

Measure H.R. 1224
 H.L.C.
 Amendment No. 001(b)

Agreed To?	YES	No	Wdm
Voice Vte	Yeas	Nays	

**AMENDMENT OFFERED BY MRS. MALONEY OF
 NEW YORK
 TO THE AMENDMENT IN THE NATURE OF A
 SUBSTITUTE TO H.R. 1224**

At the end of the bill, insert the following new sections:

**1 SEC. 8. ADJUSTMENT OF CHECK HOLD PERIODS RE-
 2 QUIRED.**

3 (a) IN GENERAL.—Section 603(d) of the Expedited
 4 Funds Availability Act (12 U.S.C. 4002(d)) is amended
 5 by adding at the end the following new paragraph:

6 “(3) COORDINATION WITH CHECK CLEARING
 7 FOR THE 21ST CENTURY ACT.—

8 “(A) IN GENERAL.—The Board shall pre-
 9 scribe regulations under paragraph (1)—

10 “(i) to reduce the time periods under
 11 subsections (a), (b), or (e), in accordance
 12 with the requirements of paragraph (1), to
 13 take into account the time within which
 14 any receiving institution can reasonably ex-
 15 pect to learn of the nonpayment of most
 16 items for each category of checks under
 17 the Checking Clearing for the 21st Cen-

1 tury Act or the regulations implementing
2 such Act; and

3 “(ii) to eliminate distinctions between
4 the schedules established under subsections
5 (a), (b), or (e) if the Board finds that such
6 distinctions no longer have any significance
7 for any category of checks under the
8 Checking Clearing for the 21st Century
9 Act or the regulations implementing such
10 Act.

11 “(B) PARAGRAPH (2) ADJUSTMENTS.—The
12 Board shall, by regulation, eliminate the exten-
13 sion provided under paragraph (2) for deposits
14 of any category of checks if the Board finds
15 that the extension has no substantial usefulness
16 under the Checking Clearing for the 21st Cen-
17 tury Act or the regulations implementing such
18 Act.”.

19 (b) REGULATIONS.—The Board shall prescribe the
20 regulations required under the amendment made by sub-
21 section (a) in final form before the end of the 6-month
22 period beginning on the date of the enactment of this Act.



1 **SEC. 9. AMENDMENTS RELATING TO CHECKING ACCOUNT**
2 **CONSUMERS.**

3 (a) DEPOSITS AT PROPRIETARY ATMS.—Section
4 603(a)(2) of the Expedited Funds Availability Act (12
5 U.S.C. 4002(a)(2)) is amended—

6 (1) in subparagraphs (B)(ii) and (C)(ii), by in-
7 serting “or is deposited at a proprietary ATM” be-
8 fore the semicolon at the end of each such subpara-
9 graph; and

10 (2) in subparagraph (E), by inserting “, or a
11 check deposited at a proprietary ATM,” after “de-
12 posited in a branch of a depository institution”.

13 (b) LIMITATION ON CERTAIN FEES DURING CHECK
14 HOLD PERIOD.—Section 607 of the Expedited Funds
15 Availability Act (12 U.S.C. 4006) is amended by adding
16 at the end the following new subsection:

17 “(f) LIMITATION ON CERTAIN FEES DURING CHECK
18 HOLD PERIOD.—If a receiving depository institution has
19 received a provisional or final settlement with respect to
20 a check deposited in an account at the depository institu-
21 tion and such depository institution has not yet made the
22 proceeds of the deposit available to the accountholder, the
23 receiving depository institution may not assess any fee for
24 an overdraft, or any fee associated with the payment of
25 an overdraft, that would not have occurred if such funds
26 so deposited were available.”.



1 (c) CREDITS REQUIRED TO BE POSTED BEFORE
2 DEBITS.—Section 607 of the Expedited Funds Avail-
3 ability Act (12 U.S.C. 4006) is amended by inserting after
4 subsection (f) (as added by subsection (b) of this section)
5 the following new subsection:

6 “(g) ORDER OF POSTING.—In the process of posting
7 credits and debits against a checking account used pri-
8 marily for personal, family, or household purposes after
9 the close of any business day, the receiving depository in-
10 stitution shall credit all deposits to the account before deb-
11 iting any check drawn on the account and presented to
12 the depository institution for payment.”.

13 (d) SATURDAYS MAY BE TREATED AS BUSINESS
14 DAYS.—Section 602(3) of the Expedited Funds Avail-
15 ability Act (12 U.S.C. 4001(3)) is amended by adding at
16 the end the following new sentence: “For purposes of this
17 title, however, Saturday shall be treated as a business day
18 in the calculation of any period within which funds depos-
19 ited in an account at a receiving depository institution are
20 required be made available under this title, if with respect
21 to checks received by the depository institution for which
22 it is the originating institution, the depository institution
23 debits accounts on Saturdays for such checks.”.

24 (e) REDUCTION IN CHECK HOLDS FOR NONLOCAL
25 CHECK DEPOSITS.—Section 603(b)(2) of the Expedited



1 Funds Availability Act (12 U.S.C. 4002(b)(2)) is amended
2 by striking “not more than 4 business days shall intervene
3 between” and inserting “funds shall be made available on
4 the 2nd business day after”.

5 (f) ADJUSTMENT FOR INFLATION FOR LARGE CHECK
6 LIMITATION.—

7 (1) IN GENERAL.—Section 604(a)(3) of the Ex-
8 pedited Funds Availability Act (12 U.S.C.
9 4003(a)(3)) is amended by striking “\$5,000” each
10 place such term appears and inserting “\$7,500”.

11 (2) CLERICAL AMENDMENT.—The paragraph
12 heading for section 604(a)(3) of the Expedited
13 Funds Availability Act is amended by striking
14 “\$5,000” and inserting “\$7,500” .

15 (g) ADJUSTMENT FOR SMALL DEPOSIT AVAIL-
16 ABILITY.—

17 (1) IN GENERAL.—Section 603(a)(2)(D) of of
18 the Expedited Funds Availability Act (12 U.S.C.
19 4002(a)(2)(D)) is amended by striking “\$100” and
20 inserting “\$500”.

21 (2) TECHNICAL AND CONFORMING AMEND-
22 MENT.—The heading for subparagraph (C) of sec-
23 tion 603(b)(3) of the Expedited Funds Availability
24 Act (12 U.S.C. 4002(b)(3)(C)) is amended by strik-



1 ing “\$100 AVAILABILITY” and inserting “COORDINA-
2 TION WITH OTHER AMOUNT AVAILABLE”.

3 (h) FEES FOR SERVICES NOT REQUESTED.—Section
4 607 of the Expedited Funds Availability Act (12 U.S.C.
5 4006) is amended by inserting after subsection (g) (as
6 added by subsection (c) of this section) the following new
7 subsection:

8 “(h) FEES FOR SERVICES NOT REQUESTED.—No de-
9 pository institution may impose any fee for paying any
10 check drawn on an account in spite of a lack of sufficient
11 funds in the account to pay such check or any similar ac-
12 tivity (commonly referred to as ‘bounce protection’) unless
13 the accountholder has affirmatively requested such serv-
14 ice.”.

15 (i) CLARIFICATION OF PREEMPTION.—Section 608 of
16 the Expedited Funds Availability Act (12 U.S.C. 4007)
17 is amended—

18 (1) in subsection (b)—

19 (A) by inserting “or (c)” after “subsection
20 (a)”;

21 (B) by inserting “, but only to the extent
22 of any such inconsistency” before the period at
23 the end; and

24 (2) by adding at the end the following new sub-
25 section:



1 “(c) CLARIFICATION OF INCONSISTENCY.—A State
2 law shall not be construed as inconsistent with this title,
3 or any regulation prescribed under this title, if the protec-
4 tion such law affords the consumer by such law is greater
5 than the protection afforded by this title. For purposes
6 of determining congressional intent with respect to pre-
7 emption, the purpose of this title shall be construed to be
8 the establishment of a minimum basis of protection for
9 the consumer and not the creation of a uniform national
10 rule.”.

11 **SEC. 10. RECREDIT FOR ALL CONSUMERS UNLESS SUB-**
12 **STITUTE CHECKS ARE PROVIDED WITHOUT**
13 **COST UPON REQUEST.**

14 Section 7(b) of the Checking for the 21st Century
15 Act (12 U.S.C. 5006(b)) is amended by adding at the end
16 the following new paragraph:

17 “(3) FEES FOR SUBSTITUTE CHECKS.—If any
18 bank that holds the account of a consumer imposes
19 any fee for producing a copy of a substitute check
20 for such consumer with respect to such account, the
21 expedited recredit process established under this sec-
22 tion shall be available for all charges initiated by
23 check against any such account regardless of wheth-
24 er a substitute check was involved or was provided
25 to the consumer.”.

