CALLING ON GOVERNMENTS TO INTENSIFY EFFORTS TO INVESTIGATE, RECOVER, AND IDENTIFY ALL MISSING AND UNACCOUNTED-FOR PERSONNEL OF THE UNITED STATES

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution (H. Res. 129) calling on the Department of Defense, other elements of the Federal Government, and foreign governments to intensify efforts to investigate, recover, and identify all missing and unaccounted-for personnel of the United States, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from South Carolina (Mr. WILSON) that the House suspend the rules and agree to the resolution, as amended.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 411, nays 0, not voting 19, as follows:

[Roll No. 75]

YEAS—411

Abraham	Chu, Judy	Espaillat
Adams	Cicilline	Estes (KS)
Aderholt	Clark (MA)	Esty (CT)
Aguilar	Clarke (NY)	Evans
Allen	Clay	Farenthold
Amash	Cleaver	Faso
Amodei	Clyburn	Ferguson
Arrington	Coffman	Fitzpatrick
Bacon	Cohen	Fleischmann
Banks (IN)	Cole	Flores
Barletta	Collins (GA)	Fortenberry
Barr	Collins (NY)	Foster
Barragán	Comer	Foxx
Barton	Comstock	Frankel (FL)
Beatty	Conaway	Frelinghuysen
Bera	Connolly	Fudge
Bergman	Cook	Gabbard
Beyer	Cooper	Gaetz
Biggs	Correa	Gallagher
Bilirakis	Costello (PA)	Gallego
Bishop (GA)	Courtney	Garamendi
Bishop (MI)	Cramer	Garrett
Bishop (UT)	Crawford	Gianforte
Black	Crist	Gibbs
Blackburn	Crowley	Gohmert
Blum	Cuellar	Gomez
Blumenauer	Culberson	Gonzalez (TX)
Blunt Rochester	Curbelo (FL)	Goodlatte
Bonamici	Curtis	Gosar
Bost	Davidson	Gottheimer
Brady (PA)	Davis (CA)	Gowdy
Brady (TX)	Davis, Danny	Granger
Brat	Davis, Rodney	Graves (GA)
Bridenstine	DeFazio	Graves (MO)
Brooks (AL)	DeGette	Green, Al
Brooks (IN)	Delaney	Green, Gene
Brown (MD)	DeLauro	Griffith
Brownley (CA)	DelBene	Grijalva
Buchanan	Demings	Grothman
Buck	Dent	Guthrie
Bucshon	DeSantis	Hanabusa
Budd	DeSaulnier	Handel
Burgess	DesJarlais	Harper
Bustos	Deutch	Harris
Butterfield	Diaz-Balart	Hartzler
Calvert	Dingell	Hastings
Capuano	Doggett	Heck
Carbajal	Donovan	Hensarling
Cárdenas	Doyle, Michael F.	Herrera Beutler
Carson (IN)	Duffy	Hice, Jody B.
Carter (GA)	Duncan (TN)	Higgins (LA)
Carter (TX)	Dunn	Higgins (NY)
Cartwright	Ellison	Hill
Castor (FL)	Emmer	Himes
Castro (TX)	Engel	Holding
Chabot	Eshoo	Hollingsworth
Cheney	Hoyer	Hudson
Huffman	McEachin	Sánchez
Huizenga	McGovern	Sanford
Hultgren	McHenry	Sarbanes
Hunter	McKinley	Scalise
Hurd	McMorris Rodgers	Schakowsky
Issa	McNerney	Schiff
Jackson Lee	McSally	Schneider
Jeffries	Meadows	Schrader
Jenkins (KS)	Meehan	Schweikert
Jenkins (WV)	Meeks	Scott (VA)
Johnson (GA)	Meng	Scott, Austin
Johnson (LA)	Messer	Scott, David
Johnson (OH)	Mitchell	Sensenbrenner
Johnson, E. B.	Moolenaar	Serrano
Johnson, Sam	Mooney (WV)	Sessions
Jones	Moore	Sewell (AL)
Jordan	Moulton	Shea-Porter
Joyce (OH)	Mullin	Sherman
Kaptur	Murphy (FL)	Shimkus
Katko	Nadler	Shuster
Keating	Napolitano	Simpson
Kelly (IL)	Neal	Sinema
Kelly (MS)	Newhouse	Sires
Kelly (PA)	Noem	Slaughter
Kennedy	Nolan	Smith (MO)
Khanna	Norcross	Smith (NE)
Kihuen	Norman	Smith (NJ)
Kildee	Nunes	Smith (TX)
Kilmer	O'Halleran	Smith (WA)
Kind	O'Rourke	Smucker
King (IA)	Olson	Soto
King (NY)	Palazzo	Speier
Kinzinger	Pallone	Stefanik
Knight	Palmer	Stewart
Krishnamoorthi	Panetta	Suozzi
Kuster (NH)	Pascrell	Swalwell (CA)
Kustoff (TN)	Paulsen	Takano
Labrador	Payne	Taylor
LaHood	Pelosi	Tenney
LaMalfa	Perlmutter	Thompson (CA)
Lamborn	Perry	Thompson (MS)
Lance	Peters	Thompson (PA)
Langevin	Peterson	Thornberry
Larsen (WA)	Pingree	Tipton
Larson (CT)	Pittenger	Titus
Latta	Pocan	Tonko
Lawrence	Poe (TX)	Torres
Lawson (FL)	Poliquin	Trott
Lee	Polis	Tsongas
Levin	Price (NC)	Turner
Lewis (GA)	Quigley	Upton
Lewis (MN)	Raskin	Valadao
Lieu, Ted	Ratcliffe	Vargas
Lipinski	Reed	Veasey
Loebsack	Reichert	Vela
Lofgren	Renacci	Visclosky
Long	Rice (NY)	Wagner
Loudermilk	Rice (SC)	Walberg
Love	Richmond	Walden
Lowenthal	Roby	Walker
Lowey	Roe (TN)	Walorski
Lucas	Rogers (AL)	Walters, Mimi
Luetkemeyer	Rohrabacher	Walz
Lujan Grisham, M.	Rokita	Wasserman Schultz
Luján, Ben Ray	Rooney, Francis	Waters, Maxine
Lynch	Rooney, Thomas J.	Weber (TX)
MacArthur	Ros-Lehtinen	Webster (FL)
Maloney, Carolyn B.	Rosen	Welch
Maloney, Sean	Roskam	Wenstrup
Marchant	Ross	Westerman
Marino	Rothfus	Williams
Marshall	Rouzer	Wilson (FL)
Massie	Roybal-Allard	Wilson (SC)
Mast	Royce (CA)	Wittman
Matsui	Ruiz	Womack
McCarthy	Ruppersberger	Woodall
McCaul	Rush	Yoder
McClintock	Russell	Yoho
McCollum	Rutherford	Young (AK)
	Ryan (OH)	Young (IA)
		Zeldin

NOT VOTING—19

Babin	Denham	Posey
Bass	Duncan (SC)	Rogers (KY)
Boyle, Brendan F.	Graves (LA)	Stivers
Byrne	Gutiérrez	Velázquez
Costa	Jayapal	Watson Coleman
Cummings	LoBiondo	Yarmuth
	Pearce	

□ 1405

So (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the resolution was amended so as to read: ''Calling on the Department of Defense, other appropriate elements of the Federal Government, and foreign governments to resolutely continue efforts to investigate, recover, and identify all United States personnel designated as unaccounted-for from past wars and conflicts around the world.''.

A motion to reconsider was laid on the table.

AUTHORIZING THE USE OF EMANCIPATION HALL FOR A CEREMONY AS PART OF THE COMMEMORATION OF THE DAYS OF REMEMBRANCE OF VICTIMS OF THE HOLOCAUST

Mr. HARPER. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of House Concurrent Resolution 103, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

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

There was no objection.

The text of the concurrent resolution is as follows:

H. CON. RES. 103

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. USE OF EMANCIPATION HALL FOR HOLOCAUST DAYS OF REMEMBRANCE CEREMONY.

Emancipation Hall in the Capitol Visitor Center is authorized to be used on April 9, 2018, for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

REQUEST TO REMOVE NAME OF MEMBER AS COSPONSOR OF H.R. 620

Ms. SEWELL of Alabama. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 620.

The SPEAKER pro tempore. The request of the gentlewoman from Alabama cannot be entertained.

PROTECTING CONSUMERS' ACCESS TO CREDIT ACT OF 2017

Mr. HENSARLING. Mr. Speaker, pursuant to House Resolution 736, I call up the bill (H.R. 3299) to amend the Revised Statutes, the Home Owners' Loan Act, the Federal Credit Union Act, and the Federal Deposit Insurance Act to require the rate of interest on certain loans remain unchanged after transfer of the loan, and for other purposes, and

ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. BRAT). Pursuant to House Resolution 736, the bill is considered read.

The text of the bill is as follows:

H.R. 3299

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 ''Protecting Consumers' Access to Credit Act of 2017''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the contractual doctrine of valid when made which, as applied to lending agreements, provides that a loan that is valid at inception cannot become usurious upon subsequent sale or transfer to another person;

(2) this important and longstanding principle derives from the common law and its application has been a cornerstone of United States banking law for nearly 200 years, as provided in the case Nichols v. Fearson, 32 U.S. (7 Pet.) 103, 106 (1833), where the Supreme Court famously declared: ''Yet the rule of law is everywhere acknowledged, that a contract free from usury in its inception, shall not be invalidated by any subsequent usurious transactions upon it.'';

(3) in 2016, the Solicitor General, in consultation with all Federal banking regulators, filed an amicus brief in the case of Midland Funding, LLC v. Madden, 136 S. Ct. 2505 (2016) (mem.), denying cert. to 786 F.3d 246 (2d Cir. 2015), that described the United States Court of Appeals for the Second Circuit in that case ''incorrect'' with an ''analysis reflect[ing] a misunderstanding'' of section 85 of the National Bank Act and Supreme Court precedent, because it contradicted the contractual doctrine of valid when made;

(4) the valid-when-made doctrine, by bringing certainty to the legal treatment of all valid loans that are transferred, greatly enhances liquidity in the credit markets by widening the potential pool of loan buyers and reducing the cost of credit to borrowers at the time of origination;

(5) a joint academic study from professors at Stanford, Fordham, and Columbia universities concluded that the Madden v. Midland decision has already disproportionately affected low- and moderate-income individuals in the United States with lower FICO scores; and

(6) if the valid-when-made doctrine is not reaffirmed soon by Congress, the lack of access to safe and affordable financial services will force households in the United States with the fewest resources to seek financial products that are nontransparent, fail to inform consumers about the terms of credit available, and do not comply with State and Federal laws (including regulations).

SEC. 3. RATE OF INTEREST AFTER TRANSFER OF LOAN.

(a) AMENDMENT TO THE REVISED STATUTES.—Section 5197 of the Revised Statutes (12 U.S.C. 85) is amended by adding at the end the following: ''A loan that is valid when made as to its maximum rate of interest in accordance with this section shall remain valid with respect to such rate regardless of whether the loan is subsequently sold, assigned, or otherwise transferred to a third party, and may be enforced by such third party notwithstanding any State law to the contrary.''.

(b) AMENDMENT TO THE HOME OWNERS' LOAN ACT.—Section 4(g) of the Home Owners' Loan Act (12 U.S.C. 1463(g)) is amended by adding at the end the following:

''(3) A loan that is valid when made as to its maximum rate of interest in accordance with this subsection shall remain valid with respect to such rate regardless of whether the loan is subsequently sold, assigned, or otherwise transferred to a third party, and may be enforced by such third party notwithstanding any State law to the contrary.''.

(c) AMENDMENT TO THE FEDERAL CREDIT UNION ACT.—Section 205(g) of the Federal Credit Union Act (12 U.S.C. 1785(g)) is amended by adding at the end the following:

''(3) A loan that is valid when made as to its maximum rate of interest in accordance with this subsection shall remain valid with respect to such rate regardless of whether the loan is subsequently sold, assigned, or otherwise transferred to a third party, and may be enforced by such third party notwithstanding any State law to the contrary.''.

(d) AMENDMENT TO THE FEDERAL DEPOSIT INSURANCE ACT.—Section 27 of the Federal Deposit Insurance Act (12 U.S.C. 1831d) is amended by adding at the end the following:

''(c) A loan that is valid when made as to its maximum rate of interest in accordance with this section shall remain valid with respect to such rate regardless of whether the loan is subsequently sold, assigned, or otherwise transferred to a third party, and may be enforced by such third party notwithstanding any State law to the contrary.''.

SEC. 4. RULE OF CONSTRUCTION.

Nothing in this Act may be construed as limiting the authority or jurisdiction of the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Bureau of Consumer Financial Protection, or the National Credit Union Administration.

The SPEAKER pro tempore. The gentleman from Texas (Mr. HENSARLING) and the gentlewoman from California (Ms. MAXINE WATERS) each will control 30 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. HENSARLING. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and to submit extraneous material on the bill under consideration.

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

There was no objection.

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

I rise today in strong support of H.R. 3299, the Protecting Consumers' Access to Credit Act of 2017, a most important goal of this Chamber. H.R. 3299 is an important bill that is cosponsored by a bipartisan group of Members of the House and was approved by the House Financial Services Committee with a very strong bipartisan vote of 42–17.

I would like to start out by thanking my colleague, the gentleman from North Carolina (Mr. MCHENRY), the vice chairman of the committee, for introducing this legislation and leading our congressional efforts to help create a regulatory framework which will encourage the growth of financial technology and expand much-needed access to credit for American small businesses and consumers.

H.R. 3299 is a legislative response to the 2015 Second Circuit Court of Appeals decision in Madden v. Midland Funding, which clearly appears to have not not considered the valid-when-made legal doctrine, which is a nearly 200-year-old principle of usury law in our Republic. Again, Mr. Speaker, 200 years of settled common law upended in one court case.

In the decision, the court held that, while the National Bank Act allowed a federally chartered bank to charge interest under the laws of its home State on loans it makes nationwide, nonbanks that bought those loans could not continue to collect that interest because nonbanks are generally subject to the limits of the borrower's State.

The Second Circuit decision has caused considerable uncertainty and risk for many types of bank lending programs, including bank model marketplace lending where national banks originate loans and then transfer them to nonbank third parties.

Being able to offer consistent terms nationwide is vital to scaling the marketplace lending business, which, in turn, allows lenders to access cheaper investment capital and then pass the savings on to the borrowers who may be looking to buy their first home, start a business, send a kid to college.

H.R. 3299, again, is a commonsense bill that simply codifies the 200-year-old valid-when-made legal doctrine, which would preserve the lawful interest rate on a loan originated by a bank even if the loan is sold, assigned, or transferred to a nonbank third party.

This fundamental concept is the backbone of how fintech companies partner with banks. Without it, consumers are faced with higher costs and less availability of credit, particularly those consumers with less access to traditional lending sources.

Mr. Speaker, don't take my word for it. According to a recent Columbia/Stanford University study, borrowers with credit scores under 625 have seen their credit cut in half, cut in half thanks to this decision. Again, Mr. Speaker, borrowers with less than stellar credit scores have seen their credit cut in half in the territory comprising the Second Circuit. We simply cannot allow this to happen.

Now, Mr. Speaker, thanks to President Trump and Congress passing the Tax Cuts and Jobs Act, we are beginning to see this economy start to take off. We are finally seeing wages begin to grow after 8 years of failed economic policy, but so much work remains to be done for working American families.

We have heard, on our Financial Services Committee, Mr. Speaker, from so many of these families who are trying to make ends meet, and it is just vital that they be able to access credit.

Americans like Alan from New Hampshire, who recently had trouble finding credit through traditional

banks and credit unions due to the regulatory load. As he explained: ''But for my local dealer's efforts on my behalf, there is no doubt I would not be driving my current car. And this was a desperate situation, as I am the sole income earner for my family. My wife is ill, and we have two young children in school. After my old vehicle broke down, I needed to find reliable replacement transportation so I could get to work and continue to provide for my family.''

Mr. Speaker, we should not let the Second Circuit prevent Alan from getting that car loan he desperately needs in order to get to work as the sole provider for his family.

A small-business owner from Utah named Maxine applied for a loan for her 37-year-old established business so she could update and purchase equipment to support a contract that would have led to the creation of 50 additional jobs. She explained: ''Three banks informed us that our rating, according to new bank regulations imposed by Dodd-Frank, disqualified us from loan consideration.''

Fifty jobs, poof, gone, Mr. Speaker.

So is not Dodd-Frank bad enough? Now we are going to add this Second Circuit opinion to deny credit, which, for lower credit score individuals, has cut credit opportunity in half?

I don't think so. I don't think so. It is not up for the unelected to make such decisions.

We cannot continue to allow, Mr. Speaker, Washington red tape and the Second Circuit to cut off credit opportunities for hardworking Americans. As the bill says: ''We must preserve and protect consumers' access to credit.''

I urge every Member to support this very important bipartisan bill.

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

□ 1415

Ms. MAXINE WATERS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in opposition to H.R. 3299, or the so-called Protecting Consumers' Access to Credit Act of 2017. There is a good reason over 200 civil rights, consumer, faith-based, housing, labor, and veterans advocacy organizations oppose this bill. The type of credit that this bill helps consumers access is the kind that makes it easier for vulnerable consumers to sink into insurmountable debt like payday and other high-cost loans.

H.R. 3299 expands the ability of nonbanks to preempt State-level consumer protections by stating that the interest rate on any loan originated by a national bank that is subsequently transferred to a third party, no matter how quickly after it is originated, is enforceable, which incentivizes riskier and predatory lending. H.R. 3299 advances a dangerous precedent by allowing third parties that purchase loans from national banks to collect on interest rates that would otherwise be illegal because they exceed State caps.

Now, this bill is an attempt to overturn a court decision related to the legal concept of ''valid when made'' from the Second Circuit Court of Appeals in Madden v. Midland Funding, LLC. In that case, the court held that, when loans are transferred from banks to nonbank third parties, they must maintain the same terms, rates, and conditions as required by the State where the originating bank is chartered.

Despite claims by proponents of the bill, legal experts have explained in testimony that ''the valid-when-made doctrine is a modern invention, not a cornerstone of U.S. banking law.''

The Madden decision is only the rule of law in the States under the Second Circuit, which are Connecticut, New York, and Vermont. Some industry advocates, particularly marketplace lender fintechs, have argued the ruling and confusion about valid when made caused such great market ambiguity that it has resulted in reduced lending to needy borrowers in those States, but those claims have not been substantiated.

The only purported evidence we have on the effect of the Madden rule is a single, unpublished study that cannot even be peer-reviewed because it relies on private data from a single, unidentified marketplace lender, and the authors of that study have not endorsed this bill. In addition, 20 State attorneys general, including the attorneys general for all three States under the Second Circuit, oppose this legislative change.

But do you know what? Predatory lenders are worried about the Madden case for a different reason.

Elevate, an online payday lender, is afraid that they won't be able to continue making predatory loans if the Madden decision stays in place. In their public filings with the SEC, Elevate said:

> To the extent that the holdings in Madden were broadened to cover circumstances applicable to Elevate's business or if other litigation on related theories were brought against us and were successful, we could become subject to State usury limits and State licensing laws in addition to the State consumer protection laws to which we are already subject. In a greater number of States, loans in such States could be deemed void and unenforceable, and we would be subject to substantial penalties in connection with such loans.

Mr. Speaker, I do not doubt the sincerity of the good actors that may be trying to navigate a difficulty the Madden ruling potentially caused, but this is not just about those businesses, because H.R. 3299 would go much further to allow other third parties, including payday lenders, to evade or outright disregard State-level laws and collect debt from borrowers at unreasonably high rates of interest if they purchase loans from a national bank. These arrangements are called rent-a-bank or rent-a-charter agreements, and they allow payday lenders to use banks as a front for predatory behavior and the evasion of State interest rate caps.

Payday loans drain wealth from low-income consumers, particularly those in communities of color, and payday loans trap their borrowers into a cycle of debt that it takes years to climb out of with high interest rates that are often in excess of 300 percent.

So let's be clear. Instead of simply overturning the Madden decision, H.R. 3299 would go far beyond that and codify an expanded preemption power without any proof that it will benefit consumers. In fact, all we do know is that the bill will make it easier for bad actors to evade safeguards that States have put in place to protect borrowers.

We cannot advance a bill that will allow nonbanks like payday lenders to ignore State interest rate caps and make high-rate loans. While Congress has preempted some State laws for national banks, it did not authorize national banks to extend the privilege to whatever entities they so choose.

I urge my colleagues to oppose this bill.

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

Mr. HENSARLING. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. MCHENRY), vice chairman of the committee and sponsor of the legislation.

Mr. MCHENRY. Mr. Speaker, I want to thank the chairman for his kindness in working with me and my team on bringing this bill to the floor today, and I want to thank his staff as well.

What we have today is the Protecting Consumers' Access to Credit Act, a bipartisan piece of legislation that we have both Republicans and the Democrats in the Senate in support of as well as Democrats and Republicans here in the House of Representatives supportive of.

The issue we are dealing with is one of the biggest challenges facing our country, which is the decline of lending to consumers and small businesses in small towns and rural communities like the ones I represent in western North Carolina. It is the same issue facing so many in urban settings as well. This touches all of America.

But the story in rural America is bleak. Community banks are closing at a rapid pace, and small businesses are struggling to find loans. Many Americans don't have the savings to cover a common $1,000 emergency like a car repair. That is not just a rural issue; that touches all American communities.

The good news is, after the financial crisis, innovative companies and banks partnered together to find new ways to help hardworking Americans and small-business owners. They call it fintech.

These innovative companies partner with banks to help small businesses get a loan. They help young people get out of student debt. They help everyday Americans find the financing they need to lead better lives.

Now, this should be something heralded by both parties. It shouldn't be a partisan issue. It shouldn't be left or right, conservative or liberal. It is a good thing that is happening with innovation and different modes of lending and borrowing in this country.

And while this era of financial innovation is brand-new, the actual structure supporting fintech is based on one of the oldest bedrock principles in American law. The fundamental concept is called valid when made.

Valid when made, or what the Supreme Court referred to in 1833 as ''the cardinal rule'' of American interest rate laws, provides the legal foundation for how fintech companies partner with banks.

I don't have to share with the ranking member or other Members of our Chamber that banks are heavily regulated; and if they even partner with another firm, that, too, is a regulated thing. Yet all that changed when the Supreme Court declined to hear the case of Madden v. Midland Funding.

In Madden, activist judges on a Federal appeals court broke with a longstanding legal precedent of valid when made and, instead, held that the 1864 National Bank Act did not have a preemptive effect on loans created under this fintech bank partnership.

Now the legal framework has been around almost for 200 years, and the particular law that we are dealing with has been around for 150 years, roughly speaking. This decision, though, has created uncertainty for fintech companies, financial institutions, and credit markets generally.

According to a study from Columbia University and Stanford University, Madden significantly reduced credit availability in that affected region, and this matters for all Americans because of the effect it is having.

What we saw is loan volumes declined and the average FICO score for borrowers to get a loan increased. That means that, if you are on the margins of society, it got harder and more expensive for you to get lending. So it is a bad case. Simply put, this should not be happening, and if we are serious about financial inclusion for all Americans, we need this bill today. A bipartisan bill, we need it.

And if we are serious about modernizing our financial system, we need this bill passed into law. And if we are serious about helping everyday Americans, not just the fortunate few with unblemished credit, we need to pass this bill.

I am pleased this legislation enjoys support from my colleagues on both sides of the aisle. I want to thank Representative MEEKS, Democrat, of New York; Senator MARK WARNER, Democrat, of Virginia; and Senator PAT TOOMEY, Republican, of Pennsylvania, who worked hard on this bipartisan, bicameral legislation. It is important. It is needed. It will have a positive impact on people's lives.

All arguments that have been made against this bill on the floor don't actually focus on what is important and necessary about this legislation. They are straw men that don't have anything to do with the contents of this very simple, bipartisan piece of legislation.

Mr. Speaker, I ask my colleagues to vote for this.

Ms. MAXINE WATERS of California. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. KHANNA), vice chair of the Congressional Progressive Caucus.

Mr. KHANNA. Mr. Speaker, I rise in opposition to this bill, Protecting Consumers' Access to Credit Act.

I represent Silicon Valley, and I am not opposed to fintech. Let's be very clear: If there is technology that is going to make it easier for people to get access to capital, who is opposed to that?

But this has nothing to do with fintech. This has to do with basic State laws. The question is not: Are we going to go to the future? The question is: Are we going to go back to ''The Merchant of Venice'' when usury laws were allowed? That really is what the issue is.

What this bill does, just to be very clear, is it says: If you want to use fintech, if you want to use technology, now there is no law against being charged 380 percent interest.

Mr. MCHENRY. Will the gentleman yield?

Mr. KHANNA. I yield to the gentleman from North Carolina.

Mr. MCHENRY. Mr. Speaker, is the gentleman asserting there is no law or Federal regulation against federally chartered banks giving loans to people?

Mr. Speaker, that is not simply the case.

Mr. KHANNA. Mr. Speaker, let me take back my comment.

Mr. Speaker, I understand the Second Circuit decision. The Second Circuit decision basically said that, if you are a bank and if you are a fintech company and you are in a rural part of the country—and I totally agree with the gentleman; we need more capital to rural America; we need more tech there. I admire Steve Case's work, the ''Rise of the Rest.''

But what the Second Circuit said is you can't partner with a national bank and preempt State law. So if North Carolina has a law saying you can't charge 400 percent interest, if there is a bank in New York or a bank in California that wants to charge 400 percent interest just because they have some magical fintech, they can't charge people 400 percent interest in North Carolina or Arkansas.

I am all for giving more capital at affordable rates and using technology to help rural America.

We have done a terrible job of that. I concede that point. But this is not the way to do that.

□ 1430

The SPEAKER pro tempore. The time of the gentleman has expired.

Ms. MAXINE WATERS of California. I yield an additional 1 minute to the gentleman from California.

Mr. KHANNA. This is going to hurt ordinary folks who can't make paycheck to paycheck, and they are going to have to pay these exorbitant interest rates.

Now, if the majority comes up with a bill that says we want to expand the SBA, we want to expand figuring out how to get venture capital into rural America, we want to expand the earned income tax credit so that people have more money in their pocket so that they can make a living and meet their daily expenses, I agree.

If they say, look, all the capital, 85 percent of the capital is in my district in Massachusetts and New York, and we have got to get the capital into other States, I agree.

But to say that just to use the word ''fintech'' and to say okay, because there is something that is going to allow the diffusion of capital, that that means that you should get rid of the State laws capping usury, that is really going back to the Victorian era. I mean, we had that debate. I was reading Shylock; that was what that was all about. They were charging four times as much, and I just don't think that that is what people want.

Mr. HENSARLING. Mr. Speaker, I yield myself 10 seconds just to say to the gentleman who says this is a majority bill, I would also point out it is supported by Congressman MEEKS, Democrat from New York; Congressman CLAY, Democrat from Missouri; Congressman SCOTT, Democrat from Georgia; Congressman CLEAVER, Democrat from Missouri; Congresswoman MOORE, Democrat from Wisconsin; Congressman PERLMUTTER, Democrat from Colorado; Congresswoman SINEMA, Democrat from Arizona, and the list goes on.

Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania (Mr. ROTHFUS), the vice chairman of our Subcommittee on Financial Institutions and Consumer Credit.

Mr. ROTHFUS. Mr. Speaker, just listening to some of this debate, it seems like some folks just want to find a way to vote ''no'' on this bill when there are many reasons to vote ''yes.''

I am pleased to rise today in support of Vice Chairman MCHENRY's bill, H.R. 3299, the Protecting Consumers' Access to Credit Act of 2017. I also want to commend him for his hard work on this very important issue.

Under the valid-when-made doctrine, the interest rate on a loan that complies with Federal law when it is made will remain valid, regardless of whether that loan is transferred to a third party. This is an important principle, and it is essential to maintaining a vibrant secondary market and fostering continued growth in the online lending industry.

The Second Circuit's decision in Madden v. Midland, which challenged the valid-when-made doctrine, introduced significant uncertainty and risk,

threatening both the secondary market and fintech lending partnerships. This ultimately hurts consumers.

At the Financial Services Committee, we have extensively discussed the difficulty that many Americans face in getting credit. Madden v. Midland will only intensify that challenge for families and Main Street businesses as it jeopardizes the ability of banks to sell loans into the secondary market.

If banks find it difficult to sell debt to nonbanks, a common and healthy practice, they will be forced to become more restrictive in offering credit, and they may do so at a higher cost. Because of this, fewer consumers will be able to access the funds they need to build, invest, and innovate.

Throughout the course of the slow and uneven postcrisis economic recovery, we settled into a two-speed economy. The biggest and richest and best-connected firms have done just fine. They have a relatively easy time accessing funds. Small businesses, however, have been struggling to keep up. In fact, many haven't even gotten off the ground.

Researchers found that our economy is currently missing 650,000 small businesses; that is 650,000 fewer businesses that can innovate, create jobs, and invest in our communities. And those 650,000 businesses would have represented 6½ million jobs, 6½ million taxpayers, 6½ million people contributing to help Social Security and Medicare and helping to pay for our veterans' care.

Anyone who travels this country talking to small-business owners knows that access to credit is a major cause. By codifying valid when made, this bill will help to address one of the most pressing threats to our economic recovery and the resurgence of American small business.

As the OCC's former Acting Comptroller Keith Noreika noted, this ''proposal supports economic opportunity.''

H.R. 3299 will help to keep credit flowing through to those who need it, while ensuring that consumers are protected. This is a commonsense fix that provides the market with the clarity needed to support continued economic growth. I urge my colleagues to support the Protecting Consumers' Access to Credit Act of 2017.

Ms. MAXINE WATERS of California. Mr. Speaker, I yield myself such time as I may consume.

Both of the gentlemen, Mr. MCHENRY and Mr. ROTHFUS, who are advancing this legislation come from States that don't support it.

Mr. MCHENRY, North Carolina has banned payday lending. Mr. ROTHFUS, Pennsylvania has banned payday lending. And here you have a bill that would allow payday lenders to buy up debt from national banks and, basically, charge consumers whatever they would like to charge them. They would get around the ban of your own States. Do you really want to do this?

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

The SPEAKER pro tempore. Members are reminded to direct their remarks to the Chair.

Mr. HENSARLING. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. PITTENGER), the vice chairman of the Terrorism and Illicit Finance Subcommittee.

Mr. PITTENGER. Mr. Speaker, I thank the chairman for his leadership, and I thank Congressman MCHENRY, also.

Mr. Speaker, I rise today to just, regretfully, say that this ruling, Madden v. Midland, is just another layer of Big Brother, a misguided ruling by some people of good intentions and goodwill, but the net effect is fewer choices for the American people.

Mr. Speaker, I think we have seen what has happened as a result of Dodd-Frank. We saw what happened to the American economy. We saw what happened to the American consumers.

Mr. Speaker, regrettably, it is the low-income, minority people who have suffered the most in the last decade as a result of the misguided regulations that were put upon the American people. Big Brother really doesn't have the answers.

What we do have is the opportunity to provide choices for the American people, and that is what H.R. 3299 is all about.

Mr. Speaker, in North Carolina, we have lost 50 percent of our banks because of this misguided regulatory overmanagement by the Federal Government. There is less access to capital and credit for small business. There is less access to capital for that individual who has a real need. Maybe they want to start something, or maybe they have an emergency in their family.

This is what this bill is all about, and we need to be behind it. We need to support it. We need to understand that the American people know how to make good choices. We need to trust the American people and not trust Big Brother and the Big Government.

Ms. MAXINE WATERS of California. Mr. Speaker, I yield myself such time as I may consume.

I would like to remind Mr. PITTENGER that his State, North Carolina, again, along with Mr. MCHENRY, attorneys general have opposed this bill. They do not like this bill, and I just want to remind them that they don't have the support of their States in doing so.

Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. CAROLYN B. MALONEY), the ranking member of the Capital Markets, Securities, and Investments Subcommittee on the Financial Services Committee.

Mrs. CAROLYN B. MALONEY of New York. Mr. Speaker, I thank the ranking member for yielding and for her extraordinary efforts to protect consumers by opposing this bill.

Mr. Speaker, I rise in very strong opposition to H.R. 3299. I don't think that we should be doing anything to take away States' authority to enforce their own usury laws, which make it illegal for lenders to charge outrageously high interest rates on their residents.

This is a core consumer protection issue, and if we allow lenders that aren't subject to the strict Federal regulations for banks to circumvent State regulations too, then we are just throwing consumers to the wolves, removing protections.

I know that some people have claimed that this bill would promote innovation by allowing financial technology companies to better serve lower income customers; but let's be clear. The only loans that would be allowed by this bill that aren't already allowed are loans that violate State usury laws that are put in place in States to protect their consumers. Why in the world would we want to do that to people?

I am sorry, but there is nothing innovative about usury, and there is nothing innovative about gouging low-income consumers with outrageous interest rates. This is a terrible, terrible bill.

So this bill is not about innovation. It is about taking away protections for consumers from predatory loans. Why in the world would we want to do that to people?

I urge my colleagues, I urge them to protect consumers and to oppose this bill.

Mr. HENSARLING. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. TIPTON), vice chairman of the Subcommittee on Oversight and Investigations.

Mr. TIPTON. Mr. Speaker, it is interesting being able to listen to this debate. The common ground is we want to be able to have consumers have access to capital, and we also want responsible lending. We now need to reset this debate to the reality that is being faced on the ground.

In an already challenging loan environment for many banks nationwide, the Madden v. Midland decision has further limited the ability of national banks to be able to issue credit. Because of the court's decision not to apply the valid-when-made doctrine to its decision, which would have preserved lawful interest rates originated by a bank for nonbanks and third parties, access to credit and risk mitigation tools have been placed into jeopardy.

The legal uncertainty resulting from the Madden decision has led to a reduction in responsible and affordable lending, and has limited consumers' access to better and cheaper choices.

Fortunately, the vice chairman's legislation, the Protecting Consumers' Access to Credit Act of 2017, would reassert the valid-when-made principle, to ensure that a loan that is valid at its inception cannot become invalid or unenforceable upon a subsequent transfer to another person or party.

This legislation promotes healthy financial markets and would help improve the often-limiting loan environment facing banks nationwide. This

measure is important for our families and small businesses, for whom access to credit is critical to success.

Further, this legislation ensures that innovative marketplace lending remains intact while simultaneously providing safe consumer protections.

I would like to thank Mr. MCHENRY for supporting and developing this bipartisan legislation to be able to help preserve access to credit for those who need it most, and I encourage my colleagues to support the measure here today.

Ms. MAXINE WATERS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, you have heard those of us who are opposed to this legislation repeat over and over again that this is all about predatory lending; that this bill would open the gates wide to the kind of abuses that we have been fighting so hard against.

Mrs. MALONEY asked the questions: Why do you want to do this to your constituents? Why do you want to do this to the very consumers that we are supposed to be protecting?

I have raised a question to those who come from States where the attorneys general oppose this legislation. The gentlemen from North Carolina and Pennsylvania, who are here in support of this bill, they are ignoring the fact that their State attorneys general are saying that this bill is a bad bill.

Of course, if H.R. 3299 was really about expanding access to underserved populations, as the proponents claim, then they may be surprised to learn that the Nation's leading civil and consumer groups are all opposed to this legislation because it will harm consumers, not help them.

□ 1445

According to a news article from last November, there is a reason the NAACP, the Southern Poverty Law Center, the National Consumer Law Center, the Consumer Federation of America, and dozens of churches, women's groups, and antipoverty organizations from around the country have denounced the bill.

In September, those groups wrote a joint letter to Congress warning that H.R. 3299 ''wipes away the strongest available tool against predatory lending practices'' and ''will open the floodgates to a wide range of predatory actors to make loans at 300 percent annual interest or higher.''

The article goes on to say: ''But you don't have to take the NAACP's word for it, just take a look at the companies who are lobbying in favor of H.R. 3299.''

Well, they aren't many, as it is a complicated and obscure issue. But one of them, according to a Federal lobbying disclosure form, is a firm called CNU Online Holdings, LLC. Most customers of CNU Online Holdings don't even realize they use it. They are more familiar with CNU's parent company, payday lending giant Enova Financial; or its flagship brand, CashNetUSA.

The bottom line is that this bill is not helping our consumers, but, rather, lining the pockets of predatory lenders who are looking for any way around State interest rate caps and consumer protections.

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

Mr. HENSARLING. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. EMMER), a hardworking member of the Financial Services Committee.

Mr. EMMER. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I rise today to support another bill which builds on the good work of the House Financial Services Committee.

The Protecting Consumers' Access to Credit Act takes an important step to provide certainty through our financial system and to support consumers.

A 2015 court decision that we have heard other speakers talk about today, Madden v. Midland, is making it difficult for online lenders to offer businesses the funds they need to grow and succeed.

In Madden, the court held that, while the National Bank Act allows a federally chartered bank to charge interest under the laws of its home State on loans it makes nationwide, nonbanks that acquire these loans may not be able to maintain the same rate of interest since nonbanks are subject to limits of the borrower's State.

At a time when lenders are eager to help consumers and businesses gain access to capital, Congress needs to step in to check this misguided ruling.

When a federally chartered bank originates the interest on a loan, that interest rate should remain consistent.

Representative MCHENRY's legislation provides that fix by codifying the legal doctrine of valid when made.

Further, it helps community banks and credit unions access secondary markets they need to generate liquidity while also enabling new and emerging financial technology innovators to find easier ways for consumers and businesses to access credit and capital.

Mr. Speaker, I appreciate the hard work of my colleague, our chief deputy whip, on this important legislation. I encourage all of the Members of this body to support the Protecting Consumers' Access to Credit Act.

We must fix the misguided Madden ruling and take another step forward in supporting consumers, financial innovation, and our lenders that serve as the backbone of Main Street America.

Ms. MAXINE WATERS of California. Mr. Speaker, this is odd. Here, we have another Member of Congress, whose State attorney general opposes the bill, and who has banned payday lending.

So, here, Mr. EMMER is joining with Mr. MCHENRY and Mr. PITTENGER, whose State opposes the bill, North Carolina. Again, the two of them are in opposition to their own State's attorney general. And now we have Mr. ROTHFUS from Pennsylvania and all of these speakers on the opposite side of the aisle who are coming here to support a bill that will open up the opportunity for payday lenders to basically rent a bank and put these payday loans out there at exorbitant amounts.

Mr. Speaker, again, this is rather odd to see so many Members representing, supposedly, their constituents who come from States where payday lending has been banned and their attorneys general oppose this legislation.

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

Mr. HENSARLING. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, number one, just for the RECORD, it is Mr. ROTHFUS from Pennsylvania and Mr. PITTENGER from North Carolina. Since we serve with these colleagues, it would be nice to learn their names.

Mr. Speaker, what the ranking member is proposing is to take away credit opportunities for those who need it the most.

The greatest credit program is a competitive marketplace. And, unfortunately, the policy that she is advocating, this Second Circuit court case, has cut credit opportunities in half. That means people are paying more. In many respects, this is a more usurious result than what the ranking member is otherwise claiming will happen without the Second Circuit decision.

Again, I alluded to it in my opening statement, but we have the definitive academic study. We don't have to guess at this, Mr. Speaker. They studied those with lower credit scores in the Second Circuit.

And what did they find out?

I will quote from the study. The results presented in figure 3 indicate that the FICO increase was caused by a decline—a decline—in lending to lower quality borrowers.

Thank you, Second Circuit.

The pattern is most obvious for the lowest quality borrowers, those with FICO scores below 625. The growth rate for these borrowers in Connecticut and New York was a negative 52 percent.

Mr. Speaker, that means they had their credit opportunities cut in half. So exactly what the ranking member says that she wants to do to help these people, she is hurting these people; taking away their opportunities to buy a home or taking away their opportunities to buy a car when they may be the sole breadwinner for their family; taking away opportunities, perhaps, to send somebody to college.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HENSARLING. Mr. Speaker, I yield myself an additional 30 seconds.

And then this so-called radical bill of the gentleman from North Carolina, I would note it is a Democrat bill in the Senate. The exact companion bill is carried by a Democrat Senator, Senator WARNER from Virginia. It is a Democrat bill. It is bipartisan. It is supported by at least nine Members of the ranking member's party that sit

with her in our hearings. Clearly, they heard something she didn't hear.

Again, Mr. Speaker, it is important to note that what the Second Circuit has done is change settled law that has been settled law for over 200 years; that will completely not only cut credit opportunities in the Second Circuit, but cut credit opportunities all over America.

We cannot allow that to happen.

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

Ms. MAXINE WATERS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think my friend on the opposite side of the aisle, the chairman, is right. I must make sure that I am correct in the way that I identify my colleagues, who they are and what States they come from.

So I would like to repeat: Mr. MCHENRY is from North Carolina. Mr. PITTENGER is from North Carolina. The attorney general from that State opposes this bill, and this State has banned payday lending.

Also let me just mention that Mr. ROTHFUS from Pennsylvania is another one who is opposed by his attorney general. His attorney general is opposed to this bill, is opposed to his representation, and Pennsylvania has banned payday lending.

Of course, we were joined by Mr. EMMER, who is from Minnesota. Minnesota is in the same position as North Carolina and Pennsylvania. The attorney general of Minnesota opposes this bill, and Minnesota bans payday lending.

So let's be clear. We want to make sure that everybody understands who these Members are who are coming here in opposition to their attorneys general, in opposition to their State. These are Representatives from States that oppose this bill. These are Representatives from States who have banned payday lending.

So I want to be sure that I agree with my chairman. We should let everyone know who they are. We should pronounce their names correctly. We should be sure that all of their constituents understand who their Representatives are and what they are doing here today on this bill that will help to explode predatory lending.

This is the rent-a-bank bill that would allow payday lenders to buy up debt from national banks and be able to charge whatever they would like, 300 percent and more, to the unsuspecting consumers.

So I thank the chairman for helping me to make that clear.

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

Mr. HENSARLING. Mr. Speaker, I yield myself 10 seconds just to say: Apparently, Mr. MEEKS is abusing these consumers, as is Mr. CLAY, as is Mr. SCOTT, as is Mr. CLEAVER, as is Ms. MOORE, as is Mr. PERLMUTTER, as is Ms. SINEMA, as is Mr. HECK, and as is Mr. GOTTHEIMER, all Democrats on the House Financial Services Committee that actually support this legislation.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. TROTT), a member of the Financial Services Committee.

Mr. TROTT. Mr. Speaker, I rise in support of H.R. 3299, the Protecting Consumers' Access to Credit Act.

I thank my good friend from North Carolina (Mr. MCHENRY) for his leadership on this bipartisan, commonsense bill.

This is a commonsense piece of legislation that is sponsored by two Republicans, two Democrats. It passed out of our committee with a vote of 42–17. It is the kind of bipartisan solution that the American people expect from their elected officials.

Yet, opponents of this bill want people to believe that it will hurt consumers. We heard similar rhetoric on the recent tax bill passed in Congress. In fact, we still hear it, even though millions of Americans are getting bonuses, taking new and better jobs, and seeing their savings account grow.

Now, let's be clear. This bill will allow banks and credit unions to sell certain loans to investors, thus diversifying their risk and freeing up capital that can be used to issue more loans in local communities. Imagine that.

Why is this commonsense legislation necessary?

A recent case out of the Second Circuit ruled that certain loans would be valid when held on the books of a bank, but would be invalid the minute they are sold to investors.

I fail to see how a loan becomes more dangerous, usurious, or otherwise problematic because the owner of the loan has changed. This is like saying a house's roof becomes leaky the minute you sell it to your neighbor. This is the sort of logic that can only thrive in Washington.

What happens when banks and credit unions can no longer sell loans on the public market?

They issue fewer loans. Fewer young parents can get a mortgage for their new home. Fewer single mothers can get a loan for a new car. Fewer students can get a critical loan to pay for their first year of college. Fewer businesses can get loans to bring innovative ideas to the market to create jobs.

This bill is not rent-a-bank. It will not result in usurious interest rates.

I recently was at a restaurant and I struck up a conversation with the waitress. She can't get a mortgage. She can't buy a home, even though she and her husband have good credit. That is the kind of problem we are trying to address.

Mr. Speaker, I would ask the opponents of this bill to put aside politics and to join me in supporting legislation that will help young families, new businesses, and students. This bill will make credit accessible, and I urge all Members to vote for it.

□ 1500

Ms. MAXINE WATERS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Chairman HENSARLING has named the Members on my side of the aisle, the Democrats who support this bill. None of them are on the floor at this time. None of them came here to defend the position that they took. Some of them are reconsidering the vote that they took, and so I don't want him to try and wrap this bill around the fact that there were some Democrats who supported it.

This is a Republican bill. This is a bill by the opposite side of the aisle that supports payday lending and the ability for payday lenders to continue to exploit their consumers in a new and different way. They simply allow them to buy up this debt from the national banks to be able to basically overcome usury laws.

So while he would like everyone to believe there is all of this great Democratic support and he keeps saying over and over again how bipartisan this bill is, none of them are on the floor at this time. None of them came here to defend their position. None of them have said, ''I know that I am absolutely correct.'' As a matter of fact, some of them are raising questions about whether or not they should have voted for the bill, understanding it in one particular way, and some now understanding what it really does.

So I thank the gentleman for his position, and I thank him for being a strong advocate for his position. I thank him for at least stepping up to the plate to say, in essence, he believes that he is doing the right thing, despite the fact that he has got Members on that side of the aisle who are going against their own States' attorneys general.

But let us not believe that this is some great Democratic bill. It is not.

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

Mr. HENSARLING. Mr. Speaker, I yield myself 10 seconds just to say—with the exception of the gentlewoman from New York (Mrs. CAROLYN B. MALONEY)—I don't see any of the committee Democrats on the floor, even those who are supporting the ranking member's position.

I am now pleased to yield 2 minutes to the gentleman from North Carolina (Mr. BUDD), a hardworking member of the Financial Services Committee.

Mr. BUDD. Mr. Speaker, I thank the chairman and my friend and colleague from North Carolina, the deputy whip, for his leadership on this very important issue.

Mr. Speaker, I rise today in strong support of this bipartisan legislation, the Protecting Consumers' Access to Credit Act of 2017.

Mr. Speaker, we are on the verge of something special in the financial services space with financial technology

opening the industry up to amazing innovation. However, as many of us gathered here today know, the Second Circuit's decision in the Madden v. Midland Funding case has put this innovation and movement in jeopardy. It has done so by undermining a long-held principle which has left fintech lenders and the secondary credit market with issues that need to be addressed.

Luckily, Mr. MCHENRY's legislation provides a much-needed fix to the Second Circuit's decision by codifying the valid-when-made legal doctrine. This common law principle has been around and accepted in the financial services space for some time now. This bill will ensure that innovative lending practices remain intact, allowing creative and innovative sources of capital to reach the consumer and small businesses. This is important because it will help to preserve the relationship between banks and fintech firms.

I am thankful this legislation is coming up for a vote today because it is greatly needed and, if enacted, will help our economy continue to grow. This body must continue to serve as an advocate for innovation in the credit and financial technology space because, ultimately, it will benefit community development, job creation, and, most importantly, the consumer.

Mr. Speaker, I urge adoption of this bipartisan and commonsense piece of legislation.

Ms. MAXINE WATERS of California. Mr. Speaker, I yield myself the balance of my time.

There was a reference to Senator WARNER, and he said that the Madden fix bill must address the payday lender loophole. I alluded to some of this kind of thinking about those who may have supported the bill without really giving a lot of thought to this loophole, but I just want you to know that even the author of the bill, Senator WARNER, is saying that the Madden fix bill must address payday lender loopholes.

Mr. Speaker, H.R. 3299 is ultimately a bill that would make it easier for bad actors to get around interest rate caps that States have put into place to protect borrowers from predator payday pit traps. Let's be clear: the availability of affordable credit is very important in every community, and we should work together in ways to make sure that underserved communities have fair access to credit and banking services.

But measures like H.R. 3299 do not productively advance that goal. In fact, the bill would do the opposite. It would open the door for nonbanks to ignore States' strong protections and make loans with high interest rates. The bill would usher in a wave of harmful, high-cost payday loans in States where such loans were previously disallowed.

Let's not forget that last month Mick Mulvaney, who President Trump illegally appointed to serve as Acting Director of the Consumer Financial Protection Bureau, directed the Consumer Bureau to reconsider its sensible and much-needed rule on payday vehicle title and certain high-cost installment loans. That rule, put in place under the leadership of Richard Cordray, would require payday lenders to ensure that consumers can actually afford to pay off their loans.

Essentially, Donald Trump and Mick Mulvaney are helping out payday lenders by undermining the Consumer Bureau's rule as well as rolling back and undermining many of the other critical protections put in place by Democrats in the Dodd-Frank Wall Street Reform and Consumer Protection Act.

On top of his pull to reconsider the payday rule, Mulvaney has also drawn a Consumer Bureau lawsuit against a group of payday lenders who allegedly failed to disclose the true cost of loans which had interest rates as high as 950 percent a year.

Mr. Speaker, Congress should be standing up for and enhancing protections for consumers, not legislating to make it easier for hardworking Americans to be drawn into payday debt traps.

H.R. 3299 is widely opposed by over 200 consumer and civil rights groups, including the Leadership Conference on Civil and Human Rights, the NAACP, the National Consumer Law Center, the Southern Poverty Law Center, and many others.

And so I think it is clear what we are advocating on this side of the aisle. We are simply saying that we should not create this loophole, that we should understand the struggle that many of us have been in to try and keep payday lenders from going into the most vulnerable neighborhoods, targeting the most vulnerable people, taking advantage of folks who have no place to turn and who need a few dollars until payday, taking advantage of them and trapping them into these loans and creating all of this debt for them.

This would just go a long way to continue that kind of madness, and so I would urge Members to vote ''no'' on the bill.

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

Mr. HENSARLING. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Indiana (Mr. HOLLINGSWORTH), another hardworking member of the Financial Services Committee.

Mr. HOLLINGSWORTH. Mr. Speaker, there are many days when we stand in this Chamber and I specifically talk about the regulations, the regulations that are holding back our economy from growing, holding back consumers from getting the products that they want—we talked about them in very sweeping, hyperbolic terms—but this is not one of those days. This is a day where, in this bill, we are simply codifying what has been the law of the land for over five decades, what is currently the law of the land in 47 out of 50 States.

So not only has this historically been the case, what we are arguing for here, but it is also the case in 47 out of 50 States. And I don't think those three States, the consumers or the citizens of those States, should be disadvantaged by not being able to access affordable capital to be able to grow better futures. That is what I hear back home is they want the opportunity to get loans, to get credit, to get more chances for them to build better financial futures.

And, frankly, this bill does that. It solves the problem of uncertainty, and capital flees uncertainty. This makes clear what has been the law of the land. It doesn't change State usury laws. It doesn't impact payday. It merely restates that which we have operated under for decades before this Second Circuit decision and says the law in 47 States should be the law in 50 States.

Valid when made is an important aspect of our financial markets and ensuring that we can turn over capital more frequently, thus, get more capital out to more individuals. And, frankly, that is what we are here fighting for: making sure everybody gets the opportunity to participate in a better economy by building a financial future. H.R. 3299 goes a long way in solving that problem by a very simple, very narrow fix in ensuring those three States get to participate in the benefit of a vibrant secondary market just like the 47 other States outside of the Second Circuit.

Mr. Speaker, I rise in support of the legislation and encourage all Members here to support this legislation.

Mr. HENSARLING. Mr. Speaker, may I inquire how much time I have remaining.

The SPEAKER pro tempore. The gentleman from Texas has 1½ minutes remaining.

Mr. HENSARLING. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the ranking member has lamented that she has heard from few Democrats on this matter, so let me take the liberty of quoting from Congressman GREG MEEKS, a Democrat from New York, the lead Democratic cosponsor of the bill, who said, during markup:

> This bill would facilitate such affordable lending to those who need it the most.

He goes on to say:

> H.R. 3299 is a community bank bill. Fintech firms have partnered with small community banks and provided these institutions with technological expertise needed to contend with larger competitors. In fact, I'm aware that there are fintech firms engaging with Black-owned banks who have benefited tremendously from new technologies.

Congressman MEEKS goes on to say:

> H.R. 3299 is also a small-business bill. According to the Urban Institute, 34 percent of my constituents in Jamaica, Queens, who have bank accounts rely on alternative financial service providers, including rent-to-own agreements and refund anticipation loans because they have unmet lending needs. Madden does little to help these underbanked individuals. Instead, it shuts the door to more affordable bank loans facilitated through partnership models.

Madam Speaker, I could go on, but what we are trying to do here is assure that what just happened in the Second Circuit, where credit opportunities are cut in half, doesn't happen nationwide. The hardworking men and women of America deserve better, and so we must support H.R. 3299.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Ms. CHENEY). All time for debate has expired.

Pursuant to House Resolution 736, the previous question is ordered on the bill.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HENSARLING. Madam 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, further proceedings on this question will be postponed.

□ 1515

TRID IMPROVEMENT ACT OF 2017

Mr. HENSARLING. Madam Speaker, pursuant to House Resolution 736, I call up the bill (H.R. 3978) to amend the Real Estate Settlement Procedures Act of 1974 to modify requirements related to mortgage disclosures, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 736, an amendment in the nature of a substitute consisting of the text of Rules Committee Print 115–59, modified by the amendment printed in part B of House Report 115–559 is adopted, and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 3978

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

SEC. 2. SECURITIES AND EXCHANGE COMMISSION RESERVE FUND.

Notwithstanding section 4(i)(2)(B)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(i)(2)(B)(i)), the amount deposited in the Securities and Exchange Commission Reserve Fund for fiscal year 2018 may not exceed $48,000,000.

TITLE I—TRID IMPROVEMENT

SEC. 101. AMENDMENTS TO MORTGAGE DISCLOSURE REQUIREMENTS.

Section 4(a) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2603(a)) is amended—

(1) by striking ''itemize all charges'' and inserting ''itemize all actual charges'';

(2) by striking ''and all charges imposed upon the seller in connection with the settlement and'' and inserting ''and the seller in connection with the settlement. Such forms''; and

(3) by inserting after ''or both.'' the following new sentence: ''Charges for any title insurance premium disclosed on such forms shall be equal to the amount charged for each individual title insurance policy, subject to any discounts as required by State regulation or the title company rate filings.''.

TITLE II—PROTECTION OF SOURCE CODE

SEC. 201. PROCEDURE FOR OBTAINING CERTAIN INTELLECTUAL PROPERTY.

(a) PERSONS UNDER SECURITIES ACT OF 1933.—Section 8 of the Securities Act of 1933 (15 U.S.C. 77h) is amended by adding at the end the following:

''(g) PROCEDURE FOR OBTAINING CERTAIN INTELLECTUAL PROPERTY.—The Commission is not authorized to compel under this title a person to produce or furnish source code, including algorithmic trading source code or similar intellectual property that forms the basis for design of the source code, to the Commission unless the Commission first issues a subpoena.''.

(b) PERSONS UNDER THE SECURITIES EXCHANGE ACT OF 1934.—Section 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78w) is amended by adding at the end the following:

''(e) PROCEDURE FOR OBTAINING CERTAIN INTELLECTUAL PROPERTY.—The Commission is not authorized to compel under this title a person to produce or furnish source code, including algorithmic trading source code or similar intellectual property that forms the basis for design of the source code, to the Commission unless the Commission first issues a subpoena.''.

(c) INVESTMENT COMPANIES.—Section 31 of the Investment Company Act of 1940 (15 U.S.C. 80a–30) is amended by adding at the end the following:

''(e) PROCEDURE FOR OBTAINING CERTAIN INTELLECTUAL PROPERTY.—The Commission is not authorized to compel under this title an investment company to produce or furnish source code, including algorithmic trading source code or similar intellectual property that forms the basis for design of the source code, to the Commission unless the Commission first issues a subpoena.''.

(d) INVESTMENT ADVISERS.—Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–4) is amended—

(1) by adding at the end the following:

''(f) PROCEDURE FOR OBTAINING CERTAIN INTELLECTUAL PROPERTY.—The Commission is not authorized to compel under this title an investment adviser to produce or furnish source code, including algorithmic trading source code or similar intellectual property that forms the basis for design of the source code, to the Commission unless the Commission first issues a subpoena.''; and

(2) in the second subsection (d), by striking ''(d)'' and inserting ''(e)''.

TITLE III—FOSTERING INNOVATION

SEC. 301. TEMPORARY EXEMPTION FOR LOW-REVENUE ISSUERS.

Section 404 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262) is amended by adding at the end the following:

''(d) TEMPORARY EXEMPTION FOR LOW-REVENUE ISSUERS.—

''(1) LOW-REVENUE EXEMPTION.—Subsection (b) shall not apply with respect to an audit report prepared for an issuer that—

''(A) ceased to be an emerging growth company on the last day of the fiscal year of the issuer following the fifth anniversary of the date of the first sale of common equity securities of the issuer pursuant to an effective registration statement under the Securities Act of 1933;

''(B) had average annual gross revenues of less than $50,000,000 as of its most recently completed fiscal year; and

''(C) is not a large accelerated filer.

''(2) EXPIRATION OF TEMPORARY EXEMPTION.—An issuer ceases to be eligible for the exemption described under paragraph (1) at the earliest of—

''(A) the last day of the fiscal year of the issuer following the tenth anniversary of the date of the first sale of common equity securities of the issuer pursuant to an effective registration statement under the Securities Act of 1933;

''(B) the last day of the fiscal year of the issuer during which the average annual gross revenues of the issuer exceed $50,000,000; or

''(C) the date on which the issuer becomes a large accelerated filer.

''(3) DEFINITIONS.—For purposes of this subsection:

''(A) AVERAGE ANNUAL GROSS REVENUES.—The term 'average annual gross revenues' means the total gross revenues of an issuer over its most recently completed three fiscal years divided by three.

''(B) EMERGING GROWTH COMPANY.—The term 'emerging growth company' has the meaning given such term under section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).

''(C) LARGE ACCELERATED FILER.—The term 'large accelerated filer' has the meaning given that term under section 240.12b–2 of title 17, Code of Federal Regulations, or any successor thereto.''.

TITLE IV—NATIONAL SECURITIES EXCHANGE REGULATORY PARITY

SEC. 401. NATIONALLY TRADED SECURITIES EXEMPTION.

Section 18(b)(1) of the Securities Act of 1933 (15 U.S.C. 77r(b)(1)) is amended—

(1) by striking subparagraph (A);

(2) in subparagraph (B)—

(A) by inserting ''a security designated as qualified for trading in the national market system pursuant to section 11A(a)(2) of the Securities Exchange Act of 1934 that is'' before ''listed''; and

(B) by striking ''that has listing standards that the Commission determines by rule (on its own initiative or on the basis of a petition) are substantially similar to the listing standards applicable to securities described in subparagraph (A)'';

(3) in subparagraph (C), by striking ''or (B)''; and

(4) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

TITLE V—ELIMINATING BARRIERS TO JOBS FOR LOAN ORIGINATORS

SEC. 501. ELIMINATING BARRIERS TO JOBS FOR LOAN ORIGINATORS.

(a) IN GENERAL.—The S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) is amended by adding at the end the following:

''SEC. 1518. EMPLOYMENT TRANSITION OF LOAN ORIGINATORS.

''(a) TEMPORARY AUTHORITY TO ORIGINATE LOANS FOR LOAN ORIGINATORS MOVING FROM A