 institution has provided written notice of such  
6 requirement to the account holder at any time prior  
7 to receiving a request from the accountholder to  
8 close the account.

9 “(d) REPAYMENT OF BALANCES.—

10 “(1) IN GENERAL.—Any balance in an account  
11 at an insured depository institution that is closed by  
12 the institution pursuant to a request by the  
13 accountholder shall repaid to the accountholder in  
14 accordance with the following requirements:

15 “(A) IN PERSON.—If the request is made  
16 in person, the total amount of funds on deposit  
17 in the account shall be paid to the  
18 accountholder at the time the request is made  
19 at the consumer’s option and without a fee, by  
20 certified check provided to the consumer at the  
21 time of the request, by electronic fund transfer  
22 executed on that business day to an account  
23 designated by the consumer, or by any other  
24 means offered by the financial institution if re-  
25 quested by the consumer.

1           “(B) REQUEST MADE BY OTHER MEANS.—

2           If the request is made over the phone, or by  
3           other electronic or remote means, the total  
4           amount of funds on deposit in the account shall  
5           promptly be remitted by the institution to the  
6           accountholder at the consumer’s option and  
7           without a fee, by certified check issued on the  
8           business day on which the request is received,  
9           by electronic fund transfer executed on that  
10          business day to an account designated by the  
11          consumer, or by any other means offered by the  
12          financial institution if requested by the con-  
13          sumer.

14          “(2) TIME LIMIT.—In any case, the payment by  
15          an insured depository institution of the total amount  
16          of funds on deposit in an account at the institution  
17          which the accountholder has requested be closed  
18          shall be remitted to the accountholder before the end  
19          of the 3 business day period beginning when the  
20          accountholder submits such request.

21          “(e) PROHIBITION ON ANY FEES OR CHARGES  
22          AFTER REQUEST TO CLOSE.—No insured depository in-  
23          stitution may impose any fees or charges on any deposit  
24          account at such institution after receiving a request in ac-  
25          cordance with subsection (c) to close the account.

1       “(f) PROHIBITION ON REOPENING ACCOUNT TO  
2 MAKE SUBSEQUENT PAYMENT.—No insured depository  
3 institution may reopen an account that the consumer has  
4 requested be closed in accordance with subsection (c) to  
5 apply subsequent debits, whether preauthorized or other-  
6 wise, or for any other reason, unless the consumer ex-  
7 pressly requests that such account be reopened.

8       “(g) NOTICE OF SUBSEQUENT PREAUTHORIZED RE-  
9 CURRING DEBITS.—During the 30-day period beginning  
10 on the date an account at an insured depository institution  
11 is closed pursuant to a request by the accountholder, the  
12 insured depository institution shall promptly notify the  
13 customer if a preauthorized recurring debit is directed to  
14 the account.

15       “(h) LIMITATION ON REPORTING.—

16               “(1) NEGATIVE BALANCE RESULTING FROM  
17 FEES.—If, at the time any account at an insured de-  
18 pository institution is closed, the account has a neg-  
19 ative balance resulting solely from any fee assessed  
20 by the depository institution, the insured depository  
21 institution may not report the fact of the out-  
22 standing balance or any other adverse information  
23 with respect to such account to any consumer re-  
24 porting agency described in section 603(f) of the  
25 Fair Credit Reporting Act if such information could

1 be used to adversely affect the consumer's ability to  
2 open a transaction account at another depository in-  
3 stitution.

4 “(2) TREATMENT OF NEGATIVE BALANCE RE-  
5 SULTING FROM OVERDRAFTS.—If such information  
6 could be used to adversely affect the consumer's  
7 ability to open a transaction account at another de-  
8 pository institution, an insured depository institution  
9 shall not report to any consumer reporting agency  
10 (as defined in section 603 of the Fair Credit Report-  
11 ing Act) that an account had a negative balance at  
12 the time of the closure of the account unless all of  
13 the following conditions are met:

14 “(A) Only if the negative balance is the re-  
15 sult of funds actually paid by the depository in-  
16 stitution to a third party.

17 “(B) Only for the amount it actually paid  
18 to the third party and not for any fees associ-  
19 ated with the transaction.

20 “(C) Only to the extent the negative bal-  
21 ance is the result of credit extended through an  
22 overdraft line of credit program where the fee  
23 or charge incurred in connection with the over-  
24 draft is considered a finance charge under the  
25 Truth In Lending Act.

1           “(3) NOTICE AND OPPORTUNITY FOR REPAY-  
2           MENT OF OVERDRAFT.—If an account of an  
3           accountholder at an insured depository institution  
4           has a negative balance at the time the account is  
5           closed, the insured depository institution—

6                   “(A) shall promptly notify the  
7                   accountholder of the fact of the negative bal-  
8                   ance and the amount due; and

9                   “(B) may, after the end of the 30-day pe-  
10                  riod beginning on the date notice is provided to  
11                  an accountholder under subparagraph (A)—

12                           “(i) report the fact of the outstanding  
13                           balance or any other adverse information  
14                           with respect to such account to any con-  
15                           sumer reporting agency, subject to the lim-  
16                           itations in paragraph (2); and

17                           “(ii) take any other collection activity  
18                           with respect to such outstanding balance.

19           “(i) TRANSFER OF DIRECT DEPOSIT RECEIVED  
20           AFTER NOTICE OF CLOSURE AND PAYMENT.—If—

21                   “(1) during the 30-day period beginning after  
22                   any balance in an account at an insured depository  
23                   institution that is closed by the institution pursuant  
24                   to a request by the accountholder has been repaid to  
25                   the accountholder, a previously scheduled amount in-

1 tended for direct deposit into such account is re-  
2 ceived by such institution, and

3 “(2) before the time such amount is received,  
4 the consumer provides the insured depository insti-  
5 tution with an account number and insured deposi-  
6 tory institution routing number for a successor  
7 transaction or savings account at another insured  
8 depository institution,  
9 the insured depository institution which receives such  
10 amount shall transfer such amount, without a fee and by  
11 electronic fund transfer, to the insured depository institu-  
12 tion identified by the former accountholder for deposit in  
13 the transaction or savings account identified by such  
14 former accountholder.

15 “(j) REGULATIONS.—The Federal banking agencies  
16 shall jointly prescribe regulations to carry out the pur-  
17 poses of this section.”.

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