

107TH CONGRESS
2D SESSION

H. R. 1009

AN ACT

To repeal the prohibition on the payment of
interest on demand deposits.

107TH CONGRESS
2^D SESSION

H. R. 1009

AN ACT

To repeal the prohibition on the payment of interest on
demand deposits.

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
3 Freedom Act of 2002”.

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

6 (a) **REPEAL OF PROHIBITION ON PAYMENT OF IN-**
7 **TEREST ON DEMAND DEPOSITS.—**

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

11 “(i) [Repealed]”.

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

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

21 “(g) [Repealed]”.

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

1 **SEC. 3. INTEREST-BEARING TRANSACTION ACCOUNTS AU-**
2 **THORIZED FOR ALL BUSINESSES.**

3 Section 2 of Public Law 93–100 (12 U.S.C. 1832)
4 is amended—

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

7 (2) by inserting after subsection (a) the fol-
8 lowing:

9 “(b) Notwithstanding any other provision of law, any
10 depository institution may permit the owner of any deposit
11 or account which is a deposit or account on which interest
12 or dividends are paid and is not a deposit or account de-
13 scribed in subsection (a)(2) to make up to 24 transfers
14 per month (or such greater number as the Board of Gov-
15 ernors of the Federal Reserve System may determine by
16 rule or order), for any purpose, to another account of the
17 owner in the same institution. An account offered pursu-
18 ant to this subsection shall be considered a transaction
19 account for purposes of section 19 of the Federal Reserve
20 Act unless the Board of Governors of the Federal Reserve
21 System determines otherwise.”.

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

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

1 “(12) EARNINGS ON RESERVES.—

2 “(A) IN GENERAL.—Balances maintained
3 at a Federal reserve bank by or on behalf of a
4 depository institution may receive earnings to
5 be paid by the Federal reserve bank at least
6 once each calendar quarter at a rate or rates
7 not to exceed the general level of short-term in-
8 terest rates.

9 “(B) REGULATIONS RELATING TO PAY-
10 MENTS AND DISTRIBUTION.—The Board may
11 prescribe regulations concerning—

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

14 “(ii) the distribution of such earnings
15 to the depository institutions which main-
16 tain balances at such banks or on whose
17 behalf such balances are maintained; and

18 “(iii) the responsibilities of depository
19 institutions, Federal home loan banks, and
20 the National Credit Union Administration
21 Central Liquidity Facility with respect to
22 the crediting and distribution of earnings
23 attributable to balances maintained, in ac-
24 cordance with subsection (c)(1)(A), in a

1 Federal reserve bank by any such entity on
2 behalf of depository institutions.

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

13 (b) AUTHORIZATION FOR PASS THROUGH RESERVES
14 FOR MEMBER BANKS.—Section 19(c)(1)(B) of the Fed-
15 eral Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by
16 striking “which is not a member bank”.

17 (c) CONSUMER BANKING COSTS ASSESSMENT.—

18 (1) IN GENERAL.—Section 1002 of the Finan-
19 cial Institutions Reform, Recovery, and Enforcement
20 Act of 1989 (12 U.S.C. 1811 note) is amended to
21 read as follows:

22 **“SEC. 1002. SURVEY OF BANK FEES AND SERVICES.**

23 “(a) ANNUAL SURVEY REQUIRED.—The Board of
24 Governors of the Federal Reserve System shall obtain an-
25 nually a sample, which is representative by type and size

1 of the institution (including small institutions) and geo-
2 graphic location, of the following retail banking services
3 and products provided by insured depository institutions
4 and insured credit unions (along with related fees and
5 minimum balances):

6 “(1) Checking and other transaction accounts.

7 “(2) Negotiable order of withdrawal and sav-
8 ings accounts.

9 “(3) Automated teller machine transactions.

10 “(4) Other electronic transactions.

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

14 “(1) CHECKING AND OTHER TRANSACTION AC-
15 COUNTS.—Data on checking and transaction ac-
16 counts 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) Check processing fees.

21 “(D) Check printing fees.

22 “(E) Balance inquiry fees.

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

25 “(G) Stop payment order fees.

1 “(H) Nonsufficient fund fees.

2 “(I) Overdraft fees.

3 “(J) Deposit items returned fees.

4 “(K) Availability of no-cost or low-cost ac-
5 counts for consumers who maintain low
6 balances.

7 “(2) NEGOTIABLE ORDER OF WITHDRAWAL AC-
8 COUNTS AND SAVINGS ACCOUNTS.—Data on nego-
9 tiable order of withdrawal accounts and savings ac-
10 counts shall include, at a minimum, the following:

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

13 “(B) Minimum opening balances.

14 “(C) Rate at which interest is paid to con-
15 sumers.

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

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

20 “(F) Availability of no-cost or low-cost ac-
21 counts for consumers who maintain low
22 balances.

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

1 “(A) Monthly and annual fees.

2 “(B) Card fees.

3 “(C) Fees charged to customers for with-
4 drawals, deposits, and balance inquiries through
5 institution-owned machines.

6 “(D) Fees charged to customers for with-
7 drawals, deposits, and balance inquiries through
8 machines owned by others.

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

12 “(F) Point-of-sale transaction fees.

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

16 “(A) Wire transfer fees.

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

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

23 “(6) FEDERAL RESERVE BOARD AUTHORITY.—
24 The Board of Governors of the Federal Reserve Sys-
25 tem may cease the collection of information with re-

1 gard to any particular fee or charge specified in this
2 subsection if the Board makes a determination that,
3 on the basis of changing practices in the financial
4 services industry, the collection of such information
5 is no longer necessary to accomplish the purposes of
6 this section.

7 “(c) ANNUAL REPORT TO CONGRESS REQUIRED.—

8 “(1) PREPARATION.—The Board of Governors
9 of the Federal Reserve System shall prepare a report
10 of the results of each survey conducted pursuant to
11 subsections (a) and (b) of this section and section
12 136(b)(1) of the Consumer Credit Protection Act.

13 “(2) CONTENTS OF THE REPORT.—In addition
14 to the data required to be collected pursuant to sub-
15 sections (a) and (b), each report prepared pursuant
16 to paragraph (1) shall include a description of any
17 discernible trend, in the Nation as a whole, in a rep-
18 resentative sample of the 50 States (selected with
19 due regard for regional differences), and in each
20 consolidated metropolitan statistical area (as defined
21 by the Director of the Office of Management and
22 Budget), in the cost and availability of the retail
23 banking services, including those described in sub-
24 sections (a) and (b) (including related fees and min-
25 imum balances), that delineates differences between

1 institutions on the basis of the type of institution
2 and the size of the institution, between large and
3 small institutions of the same type, and any engage-
4 ment of the institution in multistate activity.

5 “(3) SUBMISSION TO CONGRESS.—The Board
6 of Governors of the Federal Reserve System shall
7 submit an annual report to the Congress not later
8 than June 1, 2004, and not later than June 1 of
9 each subsequent year.

10 “(4) TRANSITION PROVISION.—Notwithstanding
11 section 4(c)(3) of the Business Checking Freedom
12 Act of 2002, the Board of Governors of the Federal
13 Reserve System shall, on an interim basis, continue
14 to comply with the requirements for the bank fee
15 survey under the amendment made to this section by
16 section 108 of the Riegle-Neal Interstate Banking
17 and Branching Efficiency Act of 1994 for reports
18 submitted to the Congress under this section not
19 later than June 1, 2003, except that the Board shall
20 incorporate within any such report, to the extent
21 possible, any additional information on any credit
22 card fee or charge that is available to the Board
23 even though such information is not required by
24 such amendment.

1 “(d) DEFINITIONS.—For purposes of this section, the
2 term “insured depository institution” has the meaning
3 given such term in section 3 of the Federal Deposit Insur-
4 ance Act, and the term “insured credit union” has the
5 meaning given such term in section 101 of the Federal
6 Credit Union Act.”.

7 (2) AMENDMENT TO THE TRUTH IN LENDING
8 ACT.—

9 (A) IN GENERAL.—Paragraph (1) of sec-
10 tion 136(b) of the Truth in Lending Act (15
11 U.S.C. 1646(b)(1)) is amended to read as fol-
12 lows:

13 “(1) COLLECTION REQUIRED.—The Board shall
14 collect, on a semiannual basis, from a broad sample
15 of financial institutions which offer credit card serv-
16 ices, credit card price and availability information
17 including—

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

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

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

24 “(i) Application fees.

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

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

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

8 “(v) Fees for balance transfers.

9 “(vi) Fees for foreign currency con-
10 versions.”.

11 (B) EFFECTIVE DATE.—The amendment
12 made by subparagraph (A) shall take effect on
13 January 1, 2003.

14 (3) REPEAL OF SUNSET PROVISION.—Section
15 108 of the Riegle-Neal Interstate Banking and
16 Branching Efficiency Act of 1994 is hereby repealed.

17 (4) NONAPPLICABILITY OF OTHER PROVISION
18 OF LAW.—Section 3003(a)(1) of the Federal Re-
19 ports Elimination and Sunset Act of 1995 (31
20 U.S.C. 1113 note) shall not apply to any report re-
21 quired to be submitted under section 1002(b) of Fi-
22 nancial Institutions Reform, Recovery, and Enforce-
23 ment Act of 1989.

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

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

8 (2) in subsection (c)(1)(A) (12 U.S.C.
9 461(c)(1)(A)), by striking “subsection (b)(4)(C)”
10 and inserting “subsection (b)”.

11 **SEC. 5. INCREASED FEDERAL RESERVE BOARD FLEXI-**
12 **BILITY IN SETTING RESERVE REQUIRE-**
13 **MENTS.**

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

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

19 (2) in clause (ii), by striking “and not less than
20 8 per centum,” and inserting “(and which may be
21 zero),”.

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

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

1 “(4) ADDITIONAL TRANSFERS TO COVER IN-
2 TEREST PAYMENTS FOR FISCAL YEARS 2002
3 THROUGH 2006.—

4 “(A) IN GENERAL.—In addition to the
5 amounts required to be transferred from the
6 surplus funds of the Federal reserve banks pur-
7 suant to subsection (a)(3), the Federal reserve
8 banks shall transfer from such surplus funds to
9 the Board of Governors of the Federal Reserve
10 System for transfer to the Secretary of the
11 Treasury for deposit in the general fund of the
12 Treasury, such sums as are necessary to equal
13 the net cost of section 19(b)(12) in each of the
14 fiscal years 2002 through 2006.

15 “(B) ALLOCATION BY FEDERAL RESERVE
16 BOARD.—Of the total amount required to be
17 paid by the Federal reserve banks under sub-
18 paragraph (A) for fiscal years 2002 through
19 2006, the Board of Governors of the Federal
20 Reserve System shall determine the amount
21 each such bank shall pay in such fiscal year.

22 “(C) REPLENISHMENT OF SURPLUS FUND
23 PROHIBITED.—During fiscal years 2002
24 through 2006, no Federal reserve bank may re-
25 plenish such bank’s surplus fund by the amount

1 of any transfer by such bank under subpara-
2 graph (A).”.

3 (b) TECHNICAL AND CONFORMING AMENDMENT.—
4 Section 7(a) of the Federal Reserve Act (12 U.S.C.
5 289(a)) is amended by adding at the end the following
6 new paragraph:

7 “(3) PAYMENT TO TREASURY.—During fiscal
8 years 2002 through 2006, any amount in the sur-
9 plus fund of any Federal reserve bank in excess of
10 the amount equal to 3 percent of the paid-in capital
11 and surplus of the member banks of such bank shall
12 be transferred to the Secretary of the Treasury for
13 deposit in the general fund of the Treasury.”.

14 **SEC. 7. RULE OF CONSTRUCTION.**

15 In the case of an escrow account maintained at a de-
16 pository institution in connection with a real estate
17 transaction—

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

21 (2) the forbearance, by the depository institu-
22 tion, from charging a fee for providing any such
23 banking function; and

24 (3) any benefit which may accrue to the holder
25 or the beneficiary of such escrow account as a result

1 of an action of the depository institution described
2 in subparagraph (1) or (2) or similar in nature to
3 such action,
4 shall not be treated as the payment or receipt of interest
5 for purposes of this Act and any provision of Public Law
6 93-100, the Federal Reserve Act, the Home Owners' Loan
7 Act, or the Federal Deposit Insurance Act relating to the
8 payment of interest on accounts or deposits at depository
9 institutions.

Passed the House of Representatives April 9, 2002.

Attest:

Clerk.