

hard-working groups like the National Safe Boating Council and the selfless, intrepid men and women of the Coast Guard.

As vacationers throughout the country head for the coasts, it is our responsibility to encourage caution. I echo the National Safe Boating Council's important message urging all Americans to be safe on the water while they enjoy their family vacations this summer.

Mr. GILCHREST. Mr. Speaker, I have no further speakers, I yield back the balance of my time, and urge the adoption of this resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. GILCHREST) that the House suspend the rules and agree to the resolution, H. Res. 243.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 243.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

BUSINESS CHECKING FREEDOM ACT OF 2005

Mrs. KELLY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1224) to repeal the prohibition on the payment of interest on demand deposits, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1224

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 "Business Checking Freedom Act of 2005".

SEC. 2. INTEREST-BEARING TRANSACTION ACCOUNTS AUTHORIZED FOR ALL BUSINESSES.

(a) DAILY TRANSFERS ALLOWED INTO DEMAND DEPOSIT ACCOUNTS.—Section 2 of Public Law 93-100 (12 U.S.C. 1832) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(2) by inserting after subsection (a) the following:

"(b) TRANSFERS.—Notwithstanding any other provision of law, any depository institution, other than a nonqualified industrial loan company, may permit the owner of any deposit or account which is a deposit or account on which interest or dividends are paid and is not a deposit or account described in subsection (a)(2) to make up to 24 transfers per month (or such greater number as the Board of Governors of the Federal Reserve System may determine by rule or order), for any purpose, to another account of the owner in the same institution. An account offered pursuant to this subsection shall be consid-

ered a transaction account for purposes of section 19 of the Federal Reserve Act unless the Board of Governors of the Federal Reserve System determines otherwise."; and

(3) by adding at the end of subsection (a) the following new paragraph:

"(3) NONQUALIFIED INDUSTRIAL LOAN COMPANIES.—

"(A) DEFINITION.—For purposes of this section, the term 'nonqualified industrial loan company' means any industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956 that is determined by an appropriate State bank supervisor (as defined in section 3 of the Federal Deposit Insurance Act) to be controlled, directly or indirectly, by a commercial firm.

"(B) COMMERCIAL FIRM DEFINED.—For purposes of this paragraph, the term 'commercial firm' means any entity at least 15 percent of the annual gross revenues of which on a consolidated basis, including all affiliates of the entity, were derived from engaging, on an on-going basis, in activities that are not financial in nature or incidental to a financial activity during at least 3 of the prior 4 calendar quarters.

"(C) GRANDFATHERED INSTITUTIONS.—The term 'nonqualified industrial loan company' does not include any industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956—

"(i) which became an insured depository institution before October 1, 2003, or pursuant to an application for deposit insurance which was approved by the Federal Deposit Insurance Corporation before such date; and

"(ii) with respect to which there is no change in control, directly or indirectly, of the company, bank, or institution after September 30, 2003, that requires an application under section 7(j) or 18(c) of the Federal Deposit Insurance Act, section 3 of the Bank Holding Company Act of 1956, or section 10 of the Home Owners' Loan Act.".

(b) INTEREST ON BUSINESS NOW ACCOUNTS.—(1) IN GENERAL.—Section 2(a) of Public Law 93-100 (12 U.S.C. 1832(a)) is amended—

(A) by striking paragraph (2) and inserting the following new paragraph:

"(2) PAYMENT OF INTEREST ON CERTAIN NOW ACCOUNTS.—An industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956 may not pay interest on any deposit or account of a corporation, business partnership, or other business entity from which funds may be withdrawn by negotiable instrument for payment to third parties, unless the appropriate State bank supervisor (as defined in section 3 of the Federal Deposit Insurance Act) of such company, bank, or institution determines that such company, bank, or institution is not a nonqualified industrial loan company."; and

(B) by adding at the end the following new paragraph:

"(4) RULE OF CONSTRUCTION RELATING TO DEMAND DEPOSITS.—No provision of this section may be construed as conferring the authority to offer demand deposit accounts to any institution that is prohibited by law from offering demand deposit accounts.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 2(b) of Public Law 93-100 (12 U.S.C. 1832(b)) (as added by subsection (a)(2) of this section) is amended by striking "and is not a deposit or account described in subsection (a)(2)".

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

SEC. 3. INTEREST-BEARING TRANSACTION ACCOUNTS AUTHORIZED.

(a) REPEAL OF PROHIBITION ON PAYMENT OF INTEREST ON DEMAND DEPOSITS.—

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

"(i) [Repealed]."

(2) HOME OWNERS' LOAN ACT.—The first sentence of section 5(b)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended by striking "savings association may not—" and all that follows through "(ii) permit any" and inserting "savings association may not permit any".

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

"(g) [Repealed]."

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

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

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

"(12) EARNINGS ON RESERVES.—

"(A) IN GENERAL.—Balances maintained at a Federal reserve bank by or on behalf of a depository institution may receive earnings to be paid by the Federal reserve bank at least once each calendar quarter at a rate or rates not to exceed the general level of short-term interest rates.

"(B) REGULATIONS RELATING TO PAYMENTS AND DISTRIBUTION.—The Board may prescribe regulations concerning—

"(i) the payment of earnings in accordance with this paragraph;

"(ii) the distribution of such earnings to the depository institutions which maintain balances at such banks or on whose behalf such balances are maintained; and

"(iii) the responsibilities of depository institutions, Federal home loan banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained, in accordance with subsection (c)(1)(A), in a Federal reserve bank by any such entity on behalf of depository institutions.

"(C) DEPOSITORY INSTITUTIONS DEFINED.—For purposes of this paragraph, the term 'depository institution', in addition to the institutions described in paragraph (1)(A), includes any trust company, corporation organized under section 25A or having an agreement with the Board under section 25, or any branch or agency of a foreign bank (as defined in section 1(b) of the International Banking Act of 1978)."

(b) AUTHORIZATION FOR PASS THROUGH RESERVES FOR MEMBER BANKS.—Section 19(c)(1)(B) of the Federal Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by striking "which is not a member bank".

(c) CONSUMER BANKING COSTS ASSESSMENT.—

(1) IN GENERAL.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(A) by redesignating sections 30 and 31 as sections 31 and 32, respectively; and

(B) by inserting after section 29 the following new section:

"SEC. 30. SURVEY OF BANK FEES AND SERVICES.

"(a) ANNUAL SURVEY REQUIRED.—The Board of Governors of the Federal Reserve System shall obtain annually a sample, which is representative by type and size of the institution (including small institutions) and geographic location, of the following retail banking services and products provided

by insured depository institutions and insured credit unions (along with related fees and minimum balances):

“(1) Checking and other transaction accounts.

“(2) Negotiable order of withdrawal and savings accounts.

“(3) Automated teller machine transactions.

“(4) Other electronic transactions.

“(b) MINIMUM SURVEY REQUIREMENT.—The annual survey described in subsection (a) shall meet the following minimum requirements:

“(1) CHECKING AND OTHER TRANSACTION ACCOUNTS.—Data on checking and transaction accounts shall include, at a minimum, the following:

“(A) Monthly and annual fees and minimum balances to avoid such fees.

“(B) Minimum opening balances.

“(C) Check processing fees.

“(D) Check printing fees.

“(E) Balance inquiry fees.

“(F) Fees imposed for using a teller or other institution employee.

“(G) Stop payment order fees.

“(H) Nonsufficient fund fees.

“(I) Overdraft fees.

“(J) Fees imposed in connection with bounced-check protection and overdraft protection programs.

“(K) Deposit items returned fees.

“(L) Availability of no-cost or low-cost accounts for consumers who maintain low balances.

“(2) NEGOTIABLE ORDER OF WITHDRAWAL ACCOUNTS AND SAVINGS ACCOUNTS.—Data on negotiable order of withdrawal accounts and savings accounts shall include, at a minimum, the following:

“(A) Monthly and annual fees and minimum balances to avoid such fees.

“(B) Minimum opening balances.

“(C) Rate at which interest is paid to consumers.

“(D) Check processing fees for negotiable order of withdrawal accounts.

“(E) Fees imposed for using a teller or other institution employee.

“(F) Availability of no-cost or low-cost accounts for consumers who maintain low balances.

“(3) AUTOMATED TELLER TRANSACTIONS.—Data on automated teller machine transactions shall include, at a minimum, the following:

“(A) Monthly and annual fees.

“(B) Card fees.

“(C) Fees charged to customers for withdrawals, deposits, and balance inquiries through institution-owned machines.

“(D) Fees charged to customers for withdrawals, deposits, and balance inquiries through machines owned by others.

“(E) Fees charged to noncustomers for withdrawals, deposits, and balance inquiries through institution-owned machines.

“(F) Point-of-sale transaction fees.

“(4) OTHER ELECTRONIC TRANSACTIONS.—Data on other electronic transactions shall include, at a minimum, the following:

“(A) Wire transfer fees.

“(B) Fees related to payments made over the Internet or through other electronic means.

“(5) OTHER FEES AND CHARGES.—Data on any other fees and charges that the Board of Governors of the Federal Reserve System determines to be appropriate to meet the purposes of this section.

“(6) FEDERAL RESERVE BOARD AUTHORITY.—The Board of Governors of the Federal Reserve System may cease the collection of information with regard to any particular fee or charge specified in this subsection if the Board makes a determination that, on the basis of changing practices in the financial

services industry, the collection of such information is no longer necessary to accomplish the purposes of this section.

“(c) ANNUAL REPORT TO CONGRESS REQUIRED.—

“(1) PREPARATION.—The Board of Governors of the Federal Reserve System shall prepare a report of the results of each survey conducted pursuant to subsections (a) and (b) of this section and section 136(b)(1) of the Consumer Credit Protection Act.

“(2) CONTENTS OF THE REPORT.—In addition to the data required to be collected pursuant to subsections (a) and (b), each report prepared pursuant to paragraph (1) shall include a description of any discernible trend, in the Nation as a whole, in a representative sample of the 50 States (selected with due regard for regional differences), and in each consolidated metropolitan statistical area (as defined by the Director of the Office of Management and Budget), in the cost and availability of the retail banking services, including those described in subsections (a) and (b) (including related fees and minimum balances), that delineates differences between institutions on the basis of the type of institution and the size of the institution, between large and small institutions of the same type, and any engagement of the institution in multistate activity.

“(3) SUBMISSION TO CONGRESS.—The Board of Governors of the Federal Reserve System shall submit an annual report to the Congress not later than June 1, 2007, and not later than June 1 of each subsequent year.

“(d) DEFINITIONS.—For purposes of this section, the term ‘insured depository institution’ has the meaning given such term in section 3 of the Federal Deposit Insurance Act, and the term ‘insured credit union’ has the meaning given such term in section 101 of the Federal Credit Union Act.”.

(2) CONFORMING AMENDMENT.—

(A) IN GENERAL.—Paragraph (1) of section 136(b) of the Truth in Lending Act (15 U.S.C. 1646(b)(1)) is amended to read as follows:

“(1) COLLECTION REQUIRED.—The Board shall collect, on a semiannual basis, from a broad sample of financial institutions which offer credit card services, credit card price and availability information including—

“(A) the information required to be disclosed under section 127(c) of this chapter;

“(B) the average total amount of finance charges paid by consumers; and

“(C) the following credit card rates and fees:

“(i) Application fees.

“(ii) Annual percentage rates for cash advances and balance transfers.

“(iii) Maximum annual percentage rate that may be charged when an account is in default.

“(iv) Fees for the use of convenience checks.

“(v) Fees for balance transfers.

“(vi) Fees for foreign currency conversions.”.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect on January 1, 2006.

(3) REPEAL OF OTHER REPORT PROVISIONS.—Section 1002 of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and section 108 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 are hereby repealed.

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

(1) in subsection (b)(4) (12 U.S.C. 461(b)(4)), by striking subparagraph (C) and redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

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

SEC. 5. INCREASED FEDERAL RESERVE BOARD FLEXIBILITY IN SETTING RESERVE REQUIREMENTS.

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

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

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

SEC. 6. TRANSFER OF FEDERAL RESERVE SURPLUSES.

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

“(4) ADDITIONAL TRANSFERS TO COVER INTEREST PAYMENTS FOR FISCAL YEARS 2005 THROUGH 2009.—

“(A) IN GENERAL.—In addition to the amounts required to be transferred from the surplus funds of the Federal reserve banks pursuant to subsection (a)(3), the Federal reserve banks shall transfer from such surplus funds to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury, such sums as are necessary to equal the net cost of section 19(b)(12) in each of the fiscal years 2005 through 2009.

“(B) ALLOCATION BY FEDERAL RESERVE BOARD.—Of the total amount required to be paid by the Federal reserve banks under subparagraph (A) for fiscal years 2005 through 2009, the Board of Governors of the Federal Reserve System shall determine the amount each such bank shall pay in such fiscal year.

“(C) REPLENISHMENT OF SURPLUS FUND PROHIBITED.—During fiscal years 2005 through 2009, no Federal reserve bank may replenish such bank’s surplus fund by the amount of any transfer by such bank under subparagraph (A).”.

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

“(3) PAYMENT TO TREASURY.—During fiscal years 2005 through 2009, any amount in the surplus fund of any Federal reserve bank in excess of the amount equal to 3 percent of the paid-in capital and surplus of the member banks of such bank shall be transferred to the Secretary of the Treasury for deposit in the general fund of the Treasury.”.

SEC. 7. RULES OF CONSTRUCTION.

In the case of an escrow account maintained at a depository institution for the purpose of completing the settlement of a real estate transaction—

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

(2) the forbearance, by the depository institution, from charging a fee for providing any such banking function; and

(3) any benefit which may accrue to the holder or the beneficiary of such escrow account as a result of an action of the depository institution described in subparagraph (1) or (2) or similar in nature to such action, including any benefits which have been so determined by the appropriate Federal regulator,

shall not be treated as the payment or receipt of interest for purposes of this Act and any provision of Public Law 93-100, the Federal Reserve Act, the Home Owners’ Loan Act, or the Federal Deposit Insurance Act relating to the payment of interest on accounts or deposits at depository institutions. No provision of this Act shall be construed so as to require a depository institution that maintains an escrow account in connection

with a real estate transaction to pay interest on such escrow account or to prohibit such institution from paying interest on such escrow account. No provision of this Act shall be construed as preempting the provisions of law of any State dealing with the payment of interest on escrow accounts maintained in connection with real estate transactions.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New York (Mrs. KELLY) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentlewoman from New York (Mrs. KELLY).

GENERAL LEAVE

Mrs. KELLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1224, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mrs. KELLY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for the fifth time in three Congresses, we are here to pass legislation to bring our banking system into the 21st century. Five times this House has passed this legislation to help our small businesses, only for it to fall in the other body. We come to the floor once again with a strong hope that the enactment of this bill will finally be enacted into law this Congress.

The Business Checking Freedom Act provides important benefits for our local small businesses and our financial system alike. First, it repeals an outdated law prohibiting banks from paying interest on business checking accounts. In our 21st century economy, no American should be losing the option of making money on their assets simply because they own a small business, yet our small business owners across the country are losing potential interest income on a daily basis until the Business Checking Freedom Act becomes law.

This legislation will allow banks to better meet the needs of their small business customers while providing a necessary phase-in period to protect existing business relationships from a sudden change, and it clarifies the treatment of escrow accounts maintained for the purpose of completing the settlement of real estate transactions, and that is not changed by this bill.

H.R. 1224 also gives the Federal Reserve the opportunity to pay interest on reserves that banks keep within the Federal Reserve system. Consumers and banks will be rewarded for saving and investment by this bill. The Federal Reserve strongly supports this change and a related change on reserve requirements to better enable banks to operate safely and soundly.

H.R. 1224 will once again ensure that banks can best meet the needs of their customers while increasing the safety

and soundness of our financial system. I urge all Members to join with me in passing this important bipartisan legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur with the explanation given by the gentlewoman from New York, the major author of the bill. This House has previously passed the bill, and it did not emerge from the Senate. We hope that it does this year.

There were, if you go back 20 years or more, a number of restrictions on what various financial institutions can do. They have been outdated by technology, and passing this bill is one more step towards making sure that our financial institutions can in fact take full advantage of that.

There is one issue that is of some interest to many Members that I want to note. We have in some parts of the country institutions known as "industrial loan corporations" that have many of the functions of banks, but, unlike more traditional banks, have many of their assets in nonbanking activities. Hence the name "industrial loan corporation."

They have become somewhat controversial. The Federal Reserve system is very much unhappy with them. There have been other concerns about other entities getting into the banking business when they are primarily not banks, but doing this in various ways.

□ 1715

When the Congress passed the bill reorganizing the financial systems and removing a lot of the constraints on various financial institutions known as the Gramm-Leach-Bliley Act, it adopted a test that institutions had to be 85 percent financial in their total to get certain powers.

Working with the gentleman from Ohio (Mr. GILLMOR), I have put that formula into place, or the gentleman from Ohio (Mr. GILLMOR) and I together have, with the concurrence of most of the members of our committee, so that as we expand bank powers, whether it is for branching or, today, for interest on business checking or in other ways, we have maintained that principle that these new powers should only go to institutions that have an 85 percent financial entity.

This does not displace existing industrial loan corporations; indeed, it allows them to continue with whatever powers they get from the States where they are chartered, where they are State chartered, but it does say that as we expand banking powers, that expansion will be limited to institutions which would qualify under the 85-15 test.

That provision is in here, and with that provision and a couple of other minor changes, I think this is a piece of legislation that is very appropriate.

I would note that a question was raised about one aspect of it by people

interested in land title. My colleague, the gentleman from North Carolina (Mr. WATT) negotiated, I think, a very reasonable response to their question, and we now have a bill that I hope will pass overwhelmingly.

Mr. Speaker, I reserve the balance of my time.

Mrs. KELLY. Mr. Speaker, I yield myself such time as I may consume.

I simply want to say that this bill is a bill that will encourage savings. It will also encourage the banks to keep more reserves at the Federal Reserve, which is a good thing for bank stability. We have passed this bill, as I said before, five times in the Congress. It is very important, I believe, to the small businesses of this Nation that this bill be passed today and that it get passed appropriately in the Senate.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

Mrs. KELLY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). The question is on the motion offered by the gentlewoman from New York (Mrs. KELLY) that the House suspend the rules and pass the bill, H.R. 1224, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. KELLY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SERVICEMEMBERS HEALTH INSURANCE PROTECTION ACT OF 2005

Mr. BOOZMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2046) to amend the Servicemembers Civil Relief Act to limit premium increases on reinstated health insurance on servicemembers who are released from active military service, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2046

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 "Servicemembers' Health Insurance Protection Act of 2005".

SEC. 2. LIMITATION ON PREMIUM INCREASES FOR REINSTATED HEALTH INSURANCE OF SERVICEMEMBERS RELEASED FROM ACTIVE MILITARY SERVICE.

(a) PREMIUM PROTECTION.—Section 704 of the Servicemembers Civil Relief Act (50 U.S.C. App. 594) is amended by adding at the end the following new subsection:

"(e) LIMITATION ON PREMIUM INCREASES.—

"(1) PREMIUM PROTECTION.—The amount of the premium for health insurance coverage that was terminated by a servicemember and required to be reinstated under subsection (a) may not be