

101 and title V of the Senate amendment, and modifications committed to conference: Messrs. BARTON of Texas, BILIRAKIS, and DINGELL.

From the Committee on the Judiciary, for consideration of section 205 of the House bill, and section 101 of the Senate amendment, and modifications committed to conference: Messrs. SEN-SENRENNER, SMITH of Texas, and CONYERS.

The message further announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1047) to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes.

#### ENROLLED BILLS SIGNED

The message also announced that Speaker has signed the following enrolled bills:

S. 1791. An act to amend the Lease Lot Conveyance Act of 2002 to provide that the amounts received by the United States under that Act shall be deposited in the reclamation fund, and for other purposes.

S. 2178. An act to make technical corrections to laws relating to certain units of the National Park System and to the National Park programs.

S. 2511. An act to direct the Secretary of the Interior to conduct a feasibility study of a Chimayo water supply system, to provide for the planning, design, and construction of a water supply, reclamation, and filtration facility for Espanola, New Mexico, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

At 3:14 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 514. Concurrent resolution directing the Clerk of the House of Representatives to make a technical correction in the enrollment of the bill H.R. 4200.

H. Con. Res. 518. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The message further announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on

the amendment of the Senate to the bill (H.R. 4567) making appropriations, for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes.

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4837) making appropriations, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes.

At 3:46 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 519. Concurrent resolution correcting the enrollment of H.R. 5107.

#### MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2949. A bill to amend the Low-income Home Energy Assistance Act of 1981 to reauthorize the Act, and for other purposes.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SCHUMER:

S. 2969. A bill entitled the "Fair Gift Card Act"; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. SNOWE:

S. 2970. A bill to redesignate the project for navigation, Saco River, Maine, as an anchorage area; to the Committee on Environment and Public Works.

By Ms. CANTWELL:

S. 2971. A bill to permanently increase the maximum annual contribution allowed to be made to Coverdell education savings accounts; to the Committee on Finance.

By Ms. CANTWELL:

S. 2972. A bill to amend the Internal Revenue Code of 1986 to permanently increase the maximum annual contribution allowed to be made to Coverdell education savings accounts, and to provide for a deduction for contributions to education savings accounts; to the Committee on Finance.

By Mr. CORZINE (for himself, Mrs. BOXER, Mrs. MURRAY, Mr. SCHUMER, Mr. LAUTENBERG, and Mr. LEAHY):

S. 2973. A bill to clarify the applicability of State law to national banks, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HARKIN (for himself and Mrs. LINCOLN):

S. Res. 454. A resolution expressing the sense of the Senate that the 108th Congress

should provide the necessary funds to make disaster assistance available for all customarily eligible agricultural producers as emergency spending and not funded by butts to the farm bill; considered and agreed to.

#### ADDITIONAL COSPONSORS

S. 1700

At the request of Mr. LEAHY, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 1700, a bill to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.

S. 2338

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 2338, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 2395

At the request of Mr. CONRAD, the names of the Senator from Connecticut (Mr. DODD) and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of S. 2395, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes.

S. 2571

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 2571, a bill to clarify the loan guarantee authority under title VI of the Native American Housing Assistance and Self-Determination Act of 1996.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCHUMER:

S. 2969. A bill entitled the "Fair Gift Card Act", to the Committee on Banking, Housing, and Urban Affairs.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

*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 "Fair Gift Card Act".

#### SEC. 2. DEFINITIONS.

In this Act:

(1) GIFT CERTIFICATE, STORE GIFT CARD, OTHER PREPAID CARDS.—The terms "gift certificate", "store gift card", and "general-use prepaid card" have the following meanings:

(A) GIFT CERTIFICATE.—The term “gift certificate” means a written promise that is—

(i) usable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo;

(ii) issued in a specified amount and cannot be increased;

(iii) purchased on a prepaid basis in exchange for payment; and

(iv) honored upon presentation by such single merchant or affiliated group of merchants for goods or services.

(B) STORE GIFT CARD.—The term “store gift card” means a plastic card or other electronic payment device that is—

(i) usable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo;

(ii) issued in a specified amount and may or may not be increased in value or reloaded;

(iii) purchased on a prepaid basis in exchange for payment; and

(iv) honored upon presentation by such single merchant or affiliated group of merchants for goods or services.

(C) GENERAL-USE PREPAID CARD.—

(i) IN GENERAL.—The term “general-use prepaid card” means a card or other electronic payment device issued by a bank or financial institution, or by a licensed money transmitter that is—

(I) usable at multiple, unaffiliated merchants or service providers, or at automated teller machines;

(II) issued in a requested amount whether or not that amount may be, at the option of the issuer, increased in value or reloaded if requested by the holder;

(III) purchased or loaded on a prepaid basis; and

(IV) honored, upon presentation, by merchants for goods or services, or at automated teller machines.

(ii) EXCEPTION.—The term “general-use prepaid card” does not include a debit card that is linked to a demand deposit or share draft account.

(D) EXCLUSION.—The terms “gift certificate”, “store gift card”, and “general-use prepaid card” do not include a written promise, plastic card, or other electronic device that is—

(i) used solely for telephone services; or

(ii) associated with a demand deposit, checking, savings or similar account in the name of the individual at a bank or financial institution, and that provides payment solely by debiting such account.

(2) DEBIT CARD.—The term “debit card” has the meaning given that term under section 603(r)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681a(r)(3)).

(3) FINANCIAL INSTITUTION.—The term “financial institution” has the meaning given that term under section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)).

(4) DORMANCY FEE; INACTIVITY CHARGE OR FEE.—The terms “dormancy fee” and “inactivity charge or fee” mean a fee, charge, or penalty for non use or inactivity of a gift certificate, store gift card, or prepaid general-use card.

(5) SERVICE FEE.—The term “service fee” means a periodic fee, charge, or penalty for holding or use of a gift certificate, store card, or prepaid general use card.

(6) LICENSED MONEY TRANSMITTER.—The term “licensed money transmitter” means a person who sells or issues payment instruments or engages in the business of receiving money for transmission or transmitting money within the United States or to locations abroad by any and all means, including but not limited to payment instrument, wire, facsimile or electronic transfer.

### SEC. 3. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH GIFT CARDS.

(a) IMPOSITION OF FEES OR CHARGES.—

(1) IN GENERAL.—Except as provided for in paragraphs (2), (3), and (4) it is unlawful for any person to impose with respect to a gift certificate, store gift card, or general-use prepaid card a dormancy fee, inactivity charge or fee or a service fee.

(2) EXCEPTION.—A dormancy fee, inactivity charge or fee, or service fee described in paragraph (1) may be charged with respect to a gift certificate, store gift card, or general-use prepaid card if—

(A) at the time the charge or fee is assessed the certificate or card has a remaining value of \$5 or less;

(B) the charge or fee does not exceed \$1;

(C) there has been no activity with respect to the certificate or the card for at least 24 consecutive months;

(D) the holder of the certificate or the card may reload or add value to the certificate or the card; and

(E) the requirements of paragraph (3) are met.

(3) REQUIREMENTS.—The requirements of this paragraph are that—

(A) the certificate or card clearly and conspicuously states in 10-point font—

(i) that a charge or fee described in paragraph (1) may be charged; and

(ii) the amount of the charge or fee, how often the charge or fee may be assessed, and that the charge or fee may be assessed for inactivity; and

(B) the issuer of the certificate or card informs the purchaser of the charge or the fee before the certificate or card is purchased, regardless of whether the certificate or card is purchased in person, over the Internet, or by telephone.

(4) EXCLUSION.—The prohibitions and requirements contained in this subsection shall not apply to gift certificates that—

(A) are distributed pursuant to an award, loyalty, or promotional program and with respect to which there is no money or other value exchanged; or

(B) expire not later than 30 days after the date they are sold and are sold below the face value of the certificate to an employer, or to a nonprofit or charitable organization for fundraising purposes.

(b) LIMITATIONS ON EXPIRATION DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), it is unlawful for any person to sell or issue a gift certificate, store gift card, or general-use prepaid card that is subject to an expiration date.

(2) EXCEPTIONS.—A gift certificate, store gift card, or general-use prepaid card may contain an expiration date if the expiration date is not less than 5 years from the date the card is purchased. Expiration terms must be prominently disclosed in at least 10-point font and in all capital letters.

### SEC. 4. RELATION TO STATE LAWS

The Act and any regulations or standards established pursuant to this Act shall not supersede any State law or regulation with respect to charges, fees, and expiration dates of gift certificates, store gift card, or general-use prepaid cards.

### SEC. 5. ENFORCEMENT.

(a) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A violation of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) ACTIONS BY THE COMMISSION.—The Federal Trade Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provi-

sions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

(c) INDIVIDUAL CAUSE OF ACTION.—Nothing in this Act shall be construed to limit an individual's rights to enforce a State law relating to unfair or deceptive acts or practices.

By Ms. CANTWELL:

S. 2971. A bill to permanently increase the maximum annual contribution allowed to be made to Coverdell education savings accounts; to the Committee on Finance.

By Ms. CANTWELL:

S. 2972. A bill to amend the Internal Revenue Code of 1986 to permanently increase the maximum annual contribution allowed to be made to Coverdell education savings accounts, and to provide for a deduction for contributions to education savings accounts; to the Committee on Finance.

Ms. CANTWELL. Mr. President, I rise today to talk about increasing educational opportunities by improving a tax-free way to save for college. A college education is invaluable in today's workforce, requiring new skills and a post-secondary education to stay competitive in our global economy. That's why I am introducing two pieces of legislation that will help make paying for college easier:

The Education Savings for Students Act and College Savings Act both expand current Coverdell education savings accounts by permanently increasing the annual contribution amount to \$5,000.

The College Savings Act would allow families to deduct from income the amount they contribute to their education savings account. The Education Savings Act keeps the current conditions under Coverdells that investment earnings grow tax-free and withdrawals from their account are tax-exempt when their child goes to school, but permanently increases the minimum annual contribution from \$2,000 to \$5,000.

Both bills provide a financial incentive to put away money for college where parents have the ability to save now through deductible contributions or bank on projected savings through tax-deferred earnings and withdrawals.

It's incredible how fast kids grow. One day they're in kindergarten, and the next day they're packing up and leaving for college. What's even more incredible is that higher education costs grow just as fast as they do.

I understand that parents have a lot to worry about, especially when their children are young. But with rising college costs, parents must also be concerned about how to pay for their child's college education. Mounting tuition costs and prices for books and materials, plus room and board have made colleges and universities less affordable for most families.

College is expensive. There are many parents whose children have aimed to go to college, but soon discover they can't afford it because of rising costs.

In 2002, the National Center for Public Policy and Higher Education reported national trends which—if remain unaddressed—will have adverse consequences for expanding students' opportunities to pursue a higher education and future career.

This report found that over the last two decades, the cost of attending two- and four-year public and private colleges have not only grown more rapidly than inflation, but faster than family incomes, increasing the share of family income that is needed to pay for tuition and other college expenses. From 1991 through 2001, tuition at four-year public colleges and universities rose faster than family income in 41 states, including my home State of Washington.

The Washington State Higher Education Coordinating Board reports that, over the last ten years, tuition and fees have far outpaced family income, increasing 89 percent compared to 51 percent in per capita personal income in my state. In comparison, the cost of most consumer goods increased an average of 20 percent during the same time. And, per capita personal income in Washington increased 51 percent during this period.

As a result, more students and families at all income levels are borrowing more money than ever before to pay for college. In 1981, loans accounted for 45 percent and grants for 52 percent of federal student financial aid. In 2000, loans represented 58 percent of Federal student financial aid, and grants represented 41 percent.

Unfortunately, the steepest increases in college and university tuition have been imposed during times of greatest economic hardship. Just in the past three years, our economy has experienced a loss of 1.8 million private sector jobs and 2.7 million manufacturing jobs. It is my priority that we prepare our workers for the jobs of today and the careers of the future. If we want to maintain our economic competitiveness, we need to make college more affordable. We must keep up with the demand for skilled workers across all sectors of the economy.

In February, the Bureau of Labor Statistics reported that six of the ten fastest-growing occupations in the U.S. economy require an associate's degree or bachelor's degree, and that all ten of these careers will require some type of skills training. By 2010, 40 percent of all job growth will require some form of post-secondary education.

Workers with a college degree make 75 percent more than those without. A college education pays tremendous dividends—not just to individuals, but also to their entire communities. On average, a one-year increase in a metropolitan area's educational level raises wages by three to five percent.

Affordability is key to expanding opportunities to go to college. Let's face it, we're not all going to pay for college by winning the lottery. Saving for college early and often will help lift the

pressures off of parents who are feeling the financial squeeze of increased tuition and fees.

For these families, Coverdell Education Savings plans provide a needed relief for the middle class. The purpose of education savings plans are to increase saving by increasing net returns. Today, parents can put up to \$2,000 a year into a Coverdell Education Savings account. The actual contribution is not tax deductible, but all earnings in this account are free from taxes when they are withdrawn to pay for school.

However, the current \$2,000 annual limit on Coverdell contributions will be repealed in 2010 unless Congress acts to extend it. If we don't extend the contribution level, the maximum contribution will drop to \$500.

While the current tax benefit makes it easier to save for college, the Education Savings Act would increase the annual contributions from \$2,000 to \$5,000 and making this change permanent ensures greater savings for families. By increasing the amount parents can put aside for their children's college savings, middle-income parents will be able to more easily save for their child's college education.

Say for example, parents start saving when their child turns eight years old. If they put away just \$100.00 a month—at an interest rate of savings of four percent—by the time their kid turns 18, their account would have earned more than \$12,400 in interest. Parents will save over \$3,100 in taxes when that child is old enough to go to school.

In addition to projected savings, parents also have the option to save now. The College Savings Act would offer families the ability to deduct their contributions each year—

Both of these bills, the College Savings Act and the Education Savings Act are financial incentives for people to save by allowing families to deduct the amount they contribute and take tax-free earnings when their child is ready to go to school, would further lessen the financial burden that parents bear by saving money early and often.

Permanently expanding the Coverdell maximum contribution from its current threshold of \$2,000 to \$5,000 a year and allowing this contribution to be tax deductible is a common-sense savings vehicle that keeps future college costs from spinning out of control. Increasing contribution caps will make school more affordable at a time when a college education and advanced job training is becoming more and more important for economic success.

By Mr. CORZINE (for himself, Mrs. BOXER, Mrs. MURRAY, Mr. SCHUMER, Mr. LAUTENBERG, and Mr. LEAHY):

S. 2973. A bill to clarify the applicability of State law to national banks, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

Mr. CORZINE. Mr. President, I rise today to introduce legislation along with Senators BOXER, MURRAY, SCHUMER, LAUTENBERG, and LEAHY the Preservation of Federalism in Banking Act, to clarify the relationship between state consumer protection laws and national banks.

This legislation responds to a sweeping new rule issued by the Office of the Comptroller of the Currency, the agency that regulates national banks. The OCC's new rule gives the agency unprecedented authority to pre-empt State laws, thereby shielding national banks and their non-bank and State-chartered bank affiliates from many important consumer protections. It also potentially limits the ability of States to enforce many related laws. The most important immediate consequence of the OCC rule has been the preemption of State anti-predatory lending laws.

I feel strongly about the need to address predatory lending, which can trap people in endless cycles of debt and escalating fees. Many States, such as my own state of New Jersey, have enacted tough laws to deal with the problem. Unfortunately, the OCC's ruling substantially undermines these laws by regulatory fiat. That will leave many consumers unprotected, and it shifts too many responsibilities to a single agency here in Washington that is not equipped to handle them. After all, according to its own website, the OCC "does not have the mandate to engage in consumer advocacy".

Although the OCC has a long and successful record of regulating for safety and soundness, it has little experience dealing with abusive local practices, such as predatory lending. Believe it or not, the OCC actually is proposing to handle all consumer complaints through a single 22-person call center in Houston. This is totally unrealistic. Each year, State officials receive thousands of related complaints, which usually are very local in nature. These officials are at the forefront of the enforcement effort, identifying and combating new practices as they arise. The OCC's system simply could not fill this role without major changes.

The OCC rule also raises concerns about regulatory charter competition, the viability of a broad range of state laws, and the ability of consumers and state officials to seek remedies in court.

The OCC rule has provoked strong opposition from governors, attorneys general, banking supervisors, and many consumer advocacy groups, not to mention the public. The OCC received over 2,600 letters in response to its rules, and more than 90 percent opposed them.

The Preservation of Federalism in Banking Act is a limited and reasonable response to the OCC rule. The bill will clarify the state consumer protection laws with which banks and their

affiliates must comply. It also will protect financial institutions from overreaching state laws that seek to directly regulate the core activities of national banks.

While the OCC has long had the statutory responsibility to regulate the activities of national banks, it has never denied the ability of states to protect their citizens. The OCC historically has used its authority under the National Bank Act in a reasonable way to shield national banks from state banking laws that intrude on the OCC's congressionally-granted powers. While we should continue to support the appropriate use of the agency's authority, it is important that we immediately intervene to reverse the OCC's regulatory overreach and prevent the agency from preempting all state consumer protection laws and state authority to enforce related laws.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2973

*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 "Preservation of Federalism in Banking Act".

**SEC. 2. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS CLARIFIED.**

(a) IN GENERAL.—Chapter 1 of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after section 5136B (12 U.S.C. 25a) the following new section:

**"SEC. 5136C. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS AND SUBSIDIARIES CLARIFIED.**

"(a) STATE CONSUMER LAWS OF GENERAL APPLICATION.—

"(1) IN GENERAL.—Notwithstanding any other provision of Federal law, any State consumer law of general application (including any law relating to unfair or deceptive acts or practices and any consumer fraud law) shall apply to any national bank.

"(2) NATIONAL BANK DEFINED.—For purposes of this section, the term 'national bank' includes any Federal branch established in accordance with the International Banking Act of 1978.

"(b) STATE BANKING LAWS ENACTED PURSUANT TO FEDERAL LAW.—

"(1) IN GENERAL.—Notwithstanding any other provision of Federal law and except as provided in paragraph (2), any State law that—

"(A) is applicable to State banks; and  
 "(B) was enacted pursuant to or in accordance with, and is consistent with, an Act of Congress, including the Gramm-Leach-Bliley Act and the Consumer Credit Protection Act, that permits States to exceed or supplement the requirements of any comparable Federal law, shall apply to any national bank.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to any State law if—

"(A) the State law discriminates against national banks; or

"(B) the State law is inconsistent with other provisions of Federal law, but only to the extent of the inconsistency (as determined in accordance with the other provision of Federal law).

"(c) NO NEGATIVE IMPLICATIONS FOR APPLICABILITY OF OTHER STATE LAWS.—No provision of this section shall be construed as altering or affecting the applicability, to national banks, of any State law which is not described in subsection (a) or (b)."

(b) DENIAL OF PREEMPTION NOT A DEPRIVATION OF A CIVIL RIGHT.—The preemption of any provision of the laws of any State with respect to any national bank shall not be treated as a right, privilege, or immunity for purposes of section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983).

(c) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title LXII of the Revised Statutes of the United States, is amended by inserting after the item relating to section 5136B the following new item:

"5136C. State law preemption standards for national banks and subsidiaries clarified."

**SEC. 3. VISITORIAL STANDARDS.**

Section 5136C of the Revised Statutes of the United States (as added by section 2(a) of this Act) is amended by adding at the end the following new subsection:

"(d) VISITORIAL POWERS.—No provision of this title which relates to visitorial powers or otherwise limits or restricts the supervisory, examination, or regulatory authority to which any national bank is subject shall be construed as limiting or restricting the authority of any attorney general (or other chief law enforcement officer) of any State to bring any action in any court of appropriate jurisdiction—

"(1) to enforce any applicable Federal or State law, as authorized by such law; or

"(2) on behalf of residents of such State, to enforce any applicable provision of any Federal or State law against a national bank, as authorized by such law, or to seek relief and recover damages for such residents from any violation of any such law by any national bank."

**SEC. 4. CLARIFICATION OF LAW APPLICABLE TO STATE-CHARTERED NONDEPOSITORY INSTITUTION SUBSIDIARIES.**

Section 5136C of the Revised Statutes of the United States (as added and amended by this Act) is amended by adding at the end the following new subsection:

"(e) CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES OF NATIONAL BANKS.—

"(1) IN GENERAL.—No provision of this title shall be construed as preempting the applicability of State law to any State-chartered nondepository institution subsidiary of a national bank, except to the extent that the preemption is explicitly provided by an Act of Congress.

"(2) DEFINITIONS.—For purposes of this subsection, the terms 'depository institution' and 'subsidiary' have the same meanings as in section 3 of the Federal Deposit Insurance Act."

**SEC. 5. DATA COLLECTION AND REPORTING.**

(a) COLLECTING AND MONITORING CONSUMER COMPLAINTS.—

(1) IN GENERAL.—The Comptroller of the Currency shall record and monitor each complaint received directly or indirectly from a consumer regarding a national bank or any subsidiary of a national bank and record the resolution of the complaint.

(2) FACTORS TO BE INCLUDED.—In carrying out the requirements of paragraph (1), the Comptroller of the Currency shall include—

(A) the date on which the consumer complaint was received;

(B) the nature of the complaint;

(C) when and how the complaint was resolved, including a brief description of the extent, and the results, of the investigation made by the Comptroller into the complaint, a brief description of any notices given and

inquiries made to any other Federal or State officer or agency in the course of the investigation or resolution of the complaint, a summary of the enforcement action taken upon completion of the investigation, and a summary of the results of subsequent periodic reviews by the Comptroller of the extent and nature of compliance by such national bank or subsidiary with the enforcement action; and

(D) if the complaint involves any alleged violation of a State law (whether or not Federal law preempts the application of such State law to such national bank) by such bank, a cite to and a description of the State law that formed the basis of the complaint.

(b) REPORT TO THE CONGRESS.—

(1) PERIODIC REPORTS REQUIRED.—The Comptroller of the Currency shall submit a report semi-annually to the Congress on the consumer protection efforts of the Office of the Comptroller of the Currency.

(2) CONTENTS OF REPORT.—Each report submitted under paragraph (1) shall include the following:

(A) The total number of consumer complaints received by the Comptroller during the period covered by the report with respect to alleged violations of consumer protection laws by national banks and subsidiaries of national banks.

(B) The total number of consumer complaints received during the reporting period that are based on each of the following:

(i) Each title of the Consumer Credit Protection Act (reported as a separate aggregate number for each such title).

(ii) The Truth in Savings Act.

(iii) The Right to Financial Privacy Act of 1978.

(iv) The Expedited Funds Availability Act.

(v) The Community Reinvestment Act of 1977.

(vi) The Bank Protection Act of 1968.

(vii) Title LXII of the Revised Statutes of the United States.

(viii) The Federal Deposit Insurance Act.

(ix) The Real Estate Settlement Procedures Act of 1974

(x) The Home Mortgage Disclosure Act of 1975.

(xi) Any other Federal law.

(xii) State consumer protection laws (reported as a separate aggregate number for each State and each State consumer protection law).

(xiii) Any other State law (reported separately for each State and each State law).

(C) A summary description of the resolution efforts by the Comptroller for complaints received during the period covered, including—

(i) the average amount of time to resolve each complaint;

(ii) the median period of time to resolve each complaint;

(iii) the average and median time to resolve complaints in each category of complaints described in each clause of subparagraph (B); and

(iv) a summary description of the longest outstanding complaint during the reporting period and the reason for the difficulty in resolving such complaint in a more timely fashion.

(3) DISCLOSURE OF REPORT ON OCC WEBSITE.—Each report submitted to the Congress under this subsection shall be posted by the Comptroller of the Currency in a timely fashion, and maintained on the website of the Office of the Comptroller of the Currency on the World Wide Web.