

Union Calendar No. 41

109TH CONGRESS
1ST SESSION

H. R. 1224

[Report No. 109–81]

To repeal the prohibition on the payment of interest on demand deposits,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 2005

Mrs. KELLY (for herself, Mr. KANJORSKI, Ms. VELÁZQUEZ, Mrs. MALONEY,
Mr. SHERMAN, Mr. HINOJOSA, and Mr. MANZULLO) introduced the fol-
lowing bill; which was referred to the Committee on Financial Services

MAY 16, 2005

Additional sponsor: Mr. GILLMOR

MAY 16, 2005

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on March 10, 2005]

A BILL

To repeal the prohibition on the payment of interest on
demand deposits, 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,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Business Checking Free-*
3 *dom Act of 2005”.*

4 **SEC. 2. INTEREST-BEARING TRANSACTION ACCOUNTS AU-**
5 **THORIZED FOR ALL BUSINESSES.**

6 *(a) DAILY TRANSFERS ALLOWED INTO DEMAND DE-*
7 *POSIT ACCOUNTS.—Section 2 of Public Law 93–100 (12*
8 *U.S.C. 1832) is amended—*

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

11 *(2) by inserting after subsection (a) the fol-*
12 *lowing:*

13 *“(b) TRANSFERS.—Notwithstanding any other provi-*
14 *sion of law, any depository institution, other than a non-*
15 *qualified industrial loan company, may permit the owner*
16 *of any deposit or account which is a deposit or account*
17 *on which interest or dividends are paid and is not a deposit*
18 *or account described in subsection (a)(2) to make up to 24*
19 *transfers per month (or such greater number as the Board*
20 *of Governors of the Federal Reserve System may determine*
21 *by rule or order), for any purpose, to another account of*
22 *the owner in the same institution. An account offered pur-*
23 *suant to this subsection shall be considered a transaction*
24 *account for purposes of section 19 of the Federal Reserve*
25 *Act unless the Board of Governors of the Federal Reserve*
26 *System determines otherwise.”; and*

1 (3) by adding at the end of subsection (a) the fol-
2 lowing new paragraph:

3 “(3) *NONQUALIFIED INDUSTRIAL LOAN COMPA-*
4 *NIES.*—

5 “(A) *DEFINITION.*—*For purposes of this sec-*
6 *tion, the term ‘nonqualified industrial loan com-*
7 *pany’ means any industrial loan company, in-*
8 *dustrial bank, or other institution described in*
9 *section 2(c)(2)(H) of the Bank Holding Com-*
10 *pany Act of 1956 that is determined by an ap-*
11 *propriate State bank supervisor (as defined in*
12 *section 3 of the Federal Deposit Insurance Act)*
13 *to be controlled, directly or indirectly, by a com-*
14 *mercial firm.*

15 “(B) *COMMERCIAL FIRM DEFINED.*—*For*
16 *purposes of this paragraph, the term ‘commercial*
17 *firm’ means any entity at least 15 percent of the*
18 *annual gross revenues of which on a consolidated*
19 *basis, including all affiliates of the entity, were*
20 *derived from engaging, on an on-going basis, in*
21 *activities that are not financial in nature or in-*
22 *cidental to a financial activity during at least 3*
23 *of the prior 4 calendar quarters.*

24 “(C) *GRANDFATHERED INSTITUTIONS.*—*The*
25 *term ‘nonqualified industrial loan company’*

1 *does not include any industrial loan company,*
2 *industrial bank, or other institution described in*
3 *section 2(c)(2)(H) of the Bank Holding Com-*
4 *pany Act of 1956—*

5 *“(i) which became an insured deposi-*
6 *tory institution before October 1, 2003, or*
7 *pursuant to an application for deposit in-*
8 *surance which was approved by the Federal*
9 *Deposit Insurance Corporation before such*
10 *date; and*

11 *“(ii) with respect to which there is no*
12 *change in control, directly or indirectly, of*
13 *the company, bank, or institution after Sep-*
14 *tember 30, 2003, that requires an applica-*
15 *tion under section 7(j) or 18(c) of the Fed-*
16 *eral Deposit Insurance Act, section 3 of the*
17 *Bank Holding Company Act of 1956, or*
18 *section 10 of the Home Owners’ Loan Act.”.*

19 ***(b) INTEREST ON BUSINESS NOW ACCOUNTS.—***

20 ***(1) IN GENERAL.—Section 2(a) of Public Law***
21 ***93–100 (12 U.S.C. 1832(a)) is amended—***

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

24 ***“(2) PAYMENT OF INTEREST ON CERTAIN NOW***
25 ***ACCOUNTS.—An industrial loan company, industrial***

1 *bank, or other institution described in section*
2 *2(c)(2)(H) of the Bank Holding Company Act of 1956*
3 *may not pay interest on any deposit or account of a*
4 *corporation from which funds may be withdrawn by*
5 *negotiable instrument for payment to third parties,*
6 *unless the appropriate State bank supervisor (as de-*
7 *finied in section 3 of the Federal Deposit Insurance*
8 *Act) of such company, bank, or institution determines*
9 *that such company, bank, or institution is not a non-*
10 *qualified industrial loan company.”; and*

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

13 *“(4) RULE OF CONSTRUCTION RELATING TO DE-*
14 *MAND DEPOSITS.—No provision of this section may be*
15 *construed as conferring the authority to offer demand*
16 *deposit accounts to any institution that is prohibited*
17 *by law from offering demand deposit accounts.”.*

18 *(2) TECHNICAL AND CONFORMING AMEND-*
19 *MENT.—Section 2(b) of Public Law 93–100 (12*
20 *U.S.C. 1832(b)) (as added by subsection (a)(2) of this*
21 *section) is amended by striking “and is not a deposit*
22 *or account described in subsection (a)(2)”.*

23 *(3) EFFECTIVE DATE.—The amendments made*
24 *by this subsection shall take effect at the end of the*

1 2-year period beginning on the date of the enactment
2 of this Act.

3 **SEC. 3. INTEREST-BEARING TRANSACTION ACCOUNTS AU-**
4 **THORIZED.**

5 (a) *REPEAL OF PROHIBITION ON PAYMENT OF INTER-*
6 *EST ON DEMAND DEPOSITS.—*

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

10 “(i) [Repealed]”.

11 (2) *HOME OWNERS’ LOAN ACT.—The first sen-*
12 *tence of section 5(b)(1)(B) of the Home Owners’ Loan*
13 *Act (12 U.S.C. 1464(b)(1)(B)) is amended by striking*
14 *“savings association may not—” and all that follows*
15 *through “(ii) permit any” and inserting “savings as-*
16 *sociation may not permit any”.*

17 (3) *FEDERAL DEPOSIT INSURANCE ACT.—Section*
18 *18(g) of the Federal Deposit Insurance Act (12 U.S.C.*
19 *1828(g)) is amended to read as follows:*

20 “(g) [Repealed]”.

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

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

3 (a) *IN GENERAL.*—Section 19(b) of the Federal Re-
4 serve Act (12 U.S.C. 461(b)) is amended by adding at the
5 end the following new paragraph:

6 “(12) *EARNINGS ON RESERVES.*—

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

14 “(B) *REGULATIONS RELATING TO PAY-*
15 *MENTS AND DISTRIBUTION.*—The Board may
16 prescribe regulations concerning—

17 “(i) the payment of earnings in ac-
18 cordance with this paragraph;

19 “(ii) the distribution of such earnings
20 to the depository institutions which main-
21 tain balances at such banks or on whose be-
22 half such balances are maintained; and

23 “(iii) the responsibilities of depository
24 institutions, Federal home loan banks, and
25 the National Credit Union Administration
26 Central Liquidity Facility with respect to

1 *the crediting and distribution of earnings*
2 *attributable to balances maintained, in ac-*
3 *cordance with subsection (c)(1)(A), in a*
4 *Federal reserve bank by any such entity on*
5 *behalf of depository institutions.*

6 “(C) *DEPOSITORY INSTITUTIONS DE-*
7 *FINED.—For purposes of this paragraph, the*
8 *term ‘depository institution’, in addition to the*
9 *institutions described in paragraph (1)(A), in-*
10 *cludes any trust company, corporation organized*
11 *under section 25A or having an agreement with*
12 *the Board under section 25, or any branch or*
13 *agency of a foreign bank (as defined in section*
14 *1(b) of the International Banking Act of 1978).”.*

15 (b) *AUTHORIZATION FOR PASS THROUGH RESERVES*
16 *FOR MEMBER BANKS.—Section 19(c)(1)(B) of the Federal*
17 *Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by strik-*
18 *ing “which is not a member bank”.*

19 (c) *CONSUMER BANKING COSTS ASSESSMENT.—*

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

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

24 (B) *by inserting after section 29 the fol-*
25 *lowing new section:*

1 **“SEC. 30. SURVEY OF BANK FEES AND SERVICES.**

2 “(a) *ANNUAL SURVEY REQUIRED.*—*The Board of Gov-*
3 *ernors of the Federal Reserve System shall obtain annually*
4 *a sample, which is representative by type and size of the*
5 *institution (including small institutions) and geographic*
6 *location, of the following retail banking services and prod-*
7 *ucts provided by insured depository institutions and in-*
8 *sured credit unions (along with related fees and minimum*
9 *balances):*

10 “(1) *Checking and other transaction accounts.*

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

13 “(3) *Automated teller machine transactions.*

14 “(4) *Other electronic transactions.*

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

18 “(1) *CHECKING AND OTHER TRANSACTION AC-*
19 *COUNTS.*—*Data on checking and transaction accounts*
20 *shall include, at a minimum, the following:*

21 “(A) *Monthly and annual fees and min-*
22 *imum balances to avoid such fees.*

23 “(B) *Minimum opening balances.*

24 “(C) *Check processing fees.*

25 “(D) *Check printing fees.*

26 “(E) *Balance inquiry fees.*

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

3 “(G) Stop payment order fees.

4 “(H) Nonsufficient fund fees.

5 “(I) Overdraft fees.

6 “(J) Fees imposed in connection with
7 bounced-check protection and overdraft protec-
8 tion programs.

9 “(K) Deposit items returned fees.

10 “(L) Availability of no-cost or low-cost ac-
11 counts for consumers who maintain low bal-
12 ances.

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

17 “(A) Monthly and annual fees and min-
18 imum balances to avoid such fees.

19 “(B) Minimum opening balances.

20 “(C) Rate at which interest is paid to con-
21 sumers.

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

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

1 “(F) *Availability of no-cost or low-cost ac-*
2 *counts for consumers who maintain low bal-*
3 *ances.*

4 “(3) *AUTOMATED TELLER TRANSACTIONS.—Data*
5 *on automated teller machine transactions shall in-*
6 *clude, at a minimum, the following:*

7 “(A) *Monthly and annual fees.*

8 “(B) *Card fees.*

9 “(C) *Fees charged to customers for with-*
10 *drawals, deposits, and balance inquiries through*
11 *institution-owned machines.*

12 “(D) *Fees charged to customers for with-*
13 *drawals, deposits, and balance inquiries through*
14 *machines owned by others.*

15 “(E) *Fees charged to noncustomers for with-*
16 *drawals, deposits, and balance inquiries through*
17 *institution-owned machines.*

18 “(F) *Point-of-sale transaction fees.*

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

22 “(A) *Wire transfer fees.*

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

1 “(5) *OTHER FEES AND CHARGES.*—*Data on any*
2 *other fees and charges that the Board of Governors of*
3 *the Federal Reserve System determines to be appro-*
4 *priate to meet the purposes of this section.*

5 “(6) *FEDERAL RESERVE BOARD AUTHORITY.*—
6 *The Board of Governors of the Federal Reserve Sys-*
7 *tem may cease the collection of information with re-*
8 *gard to any particular fee or charge specified in this*
9 *subsection if the Board makes a determination that,*
10 *on the basis of changing practices in the financial*
11 *services industry, the collection of such information is*
12 *no longer necessary to accomplish the purposes of this*
13 *section.*

14 “(c) *ANNUAL REPORT TO CONGRESS REQUIRED.*—

15 “(1) *PREPARATION.*—*The Board of Governors of*
16 *the Federal Reserve System shall prepare a report of*
17 *the results of each survey conducted pursuant to sub-*
18 *sections (a) and (b) of this section and section*
19 *136(b)(1) of the Consumer Credit Protection Act.*

20 “(2) *CONTENTS OF THE REPORT.*—*In addition*
21 *to the data required to be collected pursuant to sub-*
22 *sections (a) and (b), each report prepared pursuant to*
23 *paragraph (1) shall include a description of any dis-*
24 *cernible trend, in the Nation as a whole, in a rep-*
25 *resentative sample of the 50 States (selected with due*

1 *regard for regional differences), and in each consoli-*
2 *dated metropolitan statistical area (as defined by the*
3 *Director of the Office of Management and Budget), in*
4 *the cost and availability of the retail banking services,*
5 *including those described in subsections (a) and (b)*
6 *(including related fees and minimum balances), that*
7 *delineates differences between institutions on the basis*
8 *of the type of institution and the size of the institu-*
9 *tion, between large and small institutions of the same*
10 *type, and any engagement of the institution in*
11 *multistate activity.*

12 *“(3) SUBMISSION TO CONGRESS.—The Board of*
13 *Governors of the Federal Reserve System shall submit*
14 *an annual report to the Congress not later than June*
15 *1, 2006, and not later than June 1 of each subsequent*
16 *year.*

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

22 *(2) CONFORMING AMENDMENT.—*

23 *(A) IN GENERAL.—Paragraph (1) of section*
24 *136(b) of the Truth in Lending Act (15 U.S.C.*
25 *1646(b)(1)) is amended to read as follows:*

1 “(1) *COLLECTION REQUIRED.*—*The Board shall*
2 *collect, on a semiannual basis, from a broad sample*
3 *of financial institutions which offer credit card serv-*
4 *ices, credit card price and availability information*
5 *including—*

6 “(A) *the information required to be dis-*
7 *closed under section 127(c) of this chapter;*

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

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

12 “(i) *Application fees.*

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

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

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

20 “(v) *Fees for balance transfers.*

21 “(vi) *Fees for foreign currency conver-*
22 *sions.”.*

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

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

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

9 (1) *in subsection (b)(4) (12 U.S.C. 461(b)(4)), by*
10 *striking subparagraph (C) and redesignating sub-*
11 *paragraphs (D) and (E) as subparagraphs (C) and*
12 *(D), respectively; and*

13 (2) *in subsection (c)(1)(A) (12 U.S.C.*
14 *461(c)(1)(A)), by striking “subsection (b)(4)(C)” and*
15 *inserting “subsection (b)”.*

16 **SEC. 5. INCREASED FEDERAL RESERVE BOARD FLEXIBILITY**
17 **IN SETTING RESERVE REQUIREMENTS.**

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

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

23 (2) *in clause (ii), by striking “and not less than*
24 *8 per centum,” and inserting “(and which may be*
25 *zero),”.*

1 **SEC. 6. TRANSFER OF FEDERAL RESERVE SURPLUSES.**

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

5 “(4) *ADDITIONAL TRANSFERS TO COVER INTER-*
6 *EST PAYMENTS FOR FISCAL YEARS 2005 THROUGH*
7 *2009.*—

8 “(A) *IN GENERAL.*—*In addition to the*
9 *amounts required to be transferred from the sur-*
10 *plus funds of the Federal reserve banks pursuant*
11 *to subsection (a)(3), the Federal reserve banks*
12 *shall transfer from such surplus funds to the*
13 *Board of Governors of the Federal Reserve Sys-*
14 *tem for transfer to the Secretary of the Treasury*
15 *for deposit in the general fund of the Treasury,*
16 *such sums as are necessary to equal the net cost*
17 *of section 19(b)(12) in each of the fiscal years*
18 *2005 through 2009.*

19 “(B) *ALLOCATION BY FEDERAL RESERVE*
20 *BOARD.*—*Of the total amount required to be paid*
21 *by the Federal reserve banks under subparagraph*
22 *(A) for fiscal years 2005 through 2009, the*
23 *Board of Governors of the Federal Reserve Sys-*
24 *tem shall determine the amount each such bank*
25 *shall pay in such fiscal year.*

1 “(C) *REPLENISHMENT OF SURPLUS FUND*
2 *PROHIBITED.—During fiscal years 2005 through*
3 *2009, no Federal reserve bank may replenish*
4 *such bank’s surplus fund by the amount of any*
5 *transfer by such bank under subparagraph (A).”.*

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

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

16 **SEC. 7. RULES OF CONSTRUCTION.**

17 *In the case of an escrow account maintained at a de-*
18 *pository institution in connection with a real estate trans-*
19 *action—*

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

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

1 (3) any benefit which may accrue to the holder
2 or the beneficiary of such escrow account as a result
3 of an action of the depository institution described in
4 subparagraph (1) or (2) or similar in nature to such
5 action, including any benefits which have been so de-
6 termined by the appropriate Federal regulator,
7 shall not be treated as the payment or receipt of interest
8 for purposes of this Act and any provision of Public Law
9 93-100, the Federal Reserve Act, the Home Owners' Loan
10 Act, or the Federal Deposit Insurance Act relating to the
11 payment of interest on accounts or deposits at depository
12 institutions. No provision of this Act shall be construed so
13 as to require a depository institution that maintains an
14 escrow account in connection with a real estate transaction
15 to pay interest on such escrow account or to prohibit such
16 institution from paying interest on such escrow account.
17 No provision of this Act shall be construed as preempting
18 the provisions of law of any State dealing with the payment
19 of interest on escrow accounts maintained in connection
20 with real estate transactions.

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1ST Session

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[Report No. 109-81]

A BILL

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MAY 16, 2005

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed