



(Original Signature of Member)

116TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To prohibit depository institutions from assessing overdraft and non-sufficient fund fees during the novel coronavirus crisis and other disasters, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. CICILLINE introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To prohibit depository institutions from assessing overdraft and non-sufficient fund fees during the novel coronavirus crisis and other disasters, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stop Overdraft Profit-  
5 eering during COVID–19 Emergency Act of 2020”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

1           (1) Overdraft coverage is a form of short-term  
2 credit that depository institutions market for con-  
3 sumer transaction accounts. Historically, depository  
4 institutions covered overdrafts for a fee on an ad hoc  
5 basis.

6           (2) With the growth in specially designed soft-  
7 ware programs, and in consumer use of debit cards,  
8 overdraft coverage for a fee has become more preva-  
9 lent.

10          (3) Many depository institutions market a  
11 range of overdraft options but aggressively encour-  
12 age consumers to consent to the most expensive op-  
13 tion, where a high flat fee is collected for each indi-  
14 vidual overdraft transaction.

15          (4) Many depository institutions—

16           (A) collect a high flat fee, including for  
17 small dollar transactions, each time the institu-  
18 tion covers an overdraft, impose multiple over-  
19 draft coverage fees within a single day, and  
20 charge additional fees for each day during  
21 which the account remains overdrawn; and

22           (B) charge unreasonable nonsufficient fees.

23          (5) Such abusive practices in connection with  
24 overdraft coverage fees and nonsufficient fees have  
25 deprived consumers of meaningful options and

1 placed significant financial burdens on low- and  
2 moderate-income consumers.

3 (6) During the public health and financial crisis  
4 caused by the novel coronavirus, consumers need re-  
5 lief from such abusive practices more than ever be-  
6 fore.

7 (b) PURPOSE.—It is the purpose of this Act to pro-  
8 tect consumers by eliminating abusive overdraft coverage  
9 fees, nonsufficient fund fees, and practices relating to the  
10 assessment of those fees during covered periods.

11 **SEC. 3. DEFINITIONS.**

12 In this Act:

13 (1) CHECK.—The term “check”—

14 (A) has the meaning given the term in sec-  
15 tion 3(6) of the Check Clearing for the 21st  
16 Century Act (12 U.S.C. 5002(6)); and

17 (B) does not include a traveler’s check.

18 (2) CHECKING ACCOUNT PENALTY FEE.—The  
19 term “checking account penalty fee” means a non-  
20 sufficient fund fee or an overdraft coverage fee.

21 (3) CONSUMER.—The term “consumer” has the  
22 meaning given the term in section 103(i) of the  
23 Truth in Lending Act (15 U.S.C. 1602(i)).

24 (4) CONSUMER REPORTING AGENCY.— The  
25 term “consumer reporting agency” has the meaning

1 given the term in section 603 of the Fair Credit Re-  
2 porting Act (15 U.S.C. 1681a).

3 (5) COVERED PERIOD.—The term “covered pe-  
4 riod” means—

5 (A) the period that begins 1 day after the  
6 date on which a major disaster is declared by  
7 the President under section 401 of the Robert  
8 T. Stafford Disaster Relief and Emergency As-  
9 sistance Act (42 U.S.C. 5170), where assistance  
10 is authorized under section 408 of that Act (42  
11 U.S.C. 5174), and ending 120 days after the  
12 end of the incident period for that disaster; or

13 (B) the period that begins 1 day after the  
14 date on which the President determines an  
15 emergency exists under section 501(b) of the  
16 Robert T. Stafford Disaster Relief and Emer-  
17 gency Assistance Act (42 U.S.C. 5191(b)) and  
18 simultaneously covers all States for a single in-  
19 cident, event, or emergency and ending 120  
20 days after the end of the incident period for  
21 that emergency.

22 (6) DEPOSITORY INSTITUTION.—The term “de-  
23 pository institution” has the same meaning as in  
24 clauses (i) through (vi) of section 19(b)(1)(A) of the  
25 Federal Reserve Act (12 U.S.C. 461(b)(1)(A)).

1           (7) NONSUFFICIENT FUND FEE.—The term  
2           “nonsufficient fund fee” means a fee or charge as-  
3           sessed in connection with an overdraft for which a  
4           depository institution declines payment.

5           (8) OVERDRAFT.—The term “overdraft”  
6           means, in a withdrawal by check or other debit from  
7           a consumer transaction account in which there are  
8           insufficient or unavailable funds in the account to  
9           cover such check or debit, the amount of such with-  
10          drawal that exceeds the available funds in the ac-  
11          count.

12          (9) OVERDRAFT COVERAGE.—The term “over-  
13          draft coverage” means the payment of a check pre-  
14          sented or other debit posted against a consumer  
15          transaction account by the depository institution in  
16          which such account is held, even though there are  
17          insufficient or unavailable funds in the account to  
18          cover such checks or other debit.

19          (10) OVERDRAFT COVERAGE FEE.—The term  
20          “overdraft coverage fee” means any fee or charge  
21          assessed in connection with overdraft coverage, or in  
22          connection with any negative account balance that  
23          results from overdraft coverage, excluding—

1 (A) a periodic rate in connection with an  
2 extension of credit through an overdraft line of  
3 credit program; or

4 (B) a fee or charge imposed in connection  
5 with any transfer from an account linked to an-  
6 other transaction account.

7 (11) OVERDRAFT COVERAGE PROGRAM.—The  
8 term “overdraft coverage program” means a service  
9 under which a depository institution assesses an  
10 overdraft coverage fee for overdraft coverage.

11 (12) TRANSACTION ACCOUNT.—The term  
12 “transaction account” has the meaning given the  
13 term in section 19(b)(1)(C) of the Federal Reserve  
14 Act (12 U.S.C. 461(b)(1)(C)).

15 **SEC. 4. CHECKING ACCOUNT PENALTY FEES.**

16 (a) PROHIBITION.—

17 (1) IN GENERAL.—During a covered period, no  
18 depository institution may assess a checking account  
19 penalty fee for any transaction, including a trans-  
20 action at an automated teller machine, a 1-time  
21 debit card transaction, a transaction that involves  
22 the use of a check, or an automatic recurring pay-  
23 ment.

24 (2) CORRECTION.—If a depository institution  
25 assesses a checking account penalty fee during a

1 covered period in violation of paragraph (1), the de-  
2 pository institution shall be considered to be in com-  
3 pliance with that paragraph if the depository institu-  
4 tion promptly reverses that assessment.

5 (b) REPORTS TO CONSUMER REPORTING AGEN-  
6 CIES.—During a covered period, no depository institution  
7 may report negative information regarding the use of over-  
8 draft coverage by a consumer to any consumer reporting  
9 agency.

10 (c) LIMITATION WITH RESPECT TO STATE-SPECIFIC  
11 DISASTERS.—With respect to a major disaster described  
12 under section 3(5)(A), this section shall only apply to a  
13 customer of a depository institution who is a resident of  
14 the State or Tribe where the major disaster was  
15 declared.

16 (d) RULE OF CONSTRUCTION.—Nothing in this sec-  
17 tion may be construed as prohibiting a depository institu-  
18 tion, during a covered period, from retaining the discretion  
19 to pay, without assessing a checking account penalty fee,  
20 an overdraft incurred by a consumer.