113TH CONGRESS
1ST SESSION

S. 187

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

JANUARY 30, 2013

Mr. MERKLEY (for himself, Mr. BROWN, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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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.

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 ''Deceptive Loan Check Elimination Act''.

SEC. 2. UNSOLICITED LOAN CHECKS PROHIBITED.

(a) IN GENERAL.—Section 132 of the Truth in Lending Act (15 U.S.C. 1642) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''No credit''; and

(2) by adding at the end the following:

''(b) UNSOLICITED LOAN CHECKS PROHIBITED.—No person may extend any consumer credit which is otherwise subject to this title through the use by the consumer of a check, other negotiable instrument, or such other similar product as the Bureau may, by rule, determine, that the creditor has sent to the consumer in connection with a solicitation by the creditor for an extension of consumer credit, unless the consumer submitted a written application for, or otherwise requested in writing, the extension of credit before the date on which the creditor sent the check, negotiable instrument, or other similar product.

''(c) 'LOOK-ALIKE' CHECKS.—A certificate, voucher, or other nonnegotiable instrument provided to a consumer in connection with a solicitation for an extension of credit that has the appearance of a check or other negotiable instrument is not an application or request for an extension of credit for purposes of this section.

''(d) LIABILITY OF CONSUMER.—

''(1) LIABILITY OF CONSUMER.—A consumer shall not be liable for—

"(A) the principal amount of a check or other negotiable instrument sent to the consumer in violation of this section; or

"(B) any interest, fee, or penalty charged in connection with such check or negotiable instrument.

"(2) INFORMATION ON CONSUMER.—No information relating to the liability of a consumer alleged by a creditor to have been established through a check or other negotiable instrument sent by a creditor to the consumer in violation of subsection (b) may be reported to or received by any consumer reporting agency or included in any consumer report (as those terms are defined in section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a)).

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

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

"132. Issuance of credit cards and unsolicited loan checks.".

(c) SCOPE OF APPLICATION.—The requirements of this Act and the amendments made by this Act shall apply to solicitations for extensions of credit made to consumers after the date of enactment of this Act.

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