all, new provisions have been introduced which will help to make sure that the Convention is properly implemented.

When these and other measures are added together they make an impressive package that should make a significant contribution to safety and pollution prevention in the years to come. But I think we need something more.

IMO's standards have been so widely adopted that they affect virtually every ship in the world. Therefore, in theory, the casualty and pollution rates of flag States should be roughly the same but in actual practice they vary enormously. That can only be because IMO regulations are put into effect differently from country to country. The measures I have just outlined will help to even out some of these differences, but they will only really succeed if everybody involved in shipping wants them to.

That sounds simple enough. Surely everybody is interested in safety and the prevention of pollution and will do what they can to promote them? To a certain degree perhaps they are—but the degree of commitment seems to vary considerably. The majority of shipowners accept their responsibilities and conduct their operations with integrity at the highest level.

Some others quite deliberately move their ships to different trading routes if Governments introduce stricter inspections and controls: they would rather risk losing the ship and those on board than to undertake and pay for the cost of carrying out the repairs they know to be necessary. Some Governments are also quite happy to take the fees for registering ships under their flag, but fail to ensure that safety and environmental standards are enforced.

The idea that a ship would willingly be sent to sea in an unsafe condition and pose a danger to its crew is difficult to believe and yet it does happen.

The reasons for this are partly historical. We have become so used to the risks involved in seafaring that we have come to see them as a cost that has to be paid, a price which is exacted for challenging the wrath of the oceans. We must change this attitude, this passive acceptance of the inevitability of disaster. When a ship sinks we should all feel a sense of loss and failure, because accidents are not inevitable—they can and should be prevented.

The actions taken by IMO during the last few years will undoubtedly help to improve safety and thereby save lives, but they will have an even more dramatic effect if they help to change the culture of all those engaged in shipping and make safety not just a vague aspiration but a part of every day living, so that it comes as second nature. This is a clear, precise target—a target that is within our grasp if we continue to put our minds and energies to the task.

Fifty years ago, when the United Nations was being planned, few people believed that there would ever be an effective international organization devoted to shipping safety. But, in the same spirit that led to the founding of the United Nations, IMO itself was born. The vision which led to this has been realized and seafarers of the world have benefitted as a result.

However, casualties still do occur and much remains to be done by IMO, by its Member Governments, by the shipping industry and by the seafarers who crew the world's ships, in fact, by all of us involved in shipping. The waters are not uncharted, the course is known, the destination is clear. It is up to us to conduct the voyage in such a way that our objective of maximum safety is in fact realized.●

SCHOOLS FOR THE DEAF AND THE BLIND

● Mr. ROCKEFELLER. Mr. President, I would like to take this opportunity to commend the West Virginia Schools for the Deaf and the Blind for 125 years of service to students with disabilities in my State.

On this very day, September 28 in 1870 the doors of the West Virginia. Schools for the Deaf and the Blind were first opened in the small community of Romney, WV. At that time, 25 deaf and 5 blind children were enrolled that first year in classes in a modest facility. Since that time, literally thousands of men and women of all ages with hearing and/or visual disabilities have passed through the hallowed halls of the West Virginia Schools for the Deaf and the Blind.

Today, hundreds of individuals receive a variety of services through programs offered by these schools—programs like Be a Star, which earned national recognition in the 1993–94 school year as a model for hearing and visually impaired youth as volunteers. People assume that students with disabilities are the recipients of community service initiatives but through Romney's program, the handicapped students were able to get involved in community service projects and make their own personal contributions to the local community which has supported the institution for more than a century. Currently during the 1994–95 school year, the institution is implementing the Stars for Others Program. The goal, once again, is to let students be the leaders they can be in their respective communities. The school expects this year to log over 5,000 hours of staff and student volunteer hours of public service, and I am quite proud of this initiative.

In addition to the regular educational programs offered on campus, over 100 preschoolers and their families receive services through special outreach programs. More than 450 students with visual disabilities throughout our State receive Braille and large print materials through the Instructional Resource Center. Over 250 individuals receive talking books through a loan program coordinated by the Library of Congress. Captioned films are made available through the Captioned Film Depository. Each year, many children with hearing and/or visual disabilities participate in the Preschool Diagnostic and Evaluation Program and in the summer enrichment programs.

This is a tremendous institution striving to improve its services and enhance the quality of life for students with disabilities so that they can live as independently as possible. The efforts made daily by every administrator, every teacher, every individual associated with the West Virginia Schools for the Blind and the Deaf have opened many doors to people with disabilities, and given them opportunities for jobs and freedom that they may not have otherwise. The schools have stressed that a physical impediment should not be a wall that blocks students from the life, but that they too can overcome challenges and play a vital role in our society. I share this view and am proud of the tremendous progress made by our society over time in recognizing the potential of individuals with disabilities. This institution has contributed a great deal to helping ensure that every American, regardless of disability, should have the chance to be happy, productive members of our society.

The West Virginia Schools for the Deaf and the Blind make a very real difference in the lives of students and their families. With great pride, and on behalf of all of West Virginia, I send my warmest congratulations on such a special anniversary, as well as best wishes for more years of service.●

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a-1928d, as amended, appoints the following Senators as Members of the Senate Delegation to the North Atlantic Assembly fall meeting during the first session of the 104th Congress, to be held in Turin, Italy, October 5–9, 1995: The Senator from Mississippi, Mr. COCHRAN; the Senator from Iowa, Mr. GRASSLEY; the Senator from Alaska, Mr. MURKOWSKI; the Senator from Washington, Mr. GORTON; and the Senator from Hawaii, Mr. AKAKA.

TRUTH IN LENDING ACT AMENDMENTS

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2399 just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2399) to amend the Truth in Lending Act to clarify the intent of such act and to reduce burdensome regulatory requirements on creditors.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. D'AMATO. Mr. President, I rise today to voice my support for the Truth in Lending Act Amendments of 1995. Our colleagues in the House recently passed this legislation. It is the product of bipartisan cooperation between the Senate and the House. The broad bipartisan support that this bill has attracted is evidence of the urgency of the situation that it addresses. As chairman of the Banking Committee, I believe that immediate action

is warranted. I would therefore encourage my colleagues to immediately consider and pass H.R. 2399.

Mr. President, H.R. 2399 is intended to curtail the devastating liability that threatens our housing finance system in the wake of the Eleventh Circuit Court of Appeals' recent decision in Rodash versus AIB Mortgage Co. The Rodash case produced an onslaught of over 50 class action suits. The majority of these suits demanded the most draconian remedy available under Truth in Lending—rescission. When a loan is rescinded, the borrower is released from the obligation under the mortgage. Currently, there are dozens of Rodash-styled class action suits pending. If rescission is granted in a class action lawsuit, every class member would be entitled to reimbursement of all finance charges, as well as other charges.

The threat of wholesale rescissions presents a real danger to our modern system of home financing: potential liability that could reach into the billions. Last spring we enacted H.R. 1380, a class action moratorium. We enacted this moratorium to allow both Houses time to craft a solution. The moratorium expires on October 1, 1995—so now is the time to act.

Mr. President, I cannot overemphasize the threat to our mortgage lending system and the secondary markets that provide the mortgage market with liquidity. And we cannot forget that the liquidity of the mortgage markets has helped millions of Americans obtain their dream of home ownership at lower costs.

H.R. 2399 is the result of much hard work and represents a commonsense compromise to a highly technical problem. H.R. 2399 provides greater certainty for lenders without eliminating the substantive protection available to consumers. I would like to summarize some of the important provisions of this bill:

First, this bill provides retroactive relief from Rodash-styled class actions that are pending certification.

H.R. 2399 also clarifies the treatment of certain fees for the purposes of the Truth-in-Lending disclosures.

This legislation provides greater flexibility, or tolerance, for honest mistakes that result in technical violations and can produce a litigation morass. The current tolerances provided under the law are unreasonably low, especially in the context of the 3-year right of rescission.

Two tolerances are established for rescission purposes. The tolerance formulas are based on the size of the loan in question. A smaller tolerance is established for standard nonpurchase money mortgages. If a borrower receives money from a refinance, only that money is subject to rescission. A larger tolerance is available in no new money refinancings. No new money refinancings are used by consumers to take advantage of declining interest rates. In these refinancings, no advances—other than loan proceeds that might be used to finance closing costs, which are not deemed to be new advances—are received by the consumer.

H.R. 2399 clarifies the liability of assignees and loan servicers under Truth in Lending. These clarifications will provide greater certainty for the secondary market and help enhance liquidity of the mortgage market in general.

H.R. 2399 also contains substantive protection for consumers. It retains the 3 day right rescission, and creates a right of rescission in the mortgage foreclosure context.

The Truth in Lending Act requires lenders to provide consumers with notice of their right to rescind in certain transactions. However, the requirements concerning the form of notice to be provided are ambiguous. This bill eliminates liability when the incorrect form of rescission notice was given to the borrower in a closed-end transaction as long as the consumer received a completed form, whether the form was one of the model forms published by the Federal Reserve Board or a comparable form. The addition of the requirement that the lender otherwise complied with all the requirements of this section regarding notice is intended to make clear that the lender will continue to have liability for any violation of this title that is unrelated to the form of notice, such as a misdisclosure of the APR that exceeds the tolerance. However, the lender will not be penalized for the form of notice it provided.

While any of us might take issue with any of the particular provisions in this bill, on balance it represents a workable solution, and demonstrates congressional resolve in the face of a tremendous problem. I urge all my colleagues to support this important legislation and pass it immediately, without amendments.

Mr. SARBANES. Mr. President, I rise in support of H.R. 2399, the Truth in Lending Act Amendments of 1995. This bill represents a solution to the so-called Rodash problem.

I would like to begin by commending the chairman of the Senate Banking Committee, Senator D'AMATO, the chairman and ranking member of the House Banking Committee, Representative LEACH, Representative GONZALEZ, Representative MCCOLLUM, and Representative VENTO for their cooperation in working out a bipartisan resolution of this problem. In my view, it responds to legitimate concerns raised by the financial industry but preserves the basic consumer protections of the Truth in Lending Act.

The Rodash problem arose from a court decision last year in which small violations of the disclosure requirements of the Truth in Lending Act triggered the right of rescission provided by the act. That decision, in turn, resulted in the filing of class action lawsuits against creditors for small violations of the disclosure requirements. The Congress placed a moratorium on such lawsuits in order to provide time to sort out this issue and clarify the statute. The moratorium expires on October 1. It is therefore important for the Congress to act expeditiously on a permanent solution to the Rodash problem.

The House Banking Committee included a response to the Rodash problem in a larger banking bill reported out of the committee earlier this year. That bill, in my view, went beyond fixing the Rodash problem. If passed, it would have weakened the Truth in Lending Act and undermined critical consumer protections.

In order to enact a solution to the Rodash problem before the moratorium expires, agreement was reached to try to move the Rodash package as a separate bill. Negotiations were undertaken between the House and Senate, and a compromise was reached which is contained in H.R. 2399. The House passed H.R. 2399 on Wednesday by unanimous consent. The Senate will do so today.

The bill before the Senate today improves significantly the measure passed by the House Banking Committee. Under the original House bill, consumers would have lost the right of rescission for a whole class of loans even if the most egregious violations of the Truth in Lending Act were committed. The bill before the Senate preserves that vital consumer protection.

The original House bill also would have eliminated, for an entire class of mortgage loans, the borrower's right to a 3-day cooling off period after closing on a loan. The bill before the Senate retains that cooling off period.

Moreover, the bill before the Senate protects the most vulnerable citizens from abusive lenders. It provides consumers with truth in lending protections when faced with foreclosure. This bill will help many elderly people keep their homes.

This bill increases the tolerance for statutory damages, lifting the bar that determines what constitutes a violation. This bill does not increase the tolerance as much as the original House bill. This is important because a low tolerance is needed to ensure that consumers are receiving accurate information about the cost of credit.

This increased tolerance for errors is intended to protect lenders from the small errors in judgment that occurred in the Rodash case. It is obviously not intended to give lenders the right to pad fees up to the tolerance limit of $100. For example, if a delivery associated with the closing cost on a home mortgage costs $30, $30 should be charged and disclosed as part of the finance charge. A lender cannot arbitrarily raise the charge an additional $70 simply because there is a wider tolerance.

The purpose of the Truth in Lending Act is to require disclosure to consumers of the cost of their credit. An outstanding problem remains that there are too many exclusions and exemptions that blur the bottom line. The

bill directs the Federal Reserve to report to Congress and develop regulations to ensure that all charges related to the extension of credit are included in the finance charges. Lenders and consumers agree that it is important to alleviate confusion over the treatment of fees in the finance charge. The Federal Reserve has 1 year to develop these regulations.

The bill specifically exempts certain charges from the finance charge, including third party fees, taxes on security instruments, fees for preparations of loan documents, and fees relating to pest infestations. The purpose of the exemptions is to provide some clarity on the treatment of those fees until the Fed acts to ensure that the finance charge definition more accurately reflects the cost of providing credit. The fact that these exemptions are included does not create a presumption or requirement for the Fed to exclude them from the definition of finance charges. The Fed should include all charges in the finance charge unless those charges are not related to the extension of credit. I look forward to the Federal Reserve's action and I am hopeful this will lead to simpler and more common sense disclosure.

Mr. President, I am pleased that a reasonable agreement, embodied in H.R. 2399, has been reached to address the Rodash problem. I urge my colleagues to support this bill.

Mr. MACK. Mr. President, the Truth in Lending Act Amendments of 1995 will finally bring an end to the massive potential liability facing the mortgage industry as a result of extraordinary penalties under the Truth in Lending Act [TILA] for technical errors. Recognizing the threat to mortgage lending, we placed a moratorium on class actions for certain technical violations under TILA to give us an opportunity to develop a solution. The Truth in Lending Act Amendments of 1995 provide that solution.

This bill does a number of important things. First, it provides retroactive relief to the mortgage industry from the extreme potential liability that was caused by the Rodash versus AIB Mortgage Co. case. This problem, which seriously threatened the viability of residential mortgage lending in this country including the mortgage-backed securities markets, was caused by the ambiguity surrounding the proper treatment of certain charges, and the extremely low tolerance for any error in making disclosures. The current treatment of fees, such as mortgage broker fees, has been challenged in litigation. It is not fair to subject a lender to extreme penalties for their treatment of these fees, which some are now trying to recharacterize as finder's fees. The entire industry historically excluded these fees from the finance charge, without regard to whether the broker received yield spread premiums or other types of compensation from the lender—known or unknown to the borrower—or whether the broker is acting as an agent of the borrower, the lender or both. Based upon the preexisting language of TILA, Regulation Z and the Federal Reserve Board commentary—particularly 4(a)–3, this exclusion is manifestly correct. However, it seems proper to eliminate any issue whatsoever. With this legislation, lenders will now be able to get on with the business of making loans.

Second, the bill prospectively clarifies the treatment of specific charges such as tangible taxes and courier fees. This gives creditors greater certainty and provides consumers with more accurate disclosures through uniform treatment of charges. The Federal Reserve is also directed to review the finance charge disclosure and make recommendations to improve it. Specifically we are looking for recommendations that make the finance charge disclosure more accurately reflect the cost of credit. In addition, we would like suggestions on how to eliminate any abusive practices that have developed in the reporting of the finance charge.

Third, recognizing the highly technical nature of the Truth in Lending Act, the bill raises the tolerance level for understated disclosures for all future transactions from $10 to $100 for civil liability purposes. For errors which can lead to rescission of the loan, which is a much more extreme penalty, the tolerance is ½ of 1 percent of the loan amount. However, for certain refinance loans where the refinancing borrower did not receive additional new advances from the creditor, the tolerance is 1 percent of the loan amount. In accordance with current Federal Reserve regulations, funds to finance the closing costs of the transaction do not constitute new advances.

Fourth, the bill clarifies that loan servicers are not assignees for purposes of Truth in Lending liability if they only own legal title for servicing purposes.

Fifth, the bill raises the statutory damages for individual actions from $1,000 to $2,000. Statutory damages are provided in TILA because actual damages, which require proof that the borrower suffered a loss in reliance upon the inaccurate disclosure, are extremely difficult to establish.

Sixth, the bill preserves the consumer's 3-day rescission period for all refinance loans with different creditors. As currently set forth in the Truth in Lending Act, this cooling off period expires in 3 years. Contrary to some court decisions which have allowed this rescission period to extend for as long as 8 years after the loan was closed in the context of recoupment, the existing statutory language is clear: 3 years means 3 years and the time period shall not be extended except as explicitly provided in section 125(f).

Moreover, as is currently set forth in the Federal Reserve regulations, when a borrower refinances an existing loan and takes out new money, only the new money is subject to rescission.

This legislation is critical to avert what could be a financial disaster in the mortgage industry. I appreciate the bipartisan effort to fix the problems with the Truth in Lending Act while still protecting the rights of the consumers and I urge the adoption of this bill.

Mr. GRAMM. I ask unanimous consent that the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statements related to the bill appear at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2399) was deemed read a third time and passed.

SMALL BUSINESS LENDING ENHANCEMENT ACT OF 1995—CONFERENCE REPORT

Mr. GRAMM. Mr. President, I submit a report of the committee of conference on S. 895 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 895) to amend the Small Business Act to reduce the level of participation by the Small Business Administration in certain loans guaranteed by the Administration, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

Mr. GRAMM. Mr. President, I ask unanimous consent that the conference report be agreed to, the motion to reconsider be laid upon the table, and that any statement related to the conference report be included in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the conference report was agreed to.

EXPENDITURES FOR OFFICIAL OFFICE EXPENSES

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 176, submitted earlier today by Senators WARNER and FORD.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

A resolution (S. Res. 176) relating to expenditures for official office expenses.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.