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APPROVED
OCT 28 1974
Statement issued 10/29

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCT 23 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 11221 - Depository institutions and consumer financial protection
Sponsors - Rep. St. Germain (D) Rhode Island and 9 others

TO ARCHIVES 10/29

Last Day for Action

October 29, 1974 - Tuesday

Purpose

Amends various provisions of law (a) relating to Federal regulation of depository institutions; (b) protecting consumers against inaccurate and unfair credit billing and credit card practices, and strengthening other provisions of the Truth-in-Lending Act; and (c) prohibiting discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction. Establishes a temporary National Commission on Electronic Fund Transfers as an independent instrumentality of the U.S. Provides for distribution among the States of the proceeds of abandoned checks and money orders.

Agency Recommendations

Office of Management and Budget	Approval (signing statement attached)
Federal Home Loan Bank Board	Approval (signing statement attached)
Department of the Treasury	Approval
Board of Governors of the Federal Reserve System	Approval
Federal Deposit Insurance Corporation	Approval
Federal Trade Commission	Approval
Department of Health, Education, and Welfare	Approval
Commission on Civil Rights	Approval
Civil Service Commission	Approval
Office of Telecommunications Policy	Approval
National Credit Union Administration	No objection

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Council of Economic Advisers	No objection
Department of Justice	No objection
Department of Housing and Urban Development	No objection
Department of Commerce	No objection
Securities and Exchange Commission	No recommendation
Advisory Commission on Intergovernmental Relations	No recommendation

Discussion

H.R. 11221 contains two provisions which are identical or substantially similar to Administration proposals. It contains other provisions which, while not requested by the Administration, are either supported or not opposed by the Administration. Finally, the bill contains two features which are considered objectionable. The major provisions of the bill are discussed below in terms of these three categories.

Provisions Requested By The Administration

Purchase of U.S. obligations by Federal Reserve Banks -- Section 109 renews through October 31, 1975 the temporary authority of Federal Reserve Banks to purchase public debt obligations directly from the Treasury in an amount not to exceed $5 billion outstanding at any one time.

This direct-purchase authority was initially enacted in 1942 as a standby means of permitting more economical cash and debt management and assuring an immediate source of funds in the event of disruption in the private financial markets due to national emergencies. The original authority has subsequently been extended from time to time, the last extension being in 1973 for a four-month period which expired on October 31, 1973. The Administration had requested a two-year extension from July 1, 1973 to June 30, 1975.

In recent years, this authority has been relied upon in periods immediately preceding tax payment dates, inasmuch as its existence permits the Treasury to operate with considerably lower cash balances than would otherwise be required.

FSLIC Secondary Reserve adjustment -- Section 115 would provide for phasing out over a ten-year period the Secondary Reserve accumulated by the Federal Savings and Loan Insurance Corporation under provisions of prior law which required payments from insured institutions, in the nature of prepayments of their insurance premiums. These prepayments were discontinued by Public Law 93-100, approved August 16, 1973, but the phase-out provisions still left certain institutions with such large insurance reserves

that interest earnings thereon were far higher than their required premiums. Thus, section 115 would complete earlier Congressional action regarding the orderly phase-out of the FSLIC's Secondary Reserve.

Provisions Supported Or Not Opposed By The Administration

Increased ceiling on deposit insurance for personal accounts -- Sections 102-104 would increase the basic deposit insurance ceiling for personal accounts in banks insured by FDIC, savings and loan associations (S&Ls) insured by FSLIC, and credit unions insured under the Federal Credit Union Act from the present $20,000 to $40,000.

The Administration had initially supported an increase to $25,000 and later supported an increase to $35,000 but opposed an increase to $50,000. However, an increase to $40,000 does not seem excessive in view of inflation trends since the last ceiling increase in 1969, and since such an increase should not cause a significant increase in the Government's insurance risk.

Conversion of S&Ls from mutual to stock form of ownership -- Section 105 would provide for a test program for conversion of mutual S&Ls to stock companies as a means of attracting new capital to home lending institutions. Authorized test cases would include: (a) 8 or 9 S&Ls which had submitted applications prior to May 22, 1973; (b) up to 23 applications from the States which currently provide for conversions; and (c) a number of conversions from States which enacted legislation subsequent to May 22, 1974 authorizing conversions.

A new statutory moratorium on conversions other than the test cases would be imposed until June 30, 1976, thereby replacing the moratorium which was enacted last year and which expired on June 30, 1974.

In October 1973, the Administration requested legislation authorizing the FHLBB to charter stock thrift institutions at its discretion as part of its proposed comprehensive "Financial Institutions Act." Despite this, the interested agencies did not oppose section 105 inasmuch as it provides a reasonable manner in which conversions can be tested.

Moratorium on conversion of FDIC-insured savings banks -- Section 106 would impose a moratorium until June 30, 1976, on conversions by insured savings banks from the mutual to the stock form of organization. An exception would be provided in cases where conversion approval is required to maintain the safety, soundness, and stability of insured mutual savings banks. FDIC does not object to this provision.

Extension of flexible regulation of interest rate authority -- Section 107 would extend for one year until December 31, 1975 the authority of the financial regulatory agencies to establish flexible ceilings on interest rates payable on time and savings deposits by commercial banks, mutual savings banks, and S&Ls. This authority was initially enacted by the Congress in 1966 and has been extended on seven occasions for varying periods of time.

This extension is basically consistent with the Administration's proposed "Financial Institutions Act," which would extend the flexible interest rate authority for five and one-half years with provision for a gradual phase-out of the rate differential between banks and thrift institutions. Since that bill has not yet passed either House, the extension provided by section 107 of H.R. 11221 appears appropriate.

Increased cost limitation for construction of Federal Reserve Bank branch buildings -- Section 108 would increase from $60 million to $140 million the amount of money which may be spent by the Federal Reserve System for the construction of branch banking facilities. This increase was requested by the Federal Reserve Board.

Extension of FRB supervisory authority over bank holding companies -- Section 110 would expand the scope of the FRB's cease-and-desist authority to cover parent bank holding companies and their nonbanking subsidiaries. Under existing law, the only available means of dealing with unsafe and unsound practices or violations by these institutions is through the sanctions contained in criminal law. This expanded authority was also requested by the FRB.

Increased authority of Treasury to purchase Federal Home Loan Bank obligations -- Section 112 would amend section 11 of the Federal Home Loan Bank Act to increase by $2 billion (to a total of $6 billion) the discretionary authority of the Secretary of the Treasury to purchase Federal Home Loan Bank obligations. This authority could be used only when (a) the FHLBB

cannot effectively use alternative means in supplying funds to the mortgage market, and (b) the ability to supply such funds to housing is impaired by monetary stringency and a high level of interest rates. The Administration had requested an increase of $3 billion in order for the Treasury to provide financing, under its statutory standby loan authority, for the Administration's new commitment program for conventional mortgages and for other lending purposes. However, the recently enacted Emergency Home Purchase Assistance Act of 1974 (S. 3979) also provides support for conventional mortgages. As you stated in your message of October 8, 1974, transmitting proposals to fight inflation, $3 billion is being made available now for conventional mortgage purchases.

Expanded authority of Federal Home Loan Mortgage Corporation to purchase mortgages -- Section 113 would authorize the Federal Home Loan Mortgage Corporation to purchase residential mortgages from State-insured financial institutions (in addition to mortgages from any Federally-insured institution as at present), provided that the total amount of time and savings deposits held in all such institutions is more than 20 percent of the total amount of such deposits in all banks and thrift institutions in the State.

The effect of this provision would be to qualify mutual savings banks in Massachusetts as lenders under the recently enacted tandem plan for conventional mortgages (S. 3979), which permits the FHLMC to purchase conventional mortgages on newly constructed homes at below market interest rates. Under existing law, mortgage lenders are required to have their deposits insured by the Federal Government. Mutual savings banks, which have been traditionally the dominant mortgage lenders in Massachusetts, have their deposits insured by the Massachusetts Central Fund.

Study of "doing business" taxes on out-of-State depository institutions -- Section 114 would remove the Commonwealth of Puerto Rico from the definition of "State" in Public Law 93-100, which imposed a moratorium on interstate taxation of depository institutions. As a result, Puerto Rico would be treated as a "foreign country," in line with current FRB regulations.

Credit union health and accident insurance - Section 116 would provide that reasonable health, accident, and similar insurance protection not be considered compensation to members of the board of directors or of the credit or supervisory committee of a Federal credit union. Such directors and members are required by law to serve without compensation.

National Commission on Electronic Fund Transfers -- Title II of the bill would provide for the establishment of a 26-member National Commission on Electronic Fund Transfers as a temporary advisory body to study the possible development of public or private electronic fund transfer systems. Twelve of the members are specified; the remaining fourteen members would be appointed by the President. Federal agencies could be called upon to furnish information and personnel to assist the Commission in carrying out its functions. The Commission would be required to furnish Congress with its final report of administrative and legislative recommendations no later than two years after enactment. The bill authorizes appropriations of up to $2 million for the Commission.

Fair credit billing -- Title III would amend the Truth-in-Lending Act to protect consumers against inaccurate and unfair credit billing and credit card practices. Creditors would be required to disclose to consumers, when their accounts are opened and semiannually thereafter, their right to have billing errors corrected in accordance with new provisions under the bill.

Most important are requirements that creditors:

-- acknowledge customer billing inquiries within 30 days and resolve them within 90 days

-- not report any disputed amount to a credit reporting agency as delinquent until the creditor has taken the prescribed steps to resolve the dispute

-- who fail to comply with the new requirements forfeit the disputed amount up to $50 whether or not the bill was in error

With regard to revolving or open-end credit accounts, creditors generally could not impose finance charges unless they billed the customers at least 14 days before payment must be received. Creditors would be required to post payments promptly, and merchants would be required promptly to notify credit card issuers of credits on returned merchandise.

Certain anti-competitive practices would be prohibited between credit card issuers and retail merchants who participate in the credit card plan. In this connection, credit card issuers could not prohibit merchants who honor the card from offering a discount to cash customers. Similarly, card issuers could not require merchants to maintain deposits or purchase other services as a condition for participating in the credit card plan.

Finally, Title III seeks to strengthen the legal rights of customers who use credit cards issued by banks or other third parties. The latter could not offset unpaid credit card bills against customers' checking or savings accounts without obtaining a court order. The "holder-in-due-course" doctrine, which requires customers to continue paying third-party credit card issuers for defective merchandise purchased under their credit plan, would be abolished for intrastate credit card transactions exceeding $50.

Other Truth-in-Lending Act amendments - Title IV consists of amendments, recommended by the FRB or the former National Commission on Consumer Finance, which are designed to improve the administration of the Truth-in-Lending Act. The most significant amendments would:

-- relieve creditors of any civil liability under the Truth-in-Lending Act for any act committed or omitted in good faith conformity with any FRB rule, regulation, or interpretation

-- clarify that a multiple failure to disclose the same information to a person constitutes a single violation

-- provide for consumers, in individual or class actions against creditor violations, to recover actual damages plus court costs and reasonable attorney fees

-- entitle plaintiffs in individual actions to recover twice the applicable finance charge, but not less than $100 nor more than $1,000

-- limit a creditor's maximum liability in a class action suit to the lesser of $100,000 or one percent of the creditor's net worth, but without limiting the amount of actual damages recoverable

-- prohibit a card holder from offsetting a creditor's potential liability (other than for actual damages) against funds owed to the creditor unless the card holder was a party to a successful civil action to enforce such liability

-- increase the criminal penalties for the fraudulent use of credit cards

-- require that the Truth-in-Lending statement prescribed by that Act include a full statement of closing costs to be incurred by the consumer, in accordance with FRB regulations.

Equal credit opportunity - Title V would amend the Consumer Credit Protection Act (Public Law 90-321) to prohibit creditors from discriminating against any applicant for credit on the basis of sex or marital status. The FRB would be given rulemaking authority to carry out this Title. Compliance would be enforced by the Federal financial regulatory agencies, the ICC, the CAB, Agriculture, the Farm Credit Administration, the SEC, and the Small Business Administration with respect to institutions and activities under their respective jurisdiction. The FTC would enforce compliance of all other creditors.

These agencies would be empowered to use their existing enforcement authorities such as the issuance of cease and desist orders to achieve compliance. Injured parties, individually or as a class, could bring civil actions in the Federal courts against any creditor who discriminates in violation of Title V. The bill would make violators liable for punitive and actual damages, court costs, and reasonable attorney's fees. Preventive relief would be also authorized, including issuance of permanent or temporary injunctions and restraining orders.

In their views letters on the enrolled bill, Justice and the Civil Rights Commission indicate they would have preferred expanded coverage which included race, color, religion, national origin, and age.

Disposition of abandoned money orders and traveler's checks - Title VI would allow the proceeds of abandoned money orders and traveler's checks to escheat to the State in which they were purchased or, if the latter is unknown, such proceeds would accrue to the State in which the issuing organization has its principal place of business.

Provisions Opposed By The Administration

Increased deposit insurance for public units - Section 101 would provide that time and savings deposits of public funds by Federal, State, and local government units in Federally insured depository institutions be increased from $20,000 to $100,000 per account.

A majority of States require the pledging of securities by banks against the deposits of States and political subdivisions. Similarly, Federal statutes require that U.S. Government deposits in banks be secured by the pledge of Government obligations or certain other securities. In large part, the securities pledged against deposits of State and local governments in those States which require such pledging are obligations of the same State and local governments.

To the extent, therefore, that the enrolled bill would allow public funds now on deposit at commercial banks to be backed by substantially less collateral, the effect on the Government securities market could be detrimental. The result may be some decrease in demands for Government securities and a marginal increase in the borrowing costs of governmental units at both the State and Federal levels.

It is noteworthy, however, that section 101 in its enrolled form represents a considerable improvement over earlier versions of the bill and an apparent compromise by the Congress in an attempt to avoid a veto. As originally passed by the House, for example, H.R. 11221 would have provided for 100 percent insurance on the deposits of public units; this version was strongly opposed by Treasury. In its views letter on the enrolled bill, Treasury indicates that it is not aware of any valid need for giving public deposits greater insurance coverage than other deposits.

Exception of financial regulatory agencies from legislative coordination - Section 111 would prohibit any Federal officer or agency from requiring the SEC, FRB, FDIC, FHLBB, or the National Credit Union Administration to submit their legislative recommendations, testimony, or comments for approval or review prior to their submission to the Congress, provided that such communications include a statement to the effect that the views expressed therein do not necessarily represent the views of the President.

Provisions of this type in other legislation have been consistently opposed by the Administration with the threat of a Presidential veto. By thus exempting the financial regulatory agencies from the OMB legislative clearance process, the enrolled bill undermines in part the ability of the President to ensure the development of a coordinated and coherent Administration position on legislative proposals.

We feel strongly that this is a highly objectionable provision but do not believe that it warrants veto of the bill. In the case of the enrolled bill H.R. 13113, establishing the Commodity Futures Commission, we recommended veto because the bill had a legislative by-pass combined with budgetary and litigation by-passes.

At the same time, it should be noted that a similar provision was included in the law establishing the Consumer Product Safety Commission in 1972. Also, we note that the Federal Reserve Board has always been exempt from the OMB legislative clearance process, so that the enrolled bill would have no practical effect as far as that agency is concerned. Moreover, the bill would not prevent the Administration from continuing to make its position known to the Congress regarding either pending legislation or the stated views of financial regulatory agencies. Finally, we would hope to contain this kind of exemption from the legislative clearance process to regulatory type agencies, which admittedly have always posed a special problem for the legislative clearance process because of their so called "independent" nature and their quasi-legislative and quasi-judicial functions.

RECOMMENDED ACTION

Because the desirable features of H.R. 11221 are substantial, we recommend approval of the bill. A draft of a proposed signing statement is attached for your consideration; it is a revision of a draft submitted by the Special Assistant to the President for Consumer Affairs.

Director

10/28

THE WHITE HOUSE

WASHINGTON

ACTION

Last Day - October 29

October 25, 1974

MEMORANDUM FOR: THE PRESIDENT

FROM: KEN COLE C

SUBJECT: Enrolled Bill H.R. 11221
Depository institutions and consumer financial protection

Attached for your consideration is House bill, H.R. 11221, sponsored by Representative St. Germain, which amends various provisions of law (a) relating to Federal regulation of depository institutions; (b) protecting consumers against inaccurate and unfair credit billing and credit card practices, and strengthening other provisions of the Truth-in-Lending Act; and (c) prohibiting discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction. Establishes a temporary National Commission on Electronic Fund Transfers as an independent instrumentality of the U.S. Provides for distribution among the States of the proceeds of abandoned checks and money orders.

Roy Ash recommends approval and provides you with additional background information in his enrolled bill report (Tab A).

The Counsel's office (Chapman), Bill Timmons, and Domestic Council all recommend approval of the bill and issuance of the signing statement which Paul Theis has approved.

RECOMMENDATION

That you sign House bill, H.R. 11221 (Tab B) and approve the proposed Presidential signing statement (Tab C).

ACTION

Last Day - October 29

October 25, 1974

MEMORANDUM FOR: THE PRESIDENT

FROM: KEN COLE

SUBJECT: Enrolled Bill H.R. 11221
Depository institutions and consumer financial protection

Attached for your consideration is House bill, H.R. 11221, sponsored by Representative St. Germain, which amends various provisions of law (a) relating to Federal regulation of depository institutions; (b) protecting consumers against inaccurate and unfair credit billing and credit card practices, and strengthening other provisions of the Truth-in-Lending Act; and (c) prohibiting discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction. Establishes a temporary National Commission on Electronic Fund Transfers as an independent instrumentality of the U.S. Provides for distribution among the States of the proceeds of abandoned checks and money orders.

Roy Ash recommends approval and provides you with additional background information in his enrolled bill report (Tab A).

The Counsel's office (Chapman), Bill Timmons, and Domestic Council all recommend approval of the bill and issuance of the signing statement which Paul Theis has approved.

RECOMMENDATION

That you sign House bill, H.R. 11221 (Tab B) and approve the proposed Presidential signing statement (Tab C).

THE WHITE HOUSE

WASHINGTON

OCT 25 1974

MEMORANDUM FOR THE PRESIDENT

FROM: ~~ROY L. ASH~~

SUBJECT: Enrolled bill H.R. 11221 relating to depository institutions and consumer financial protection

H.R. 11221 is an enrolled bill which would increase deposit insurance and amend other regulations dealing with financial institutions, and which adds significant consumer protection in the area of consumer credit. All the agencies, including the Office of Management and Budget, are recommending your approval, but there is one serious problem with the bill.

Section 111 of the subject bill would prohibit any Federal officer or agency from requiring the financial regulatory agencies (Securities and Exchange Commission, Federal Reserve Board, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, and National Credit Union Administration) to submit their legislative recommendations, testimony, or comments for approval or review prior to their submission to the Congress, provided only that such communications include a statement to the effect that the views expressed therein do not necessarily represent the views of the President.

By thus exempting the financial regulatory agencies from the Executive Office legislative clearance process, the enrolled bill would seriously erode your ability to ensure the development of a coordinated and coherent Administration position on legislative proposals.

When a similar but even more undesirable provision was contained in H.R. 13113 (the "Commodity Futures Trading Commission Act of 1974"), you called Congressman Poage and secured his intention to sponsor corrective legislation as soon as possible. To be consistent, I recommend that you call Senator Sparkman and Representative Patman to ask them to sponsor legislation in the next session which would repeal Section 111 of this bill. Bill Timmons concurs in this approach.

Attached are some talking points for such a conversation, which I suggest take place before you sign H.R. 11221.

Attachement

TALKING POINTS FOR TELEPHONE CONVERSATIONS BETWEEN THE PRESIDENT AND SENATOR SPARKMAN AND REPRESENTATIVE PATMAN

I would like to talk to you about H.R. 11221 (the Depository Institutions Amendments of 1974).

First, I think the bill will greatly benefit consumers from the standpoint of the fair credit billing, truth in lending, and equal credit opportunity provisions, and it will help bolster the home mortgage market through several other provisions.

However, I believe that Section 111 of the bill would seriously erode my ability to mold a consistent and coherent legislative program relating to financial institutions. The existing mechanism has worked well for over 40 years by eliciting and coordinating the legitimate views of all the Executive Branch agencies and identifying potential conflicts with other legislative mandates.

I am asking you to sponsor corrective legislation in the next session which addresses this problem, just as Senator Poage has agreed to correct a similar problem with H.R. 12113, the "Commodity Futures Trading Commission Act of 1974." Specifically, I ask that Section 111 be repealed. If you can agree to correct this deficiency in the bill, I will sign it as it now stands.

FEDERAL HOME LOAN BANK BOARD

WASHINGTON, D. C. 20552

101 INDIANA AVENUE, N. W.

FEDERAL HOME LOAN BANK SYSTEM
FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION
FEDERAL SAVINGS AND LOAN SYSTEM

OFFICE OF THE
GENERAL COUNSEL

October 11, 1974

Mr. Wilfred H. Rommel
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Rommel:

This is in response to your request of October 11, 1974 for a report of the Board's views on enrolled bill H. R. 11221.

The bill would assist financial institutions to attract funds for lending to home buyers. The Board supports enactment of this legislation and urges that it be signed by the President.

Sincerely,

Charles E. Allen
General Counsel

Statement Upon Signing H.R. 11221

This is an important bill I am signing today. It should have a significant beneficial impact on the country's financial institutions. It should be especially helpful to the financial institutions that provide funds for home ownership -- our savings and loan associations and mutual savings banks -- and to the home construction industry, and the communities and people that they serve. The bill is also intended to increase credit opportunity for women and unmarried persons.

As I noted in my economic message to the Congress, the country is now suffering the longest and most severe housing recession since the end of World War II, and the rate of unemployment in the construction trades is twice the national average. Inflation and high competitive interest rates are making it increasingly difficult for home-financing thrift institutions to attract adequate funds for lending to home buyers. At a time when housing costs are at an all time high, thrift institutions and home-builders find themselves for the third time in eight years facing a scarcity of the funds needed to assist families obtain adequate housing.

H.R. 11221 does not, of course, supply a complete answer to these problems, but it is a major step toward alleviating the problems faced by thrift institutions and the housing industry.

The bill will double, from $20,000 to $40,000, the basic Federal insurance limit for deposits and savings accounts in insured savings and loan associations, banks, and credit unions. This increase will help these financial institutions attract the larger deposits. It will help savers ~~who wish to~~ build up funds for retirement or other purposes in institutions

with which they are familiar and which are insured by Federal agencies that have earned their confidence over the years. The Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration have the necessary strength to insure increased levels of savings in our financial institutions. I might add that the $40,000 figure is also an appropriate figure because the FSLIC celebrated its 40th anniversary this summer. All three agencies have served the nation well through the years.

The bill also provides that Federal, State, and local governments and agencies may have their accounts insured up to $100,000. This action benefits all taxpayers and should help provide new funds for thrift institutions and smaller banks that will ultimately be translated into an increased availability of mortgage credit.

H.R. 11221 continues the authority of the Federal financial regulatory agencies to regulate the rate of interest payable on savings accounts so that a differential in interest rates between banks and thrift institutions can be maintained to attract funds for housing credit. This authority must be continued until thrift institutions are able to implement reforms needed to increase their competitive ability, such as those contained in the proposed Financial Institutions Act.

This bill also provides for a number of test case conversions of mutual savings and loan associations to the stock form of organization as a means of attracting new capital to home lending institutions.

Still more funds are potentially made available for home financing by increasing by two billion dollars the amount of funds which the Secretary of the Treasury may lend to the Federal Home Loan Bank System to be re-lent to the Banks' member thrift institutions. Additional funds will also be provided to institutions insured by the Federal Savings and Loan Insurance Corporation by the return to them of special insurance premiums that were collected in a period of rapid growth but are not now required by the Corporation.

H.R. 11221 also establishes a Commission to study and investigate the developing area of electronic funds transfer systems, with a view to proposing possible legislative or administrative action in this area. Electronic funds transfers are providing new convenience for consumers and increased efficiency for our financial institutions. Financial institutions and the regulatory agencies are already constructively involved in this exciting new area, and the next few years should see important advances in this technology.

An important title of the new bill prohibits discrimination based on sex or marital status in connection with any credit transaction. This title supplements housing credit sex discrimination prohibitions contained in the Housing and Community Development Act of 1974 which I signed in August. The Federal agencies are already developing regulations to implement the Housing Act provisions, and responsibility for developing regulations under this new bill will be vested in the Federal Reserve Board.

H.R. 11221 is, of course, only one step toward meeting our problems in housing credit and in related savings needs. But it is a significant step -- significant in the aids it provides, and significant of our determination to act, legislatively and administratively, until these problems are, in fact, solved.

NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

Office of General Counsel

GC/JLO:eor
October 15, 1974

Mr. W. H. Rommel
Assistant Director for Legislative Reference
Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Dear Mr. Rommel:

This will acknowledge receipt of your memo of October 11, 1974, requesting views and recommendations with respect to enrolled bill H.R. 11221.

The National Credit Union Administration has no objection.

Sincerely yours,

John L. Ostby

JOHN L. OSTBY
General Counsel

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OCT 1971
BUREAU OF
MANAGEMENT & BUDGET

UNITED STATES CIVIL SERVICE COMMISSION
WASHINGTON, D. C. 20415

CHAIRMAN

October 16, 1974

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C. 20503

Attention: Assistant Director
for Legislative Reference

Dear Mr. Ash:

This is in response to your request for the Commission's views on enrolled H.R. 11221, a bill "To increase deposit insurance from $20,000 to $40,000, to provide full insurance for public unit deposits of $100,000 per account, to establish a National Commission on Electronic Fund Transfers, and for other purposes.

We are limiting our comments to the personnel provisions contained in Title II of the bill.

Title II establishes a National Commission on Electronic Fund Transfers and authorizes the new Commission on Electronic Fund Transfers to appoint and fix the compensation of employees without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the General Schedule classification and pay system in chapter 51 and subchapter III of chapter 53 of title 5, but at rates not to exceed the maximum rate of pay for GS-18.

In view of the temporary nature of the new organization, the Commission has no objection to these exceptions.

Title II authorizes the employment of experts and consultants at rates not to exceed $150 a day. The Commission objects to this provision. We believe the pay for experts and consultants should be limited to the daily equivalent rate for GS-18--as it is in most other Federal agencies and commissions.

Title II also permits compensating a member of the proposed Commission who is not an officer or employee of the United States, at the rate of $150 a day. We also object to this provision. We believe the pay for such members

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OCT 1974
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should be limited to the daily equivalent rate for GS-18, which is the maximum rate payable to members of similar commissions that are temporary in nature.

Section 205(a)(1) of Title II authorizes an indeterminate number of supergrade positions. The establishment of supergrade spaces by separate legislation is contrary to Congressional intent as expressed in P.L. 87-367. We, therefore, object to this provision.

Although we object to several of the personnel provisions of H.R. 11221, our objections are not such as to warrant recommending a Presidential veto. The Commission, therefore, recommends that the President sign this enrolled bill.

By direction of the Commission:

Sincerely yours,

Robert Hampton

Chairman

THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

OCT 16 1974

Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Sir:

Your office has requested the views of this Department on the enrolled enactment of H.R. 11221, "To increase deposit insurance from $20,000 to $40,000, to provide full insurance for public unit deposits of $100,000 per account, to establish a National Commission on Electronic Fund Transfers, and for other purposes."

Title I of the enrolled enactment would make a number of amendments in provisions of law relating to Federal regulation of depository institutions.

Section 101 would provide full insurance on time and savings deposits of public units up to $100,000 per account, with interest rate ceilings to be determined by the appropriate financial supervisory agencies. The Department objects to this provision. We are not aware of any valid reason for providing greater insurance coverage for public body deposits than for other deposits. Also, there are some ambiguities of coverage which remain unresolved.

Sections 102, 103 and 104 would increase from $20,000 to $40,000 the ceiling on deposit insurance on accounts in commercial banks, mutual savings banks, savings and loan associations and credit unions. The amount of the increase far exceeds that which can be justified on economic grounds since the $20,000 limit was established. The Department recommended an increase to $25,000.

Section 107 would extend from December 31, 1974 to December 31, 1975 the authority for more flexible regulation of rates of interest or dividends. The President's Recommendations for Change in the U. S. Financial System advocate a phase out of Regulation Q over a period of five and one-half years. The enrolled enactment is consistent with this position.

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Section 109 would extend until October 31, 1975 the authority of the Federal Reserve Banks to purchase directly from the Treasury public debt obligations up to a limit of $5 billion outstanding at any one time. The Department considers this authority as an essential backstop to our cash management and an insurance policy against financial emergency and recommends its approval by the President.

Section 112 would increase by $2 billion the amount which the Secretary of the Treasury may lend to home loan banks provided that such authority may be used only when the Secretary of the Treasury and the Chairman of the Federal Home Loan Bank Board certify to Congress that (1) the Home Loan Bank System cannot find alternate means in supplying funds to the mortgage market, and (2) the ability to supply such funds to housing is impaired by monetary stringency and a high level of interest rates. This authority would expire on August 10, 1975.

The Department considers this provision of considerable importance since $3 billion of the Treasury's present $4 billion lending authority has already been committed. For this reason, the Administration recommended an increase of $3 billion, and the Department would prefer a $3 billion increase. The Treasury's lending authority to the Federal Home Loan Bank System has been an assurance to the financial markets that the System would be able to make timely payment of principal and interest on its obligations. This has helped to assure the ability of the System to go to the market to borrow at competitive rates.

The Department has no comments on the other provisions of this title.

Title II of the enrolled enactment would establish a 26-member National Commission on Electronic Fund Transfers, two of which would be the Secretary of the Treasury and the Comptroller of the Currency. The Commission would be directed to conduct a thorough study and investigation and to make recommendations on administrative and legislative actions in the development of public or private electronic fund transfer systems. The Department has no objection to this title.

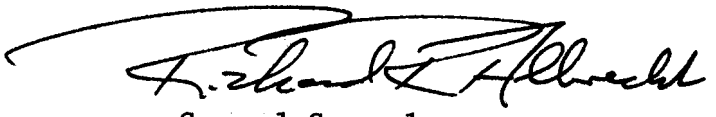
Titles III and IV of the enrolled enactment would amend the Truth in Lending Act to protect consumers against unfair and inaccurate credit billing and credit card practices and to improve the administration of the Act. The Department would have no objection to these titles.

Title V of the enrolled enactment would make unlawful any discrimination in the extension of credit on the basis of sex or marital status. It would vest the responsibility for prescribing regulations in the Board of Governors of the Federal Reserve System and for enforcing compliance in the individual bank regulatory agencies. The Department supports the principle of non-discrimination in lending and would have no objection to this title.

Title VI is intended to clarify and make more equitable the rules governing the disposition among the several States of the proceeds of abandoned traveler's checks, money orders and similar instruments for transmission of money. The Department has no objection to this title.

While the enrolled enactment contains several undesirable provisions, the Department believes that the need to increase the Treasury's lending authority to the Federal Home Loan Bank System and to extend the direct purchase authority is of overriding importance and thus recommends approval of the enrolled enactment by the President.

Sincerely yours,



General Counsel

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

October 16, 1974

Dear Mr. Rommel:

The Council of Economic Advisers has no objections to the President's signing H. R. 11221, an Act "To increase deposit insurance from $20,000 to $40,000, to provide full insurance for public unit deposits of $100,000 per account, to establish a National Commission on Electronic Fund Transfers, and for other purposes."

Sincerely,

Alan Greenspan

Mr. W. H. Rommel
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

OFFICE OF
THE CHAIRMAN

OCT 17 1974

BY SPECIAL MESSENGER

Honorable Wilfred H. Rommel
Assistant Director for Legislative
Reference
Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Mrs. L. Garziglia
7201 New Executive Office Building

Re: Enrolled Bill H. R. 11221

Dear Mr. Rommel:

This will acknowledge receipt of a copy of the above enrolled bill together with your request for the Commission's views and recommendations.

This bill consists of six separate titles which are largely unrelated and include amendments to the Federal Deposit Insurance Act, creation of a National Commission on Electronic Fund Transfers, provisions for a Fair Credit Billing Act, amendments to the Truth in Lending Act, provisions for an Equal Credit Opportunity Act and finally, provisions for Disposition of Abandoned Money Orders and Traveler's Checks.

Although a few of the provisions of this bill would have some minor effect on the Securities and Exchange Commission and the Acts which it administers, the Commission has no objection to any such provisions and the remaining provisions, which constitute by far the major portions of the bill, would have no effect upon the federal securities laws. The Commission, accordingly, takes no position as to whether the President should approve the enrolled bill.

Sincerely,

Ray Garrett, Jr.
Chairman

ASSISTANT ATTORNEY GENERAL
LEGISLATIVE AFFAIRS

Department of Justice
Washington, D.C. 20530

OCT 17 1974

Honorable Roy L. Ash
Director, Office of
Management and Budget
Washington, D. C. 20503

Dear Mr. Ash:

In compliance with your request, I have examined a facsimile of the enrolled bill H.R. 11221, "To increase deposit insurance from $20,000 to $40,000, to provide full insurance for public unit deposits of $100,000 per account, to establish a National Commission on Electronic Fund Transfers, and for other purposes."

Title I of the bill would make a number of amendments to the Federal Deposit Insurance Act, the National Housing Act, and the Federal Credit Union Act, the principal purpose of which would be to increase individual deposit insurance limits from $20,000 to $40,000 and to insure public deposits up to $100,000 per account.

Title II of H.R. 11221 would establish a twenty-six member National Commission on Electronic Fund Transfers whose principal purpose would be to conduct a study and recommend appropriate administrative action and legislation in connection with the possible development of public or private electronic fund transfer systems.

Title III, which would be known as the Fair Credit Billing Act, would add a new chapter 4 to the Truth in Lending Act the effect of which would be to enable an obligor to cause his creditor to investigate any billing error which the obligor may believe has occurred with respect to his account.

Title IV of the bill would make a number of amendments to the Truth in Lending Act. Of particular interest to this Department is section 414 of the bill which would amend section 134 of the Truth in Lending Act to prohibit the fraudulent use of a credit card. In an August 1, 1974, letter to the Chairman of the Senate Committee on Banking, Housing and Urban Affairs, a copy of which is attached, the Department recommended a number of technical changes, none of which have been adopted.

Title V of H.R. 11221, which would be known as the Equal Credit Opportunity Act, would amend the Consumer Credit Protection Act to prohibit any creditor from discriminating against any credit applicant on the basis of sex or marital status. While the Department of Justice supports this provision, we would have preferred that it also include a prohibition against credit discrimination on the basis of race. We also note that proposed section 702 includes in the definition of "person," and therefore within the definition of a "creditor," a government or governmental subdivision or agency. We question whether such a waiver of sovereign immunity is wise in this case.

Title VI of the bill provides that moneys represented by abandoned money orders and traveler's checks would escheat to the state wherein the money order or traveler's check was purchased.

Although the Department of Justice believes that the drafting of many of the provisions of H.R. 11221 could be improved, we have no objection to Executive approval of the bill.

Sincerely,

W. Rakestraw

W. Vincent Rakestraw
Assistant Attorney General

GENERAL COUNSEL OF THE
DEPARTMENT OF COMMERCE
Washington, D.C. 20230

OCT 18 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Ash:

This is in reply to your request for the views of this Department concerning H. R. 11221, an enrolled enactment

> "To increase deposit insurance from $20,000 to $40,000, to provide full insurance for public unit deposits of $100,000 per account, to establish a National Commission on Electronic Fund Transfers, and for other purposes."

Title I of H. R. 11221 makes a number of amendments to the laws relating to Federal regulation of depository institutions, including an increase from $20,000 to $40,000 in the Federal deposit insurance ceiling on individual private accounts, and a ceiling of up to $100,000 per account for deposits of public funds. Title II establishes a National Commission on Electronic Fund Transfers to study the electronic funds transfer system and report its findings and recommendations to Congress no later than two years after enactment. Title III, to be cited as the "Fair Credit Billing Act", and Title IV amend the Truth in Lending Act to (1) add a provision for the protection of consumers against unfair and inaccurate credit billing and credit card practices, and (2) make a series of basically technical amendments to improve administration of the Act. Title V, to be cited as the "Equal Credit Opportunity Act", would prohibit any creditor from discriminating against any applicant for credit on the basis of sex or marital status. Title VI relates to the disposition of abandoned money orders and traveler's checks.

This Department would have no objection to approval by the President of H. R. 11221. We do, however, have the following comments to make concerning Title II.

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We are concerned that the membership which Congress has specified for the Commission does not include adequate representation of Executive Agencies with competence in the fields of telecommunications regulation, telecommunications technology, data processing technology, and the segments of industry which will develop and manufacture electronic fund transfer equipment. Most of the Federal officers specified for membership on the Commission are connected with financial regulation or antitrust. Some Executive Agency officers who do have this competence, such as the Director of the Office of Telecommunications Policy and the Secretary of Commerce, have not been included in the membership of the Commission. We are also concerned that Section 202 requires the appointment of State officials and private individuals with competence or interests in banking and finance, but includes no similar requirement for appointment of State officials or private individuals with competence or interests in the regulation of telecommunications technology or manufacture of electronic fund transfer equipment.

Since it is not possible to correct these oversights by amendment of the membership list in this enrolled enactment, we believe that the President should recommend to the Chairman of the Commission that he solicit comments from Executive Agency officers with expertise in the fields of telecommunications regulation, telecommunications technology, data processing technology, and the manufacture of electronic fund transfer equipment pursuant to his authority to obtain information from them under Section 204(c), and give special attention during the study to obtaining the views of State officials and private individuals with competence in telecommunications and data processing. He may also wish to consider appointing one or more consumer members (pursuant to Section 202(a)(13)), who have technical backgrounds as well in telecommunications and data processing.

Enactment of this legislation is not expected to involve any increase in the budgetary requirements of this Department. As might be appropriate, however, we would propose to offer the Commission

proposed in Title II reimbursable services from our Office of Telecommunications in the area of telecommunications technology. We would anticipate that there would be a similar need, in the field of computer technology, for services from the Institute for Computer Science and Technology of the National Bureau of Standards.

Sincerely,

Karl E. Bakke

General Counsel

OFFICE OF TELECOMMUNICATIONS POLICY
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C. 20504

October 18, 1974

GENERAL COUNSEL

Memorandum For

Assistant Director for Legislative Reference
Office of Management and Budget

Attention: W. H. Rommel

Subject: H.R. 11221, an Act "To increase deposit insurance from $20,000 to $40,000, to provide full insurance for public unit deposits of $100,000 per account, to establish a National Commission on Electronic Fund Transfers, and for other purposes."

You have requested our comments on Title II of H.R. 11221, which would establish a National Commission on Electronic Fund Transfers. The Office of Telecommunications Policy (OTP) has a deep interest in the various issues raised by the development of electronic fund transfer systems, particularly the privacy problems that could be created by this joint use of computer and telecommunications technologies. For example, OTP is presently working with the Department of Commerce and the staff of the Domestic Council Committee on the Right of Privacy to study and evaluate such problems.

OTP, however, was not included in either the legislative hearings or OMB's interagency review of this legislation. Therefore, it is difficult at this late date to comment on Title II of H.R. 11221 in any meaningful way. In any event, based upon a brief review of the provisions of this title, OTP can support the creation of a National Commission to study, and make recommendations regarding the important questions set out in Section 203(a) of the bill. We believe, however, that Title II of the bill is deficient in this respect: the Federal Government members of the Commission should include additional agencies and departments that have expertise and an interest in the matters to be considered. Specifically, the membership should include the Secretary of Commerce, the Director of OTP, and the Executive Director of the Domestic Council Committee on the Right of Privacy.

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Although there is no way to correct this deficiency in H.R. 11221 at the present time, OTP recommends that any statement issued by the White House upon the President's consideration of the bill should make note of the omissions in the membership of the National Commission. Such a statement should also urge the Chairperson of the National Commission, when designated, to solicit the advice and assistance of the Secretary of Commerce, Director of OTP, and the Executive Director of the Privacy Committee.

Henry Goldberg/Kal

Henry Goldberg

FEDERAL TRADE COMMISSION
WASHINGTON, D. C. 20580

OFFICE OF THE SECRETARY

October 18, 1974

The Honorable Roy L. Ash
Director, Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

Dear Mr. Ash:

This report is in response to your request for the views of the Federal Trade Commission upon Enrolled Bill H.R. 11221, 93d Congress, 2d Session, an Act "To increase deposit insurance from $20,000 to $40,000, to provide full insurance for public unit deposits of $100,000 per account, to establish a National Commission on Electronic Fund Transfers, and for other purposes."

H.R. 11221 contains six distinct titles relating to amendments to laws relating to Federal regulation of depository institutions (Title I); the establishment of a "National Commission on Electronic Fund Transfers (Title II); a "Fair Credit Billing Act" (Title III); amendments to the Truth in Lending Act (Title IV); an Equal Credit Opportunity Act (Title V); and, the disposition of abandoned money orders and traveler's checks (Title VI). Only Titles III, IV, and V directly affect the operations of the Federal Trade Commission and the comments which follow will be limited to these Titles. As to Titles I, II, and VI, the Commission defers to the views of those agencies which have cognizance over these Titles.

Title III makes a number of amendments to the Fair Credit Reporting Act, including the addition of a new chapter to be cited as the "Fair Credit Billing Act." It would require creditors sending billing statements to acknowledge receipt of notice from obligors of errors in statements, to make necessary corrections or explanations, to refrain from restricting or adversely affecting the obligor's credit pending the clarification of the statement, and time periods are prescribed for the accomplishments by the creditor of these requirements. Title III also provides for prompt posting of payments on accounts, the refunding or crediting of overpayments, the adjustment by credit card issuers to reflect returns of merchandise to the seller, the preservation to credit card holders of cash discount offered by individual sellers, the exemption from Truth

in Lending Act disclosure requirements of cash discount not exceeding 5 percent, and the extinguishment under prescribed conditions of the holder-in-due course doctrine as to third-party credit card issuers.

Title IV would amend the Truth-in-Lending Act to require that any advertisement for credit repayable in more than four installments shall (unless a finance charge is imposed) state that the cost of credit is included in the price quoted for the goods and services; exempt agricultural credit transaction (other than real estate) exceeding $25,000 from the Act; vest in the Farm Credit Administration (rather than FTC) enforcement over certain agricultural creditors; define security interest to include such interests as arise by operation of law; provide a three-year limitation on the perpetual right of recission which now obtains after creditor's failure to notify obligor in real estate transactions of his three-day right to rescind; recognize conformity with regulations or interpretations of the Federal Reserve Board as a defense to liability under the Act; provide that multiple violations of the Act relating to a single transaction or account may give rise to only a single recovery; establish a ceiling of $100,000 or 1 percent of the creditor's net worth on class actions under the Act; require that purchasers be given a full statement of closing costs before a down payment is made (or in real estate transactions, at the time a loan commitment is made); extend the Act, except those provisions dealing with advertising and disclosure, to credit cards issued for business purposes; permit reference to sales vouchers previously furnished as a transaction disclosure meeting the disclosure requirements of the Act applicable to open-end credit transactions; exempt state lending agencies from compliance with the Act; subject assignees in noncomplying transactions to the same liability as the original creditor; and, lower the jurisdictional basis for the fraudulent use of credit cards from $5,000 to $1,000 for items charged on lost or stolen cards, and increase maximum prison terms for offenders from five years to ten.

Title V adds a new title to the Consumer Credit Protection Act which prohibits any creditor from discriminating, on the basis of sex or marital status, in granting credit; permits inquiry into marital status when necessary to determine the creditor's rights and remedies; permits creditors to require the signature of both spouses when required to create a valid lien, pass clear title, waive inchoate rights to property, or assign earnings; provides civil liabilty not in excess of $10,000, but for class actions authorizes a recovery of not more than the lesser of $100,000 or 1 percent of the creditor's net worth.

The Commission has consistently supported bills heretofore which are generally similiar to the three titles which have been analyzed. These titles fall short in some respects of the credit and billing reforms which the Commission has supported. The Commission believes that 60 rather than 90 days would be a more reasonable period to allow a creditor to correct billing errors called to his attention. It is also felt that the provision for a maximum forfeiture of $50 for failure to explain or correct a disputed billing may not be adequate where the disputed bill is in a large amount. The Commission's preference for a requirement that bills be <u>received</u> by the obligor at least 14 days prior to the end of the billing period, over H.R. 11221's requirement that the bill be <u>mailed</u> 14 days before the end of this period is reiterated.

Similarly it is considered that the elimination of holder-in-due course rights for third-party credit card issuers only in instances where the credit charge exceeds $50, and for transactions made within 100 miles of or in the same state as the mailing address previously provided by the cardholder, is an unjustified limitation. Additionally, the Commission believes that the $100,000-1 percent of net worth ceiling for class action recoveries does not constitute an adequate deterrent to violations.

Notwithstanding the foregoing reservation, the Commission recommends Presidential approval of H.R. 11221 because of the offsetting excellent reforms which its enactment would accomplish.

Turning to the fiscal aspects of Titles III, IV and V of this measure, it is estimated that the additional responsibilities which would be placed upon the Commission by their enactment could not be discharged within its present budget, and that some additional funding would be required. Specifically, the following additional appropriations are estimated to be necessary to implement H.R. 11221 for the next five fiscal years:

FISCAL YEAR	AMOUNT
1975 (1/1/75 to 6/30/76)	$ 50,000
1976	500,000
1977	400,000
1978	300,000
1979	200,000
1980	100,000

The foregoing estimates are based on an allocation of costs in the ratio of 25 percent for headquarters personnel and administrative expenses and 75 percent for the Commission's 12 regional offices. The added funds would be needed to survey compliance, conduct enforcement investigations, process consumer complants, participate in industry orientation programs, and develop consumer education programs to implement the new statute.

The Commission is not in a position to estimate the costs of Titles I, II, and VI.

By direction of the Commission.

Chas. A. Tobin

Charles A. Tobin
Secretary

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OCT 1 8 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Ash:

This is in response to Mr. Rommel's request for a report on H.R. 11221, an enrolled bill "To increase deposit insurance from $20,000 to $40,000, to provide full insurance for public unit deposits of $100,000 per account, to establish a National Commission on Electronic Fund Transfers, and for other purposes."

Because of the impact of titles III, IV, and V of the bill on the interests of consumers, the bill is of significant interest to the Department.

Title III, to be known as the "Fair Credit Billing Act", would establish a system for resolving billing disputes between consumers and businessmen; would prohibit various unfair billing practices with respect to open end credit accounts; would prohibit certain anti-competitive practices (tie-in services between seller and card issuer); would subject the third-party credit card issuer to all claims (other than tort claims) and defenses arising from most uses of a credit card; and would allow the Federal Reserve Board to resolve inconsistencies between this title and State laws.

The need for this title arises from the rapid increase in open end credit plans which bill consumers on a monthly basis for their purchases during the preceding month. The advent of computerized billing and collection systems that depersonalize the creditor-consumer relationship and create difficulty in obtaining relevant responses to consumer inquiries has exacerbated billing problems experienced by consumers. Today some 25 million families make credit card purchases of $26 billion per year, or about $750 per family. This Department, Congress, the FTC, and numerous local

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agencies have received literally thousands of complaints concerning billing errors and other credit card practices and procedures.

The title is identical with language on fair credit billing contained in S. 2101 as it passed the Senate on July 23, 1973, and with respect to which our Office of Consumer Affairs, on behalf of the Department, has previously expressed to your agency the Department's support. The title would provide important new safeguards to consumers.

Title IV of the enrolled bill, amendments to the Truth in Lending Act, is identical with a title in the Senate-passed S. 2101. Its primary purpose is to enact into law several existing administrative regulations and to resolve problems that have arisen under the Truth in Lending Act. We enclose, at Tab A, a summary description of the amendments. We believe that they generally serve to improve and clarify the Act.

Title V of the bill, Equal Credit Opportunity, is similar to a title of S. 2101 as it passed the Senate, and to H.R. 14856, a bill upon which the Department reported favorably to the House Banking and Currency Committee on August 19, 1974. We enclose, at Tab B, a comparison of the major differences between title V of the enrolled bill and H.R. 14856. These differences do not alter--indeed, in some respects strengthen--our original position. There is an overriding need for legislation to prohibit discrimination based on sex and marital status in the granting of credit, and title V seems a reasonable response to this need.

In summary, we recommend that the bill be approved.

Sincerely,

Secretary

Enclosures

Amendments to Truth in Lending Act Contained in H.R. 11221, Title IV

- Advertising; More-than-Four-Installment Rule. Sec. 401. Requires creditors who make no finance charge, but repayment is to be in more than four installments, to disclose in their advertisements that the cost of credit is included in the sales price of the item. Recommended by National Commission on Consumer Finance (NCCF).

- Agricultural Credit Exemption. Sec. 402. Excludes agricultural credit transactions over $25,000. Recommended by Federal Reserve Board.

- Administrative Enforcement. Sec. 403. Removes ICC from enforcement responsibilities under Truth in Lending Act (TILA) and adds Farm Credit Administration with respect to agricultural credit institutions. Recommended by FRB.

- Liens Arising by Operation of State Law. Sec. 404. Clarifies that TILA cooling off period regarding security interests in a consumer residence applies to liens arising under state law, including mechanic's and materialman's liens. Amendment resolves split in court decisions on this point.

- Time Limit for Right of Rescission. Sec. 405. Places a 3-year limit on consumer's right to rescind certain real estate transactions. Present law has the effect of allowing an unlimited period under certain circumstances. Recommended by FRB.

- Good Faith Compliance. Sec. 406. Although creditors may have attempted to comply in good faith with regulations enforcing Truth in Lending, a court may conclude that a given regulation is invalid. This amendment would protect creditor from civil liability in such circumstances; it was requested by FRB and suggested by the National Commission on Consumer Finance.

- Liability for Multiple Disclosures. Sec. 407. Clarifies ambiguity under present law on treatment of creditor's mutliple failures to disclose essentially the same information. Recommended by FRB.

- Civil Liability. Sec. 408. Limits damages other than actual damages in class action suits under Truth in Lending to $100,000 or 1% of creditor's net worth, whichever is less.

- Full Statement of Closing Costs. Sec. 409. Requires disclosure of all closing costs. With regard to real estate closing costs, the disclosure must be made by the creditor at the time he makes the loan commitment. Recommended by NCCF.

- Business Use of Credit Cards. Sec. 410. Clarifies application of TILA to such use. Recommended by FRB.

- Identification of Transaction. Sec. 411. Requires open-end creditors to identify each transaction on monthly bills. Present law doesn't require this. Recommended by FRB.

- Exemption for State Lending Agencies. Sec. 412. Exempts state lending agencies from 3-day rescission provisions of Sec. 125 of TILA.

- Liability of Assignees. Sec. 413. Permits consumers to sue the purchaser of an installment loan or contract or similar instrument for any violation of TILA which is apparent on the face of the instrument. Recommendation of NCCF.

- Credit Card Fraud. Sec. 414. Increases criminal penalties for the fraudulent use of credit cards.

- Grace Period for Consumers. Sec. 415. Permits open-end creditors to indicate date by which payment must be made in order to avoid finance charges.

COMPARISON OF MAJOR DIFFERENCES

BETWEEN H. R. 11221, TITLE V AND H. R. 14856

1.	H. R. 11221	sex and marital status
	H. R. 14856	sex, marital status, age, race, color, religion, national origin.
2.	H. R. 11221	does not define "discrimination" (conferees dropped the definition).
	H. R. 14856	defines discrimination
3.	H. R. 14856	allows inquiry re: sex, etc. if inquiry is to ascertain creditor's rights and remedies in event of a default.
	H. R. 11221	no similar provision.
4.	H. R. 11221	allows creditor to require signature of both parties to a marriage to assign earnings.
	H. R. 14856	no similar provision.
5.	H. R. 14856	liability-class actions: such as court allows
	H. R. 11221	liability-class actions: such as court allows but total recovery not to exceed lesser of $100,000 or 1% of the net worth of the creditor.
6.	H. R. 14856	Atty. Gen. be authorized to bring civil action in an appropriate U. S. district court in the event that an agency is unable to obtain compliance through administrative means or whenever he has reason to believe that one or more creditors are engaged in pattern or practice in violation of Act.
	H. R. 11221	no similar provision

UNITED STATES COMMISSION ON CIVIL RIGHTS
WASHINGTON, D. C. 20425

STAFF DIRECTOR

October 21, 1974

Mr. W. H. Rommel
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Rommel:

This is in response to the Office of Management and Budget request for the views of the U.S. Commission on Civil Rights concerning H.R. 11221.

We support this legislation, which includes as Title V, the Equal Credit Opportunity Act. Our extensive study of industry practices in the granting of credit and in mortgage financing convinces us of the necessity for its enactment. Indeed, Honorable Arthur S. Flemming, Chairman of the Commission, testified before the Subcommittee on Consumer Affairs of the House Banking and Currency Committee regarding H.R. 14856, the Equal Credit Opportunity Act. (copy enclosed)

However, we are disturbed by the fact that Congress chose to omit certain protected classes which were originally included in the Equal Credit Opportunity Act. We are concerned that the omission of the categories of race, color, religion, national origin and age from Title V of H.R. 11221, weakens the bill from a civil rights standpoint and denies certain remedies to racial and ethnic minorities where there is evidence to believe discrimination in the granting of credit exists.

H.R. 11221 is further weakened by the absence of provisions requiring the collecting and maintaining of data on the sex of applicants, and a requirement for disclosure by creditors

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of the criteria upon which they determine creditworthiness or furnishing, upon request, the specific basis for any denial of credit. The absence of these provisions means that little help is provided the aggrieved party in carrying an onerous burden of proving discrimination.

Sincerely,

JOHN A. BUGGS
Staff Director

Enclosure

June 21, 1974

STATEMENT OF HONORABLE ARTHUR S. FLEMMING, CHAIRMAN OF THE UNITED STATES COMMISSION ON CIVIL RIGHTS BEFORE THE SUBCOMMITTEE ON CONSUMER AFFAIRS HOUSE BANKING AND CURRENCY COMMITTEE REGARDING HR 14856 THE EQUAL CREDIT OPPORTUNITY ACT

Chairwoman Sullivan, Members of the Subcommittee on Consumer Affairs, the U.S. Commission on Civil Rights is pleased to appear before your Subcommittee and provide our views on H.R. 14856, The Equal Credit Opportunity Act, a bill to prohibit discrimination on the basis of race, color, religion, national origin, age, sex or marital status in the granting of credit.

The Commission strongly supports The Equal Credit Opportunity Act. It sees the need for a law which prohibits all discrimination based on race, religion, national origin, age, marital status or sex.

In my testimony today, I will address two particular aspects of HR 14856 on which the Commission and its District of Columbia State Advisory Committee are completing, or have recently completed, investigations and reports. The Commission is just completing a study of race, sex and marital status discrimination in mortgage lending practices. Additionally, the District of Columbia State Advisory Committee to the Commission recently completed a study of the lending practices of D.C. banking institutions in regard

to minority business enterprises. The Commission wishes to emphasize that, although our testimony this morning focuses, in part, on these two areas -- women, minorities and older persons are faced with discrimination in all areas of credit extension. I will conclude our comments this morning with a discussion of the adequacy of the proposed remedies and enforcement mechanisms in the Act.

DISCRIMINATION BECAUSE OF SEX OR MARITAL STATUS

The Commission study of mortgage lending practices in a typical American city revealed that women as a class have been notoriously discriminated against in credit transactions. Their treatment varies, depending upon whether they are married, unmarried, widowed, separated, or divorced, but few women receive treatment equal to that received by men. Moreover, the impact of discrimination is doubled for minority women who are penalized because of sex and then again because of race or national origin. For example, the practice of disallowing wives' income as security for loans fall most severely on minority families. In 1972, of all married women with a husband present, 40.5 percent of white women and 51.9 percent of black women worked. A similar disparity between

young black wives and young white wives is documented in a 1972 Bureau of the Census report on the Social and Economic Status of the Black Population in the United States. The report states:

> Nationally, black wives were more likely than white wives to have earnings in 1971, and the earnings accounted for a greater share of the family income . . . .
>
> In the North and West, the working wife (and the number who worked year round) was a major factor contributing to the income equality of the young black and white families. The mean earnings of young black wives (husband under 35 years) residing in the North and West were higher than the earnings of their white counterparts. The same pattern existed among these wives who worked year round -- 51 percent of blacks compared to 41 percent of whites worked 50 to 52 weeks in 1971. The young black wives in the North and West contributed more to the family income than white wives.
>
> The relationships between black and white wives observed in the North and West were not evident in the figures for the South, where young black and white husband-wife families with two earners have not closed the income gap.

Obviously, the disallowance of the wife's income has a disproportionate effect on black families, since black women tend to be over-represented in the female work force and their earnings often constitute a significant portion of total family income.

The income of married women, of whom more than 40 percent are gainfully employed, is considered "secondary" and rarely credited more than 50 percent, if at all, in determining a family's financial status. This policy works considerable hardship on all families for whom the wife's income is essential. However, it compounds the problems of minority families of which more than two-thirds rely on the wife's earnings to meet their needs.

The least favored working wife is the young woman of child-bearing years, who may have young children, and who holds a job considered "nonprofessional." This class of working wives is viewed skeptically by the mortgage lending community as "unstable." One assumption made is that if she has no children, she is likely to and will leave her job, at least for a time, thereby reducing the family income. This assumption ignores the fact that 43 percent of all married women with children under 18 are in the labor force. Another assumption is that her "nonprofessional" job is unstable and that somehow makes her unstable. These assumptions add up to a composite picture of a person in whom lending institutions place little reliance. Therefore, her income is automatically discounted, either substantially or entirely.

Women as heads of households have enormous difficulty in gaining access to mortgage finance. The fact that they are without the protection of a male makes them suspect to the lending community as a credit risk. The prevailing image of women as "weaker vessels" also makes lending institutions reluctant to approve mortgage loans, particularly on multi-family dwellings, on the ground that women are unable to keep up the property.

Of this group of women, the young, unmarried woman has the most trouble securing a mortgage, principally because of the assumption made by lenders that she will marry, have children, and stop working, thereby reducing her economic status. The <u>separated</u> woman is in an

awkward position because of her uncertain legal status for debt liability, particularly if the separation is informal. Another reason is that her status is assumed to reflect domestic strife, an added suspect factor according to lenders. The divorced women also has difficulty obtaining credit, because of the alleged probability of an unstable economic situation and because of the alleged social stigma attached to divorce.

The system of mortgage finance in the Nation, under which women are inequitably treated, reflects a reluctance by the lending community to alter traditional policies and standards, even though many are unrealistic and others facilitate illegal acts. Sex discrimination in credit is totally at odds with the reality of modern-day America in which more than 33 million women work and make up more than 40 percent of the labor force. Yet lending institutions cling to images of women as unstable, unreliable, and in need of male protection.

DISCRIMINATION BECAUSE OF RACE

Although Title VIII of the Civil Rights Act of 1968 prohibited discrimination against minorities in mortgage lending, in practice, discrimination in mortgage lending still persists. In the Commission's Mortgage Lending Study we sought to answer this question:

> If left to operate in accordance with traditional banking processes and standards, will the system of mortgage finance in the city assure fair treatment for minorities and women?

We conclude that "for minorities and women, the mortgage finance system is a stacked deck -- stacked sometimes inadvertently, often unthinkingly, but stacked nonetheless." After interviews with over 75 real estate brokers, lenders, home buyers, public interest groups, and Federal and city housing specialists, the Commission was able to discern a pattern of discriminatory practices.

The average lower and middle income homebuyer must go through a three stage screening process before obtaining a mortgage. They must be approved by real estate brokers, loan officers and loan committees. In Hartford, Connecticut, minority families were much more closely scrutinized than white qpplicants. The Commission found many instances where brokers had discouraged qualified minority applicants from applying for mortgages to purchase homes in integrated areas. While no figures are available to indicate the number of otherwise qualified minorities who are deferred from buying homes in integrated areas, by brokers, interviews with minority brokers and homebuyers indicate that the number is substantial.

Obtaining favorable consideration by the institution's loan officer is the second step and a prerequisite to filing a formal application. The interviews conducted by Commission staff revealed that loan officers' decisions on the suitability of applicants, though they purport to be based on objective criteria, are often made on an impressionistic basis.

Officials at five Hartford lending institutions, for example, reported that following the informal interviews by the loan officers, they are expected to discourage applications from people they consider "ineligible." No reason need be given the applicant and no written records kept.

Finally, interviews by Commission staff disclosed that the loan committees, which purport to use objective loan criteria, vary widely. Not only are there variances from institution to institution but, officials within the same institutions apply different measures for determining an applicant's prospect for repaying loans. The net result is that greater reliance is placed on the recommendations of loan officers, many of whom based on our investigation, tend to view minority applicants with more skepticism.

ACCESS OF MINORITIES AND WOMEN TO BUSINESS VENTURE CAPITAL

The District of Columbia State Advisory Committee (SAC) to the Commission on Civil Rights recently concluded a report on Obstacles to Financing Minority Enterprises. That report, which is being considered by the Commission, concludes in part that: (1) District of Columbia banks maintain minority portfolios to which a dollar amount is assigned and above which that bank will not make minority investments; (2) the traditional tests of financial ability applied to minority group loan applicants discriminate against and cause rejection of minority applications because of the "three C tests" of character, capacity and credit -- tests which have a disproportionate effect on minorities who apply because they have not had access to business opportunities which would allow them to demonstrate "the three C's"; and (3) that District of Columbia banks in limiting their "high risk" loans, in effect, discriminate against minorities who obtain Small Business Administration (SBA) loan guarantees since banks consider SBA guaranteed loans as "high risk".

Although this report deals with only one part of the issue of discrimination in lending based on race or national origin, it is significant because it bears heavily on the nation's commitment to move minorities into the economic main stream, and the need to revitalize the economy of the central city. Not only are discriminatory lending policies violative of the concepts of equal justice and equal opportunity, but these policies do nothing to develop the economic

growth potential of the innercity. Philip Hammer, an economist, gave the District of Columbia State Advisory Committee an economic overview of the Washington area and some economic implications emanating from Washington's growth potential:

> Entrepreneurial opportunities within the city, measured by the number of establishments, have been disappearing at an alarming rate. Instead of broadening our base of new enterprises to take advantage of the rapid expansion of this region and to provide new opportunities for our heavily minority population that has long been denied access to full participation in the economic system, we have been shutting the doors almost daily.
>
> * * * *
>
> We have done no more than scratch the surface in exploring new ways of owning, financing, and operating private businesses within a revised urban renewal framework. But we do not have to wait for these developments in order to expand minority enterprise in the District. I think the potentials are out there and strong efforts can reverse the negative trends of the past two decades.

Although commercial loans are playing an important role in financing all business operations, minority and women entrepreneurs are finding it difficult to obtain sufficient working capital. This problem is due in part to credit forces at work against all small businesses -- and most of their businesses are small -- and, outright discrimination being practiced against such entrepreneurs.

Both the Federal Reserve and the Small Business Administration have concluded that a small business capital gap exists. In the most comprehensive study to date, the Federal Reserve Board found:

> . . . some evidence in the background studies . . . that there is an unfilled margin, perhaps a thin one, between the volume of funds available to small concerns in general, and to new firms in particular (emphasis added), and the volume that could be put to use without prohibiting risk. 1/

The Small Business Administration study developed significant evidence of a small business capital gap with respect to intermediate and long term credit. There is additional evidence to show that the capital gap more adversely affects minority businesses than small businesses as a whole. The capital gap affects these businesses in two ways: First, a large number of qualified potential minority entrepreneurs do not go into business because they believe capital problems to be insurmountable. In a 1970 survey conducted in thirty-three U.S. cities, nearly 60 percent of the minority heads of households interviewed had considered going into business but had not. Nearly two-thirds of those not in business cited lack of capital as the principal impediment. 2/

Second, once in business, small minority firms face obstacles obtaining bank loans. The acquisition of operating capital has repeatedly been identified as the major problem confronting existing minority firms.

1/ The Small Business Capital Gap: The Special Case of Minority Enterprise, W.J. Garvin, SBA Economic Review Vol. 4, No. 2 (1971); and Federal Reserve System, Financing Small Business, Report of the Committee on Banking and Currency and the Select Committees on Small Business. United States Congress (Washington, D.C. GPO, 1958), p. 102.

2/ Black Buyers Survey, Resource Management Corporation (1970), also cited in The Small Business Capital Gap: The Special Case of Minority Enterprise, p. 38.

In a 1970 survey of Minority-Owned Manufacturing Firms, 111 or 35 percent of the 317 minority manufacturers surveyed identified capital as the type assistance most needed by their firms and only 121 or 38.2 percent had a line of credit with commercial lending institutions. 3/

Similarly, in a survey of 110 minority and women entrepreneurs conducted by the United States Commission on Civil Rights in 1973 (89 had qualified for participation in the SBA's Section 8(a) subcontracting program), nearly 60 percent of the interviewees stated that capital was the major problem hindering their marketing programs.

The complete results of this survey and report of the Commission will be published within several months. Government Contracting with Minorities and Women will document the contracting practices of governmental agencies with minority and female-owned businesses.

ENFORCEMENT RESPONSIBILITY AND FEDERAL REGULATORY AGENCIES

The Federal Regulatory Agencies (The Federal Reserve System, the Comptroller of the Currency, The Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation) should assume an active role in effecting nondiscrimination in commercial lending. The Commission believes that the Federal banking agencies have the duty and authority to prohibit discriminatory lending practices. We also believe that a strong mandate from the Congress would stimulate action in the discharge of these responsibilities. 4/ The Commission has concluded that Federal

3/ Minority Enterprise and Expanded Ownership: Blueprint for the 70s, A Report of the President's Advisory Council on Minority Enterprise, Appendices B. 40 (Washington, D.C. December, 1970).

4/ Only agencies involved in regulating mortgage lending institutions have promulgated anti-discrimination regulations. These agencies are: The Federal Home Loan Bank Board CFR Title 12, Chapter V, subchapter B, Part 528; Farm Credit Administration, CFR 12, Ch VI, part 613; National Credit Union Administration, CFR 12, Ch VII, part 701.

regulatory agencies are under a constitutional obligation to assure nondiscrimination by those they regulate even where there is no statutory requirement. 5/ The foregoing conclusion is based on an analysis of the law in the area of constitutional prohibitions against racial discrimination contained in the Fifth and Fourteenth Amendments. We believe, based on our analysis, that the regulatory agencies are so intimately involved in the practices of the private entities within their jurisdiction that their supervisory, regulatory responsibilities bring such practices within the scope of the Fifth Amendment.

It follows, therefore, that to the extent that regulatory agencies confer a benefit -- by granting a broadcast license, permitting a union to become the exclusive bargaining agent for all employees, or issuing a bank/savings and loan charter and federally insuring all deposits, that they have a constitutional obligation to withdraw the benefit, if the regulatee discriminates because of race, color, national origin, religion, sex, or marital status. If it does not, then the regulatory agency may be participating in and perpetuating discrimination. This view has been upheld by the Eighth Circuit Court of Appeals:

5/ The Federal Civil Rights Enforcement Report (1970) p. 1109.

> . . . Collective bargaining is the fulcrum of successful labor-management relations throughout the country. Our national labor policy views union membership as a necessary good to most all working men. When a union discriminates on the basis of race or color it invidiously deprives equal opportunity for employment to a large segment of working men. See Sovern, The National Labor Relations Act and Racial Discrimination, 62 Colum.L.Rev. 563 (1962). When a governmental agency recognizes such a union to be the bargaining representative it significantly becomes a willing participant in the union's discriminatory practices. Although the union itself is not a governmental instrumentality the National Labor Relations Board is . . . N.L.R.B. v Mansion House Center Management Corp 473 F. 2d 471 (CA. 8th. 1973)

Nevertheless, the Commission believes that Congress, by enacting H.R. 14856, will compel a uniform federal policy with respect to non-discrimination in the granting of credit. The Commission supports language which should cause the regulatory agencies to issue, among other things, regulations prohibiting discrimination in making commercial, mortgage and venture capital loans, and prohibiting policies which result in discrimination and discriminatory practices such as minority loan ceilings. The regulations should also require banks to provide racial or ethnic data for all loan applicants and to provide records of loan applications which are denied. Patterns or practices of discrimination could be uncovered with little difficulty if adequate records have been maintained, and appropriate corrective action could then be taken.

The Commission hopes that the Committee could develop a plan under which one agency could be designated the lead agency in the enforcement of this Act.

As indicated earlier, the Commission's Mortgage Finance Study leads us to believe that this bill would be substantially improved by the inclusion of a provision providing for disclosure by creditors of the criteria upon which they determine creditworthiness, and upon request, the specific basis for any denial of credit. Under PL 91-508 The Truth in Lending Act, a similar provision requires financial institutions to disclose information and reasons why a loan or extension of credit was denied. Such a provision not only deters discrimination, but provides a basis for determining the existence of discriminatory practices.

ADVISORY
COMMISSION ON INTERGOVERNMENTAL RELATIONS
WASHINGTON, D.C. 20575

October 22, 1974

Mr. William V. Skidmore
Office of Assistant Director
for Legislative Reference
Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Dear Mr. Skidmore:

This letter responds to Mr. Jay P. Brenneman's oral request on October 21, 1974, for the views of the Advisory Commission on Intergovernmental Relations on the enrolled bill, H. R. 11221, known as the Depository Institutions and Consumer Financial Protection Act.

When the Advisory Commission had its most recent meeting in late September, the Conference report on H. R. 11221 had not been released and final Congressional action had not been taken. Consequently, the Commission has not reviewed this legislation, and I am unable in the time available to present a formal response for the Commission. This letter presents the conclusions of our staff review of the bill reported by the conferees. Based on that staff review, I believe that the Advisory Commission, if it had an opportunity to meet for consideration of the bill, would interpose no objection to approval by the President.

Our direct concern is with three aspects of the legislation:

(1) Section 101 (f), which (a) instructs the ACIR to conduct a study of the impact of certain provisions on funds available for housing and on State and local bond markets and to report the results within two years, and (b) authorizes appropriation of such sums as may be necessary to carry out this requirement;

(2) Section 114, which amends Public Law 93-100 to strike "the Commonwealth of Puerto Rico" from subsection 7 (d) (2) defining the word "State" for purposes of the "State Taxation of Depositories act"; and

(3) title II, which establishes a National Commission on Electronic Fund Transfers.

As to section 101 (f), the Advisory Commission heretofore has taken no policy position concerning such assignments from the Congress, neither seeking nor avoiding statutory designation of particular areas of study. In earlier version of H. R. 11221, approved by the Senate on June 13, 1974, section 114 would have directed the ACIR to make a study of relationships between Federal supervisory agencies and the authority of the States with respect to certain types of credit regulations. We wrote a staff letter on June 19 to the Chairmen of the Senate and House Committees in which we made no comment on the merits of the proposed provision and suggested only that, if the Committee of conference retained the substance of the provision, it would be desirable to provide a later deadline for the report in order to permit an adequate study. H. R. 11221, as approved by the Congress, differs in the subject matter and scope of the ACIR study assignment and provides a two-year period from the date of enactment. Accordingly, assuming that adequate and timely appropriations are provided specifically to finance the required study, it is our staff opinion that the task should be manageable. We believe that the Commission, if it reviewed the enrolled bill, would express no objection to approval of this provision.

As to the amendment relating to the Commonwealth of Puerto Rico, likewise, the staff sees no major problem from the point of view of the Commission. The statutory change would eliminate retroactively for Puerto Rico a moratorium of certain State and local "doing business" taxes declared by section 7 (c) of P.L. 93-100. The moratorium itself is not within the scope of the study we are conducting under section 7 (e), although the affected taxes are the subject of our inquiry. Technically, the amendment also would remove the Commonwealth from the scope of the study, excepting that branches and activities of Puerto Rico depositories in other "States" still would be considered (along with "foreign banks") as falling within the statutory phrase, "out-of-State commercial banks, mutual savings banks, and savings and loan associations." Applied literally, the amendment would exclude from our study the taxation of United States banks in Puerto Rico, but as a practical matter the distinction probably will not materially affect the study conclusions and Commission recommendations.

On the question of the National Commission on Electronic Fund Transfers, H. R. 11221 as enrolled provides for a Commission of 26 members, including one person to represent State supervisory agencies that regulate banking or other similar financial institutions and one to represent State agencies that regulate thrift or other similar

financial institutions. An earlier Senate version provided for a 20-member Commission with only one representative of the two types of State supervisory agencies.

The provisions in the final bill permit broad representation of a wide variety of interests. There is no explicit provision, however, for an area of State concern which was identified in our views letter to you on May 16, 1974, which observed that --

> In view of the predictable ramifications of the proposed [EFTS] study, some consideration might be given to the proposition that, if such a commission is created, its membership should include direct representation of State bodies which regulate public utilities and also direct representation of the Governors of the 50 States.

The reasons for that suggestion are set forth in our earlier letter.

Sincerely,

Wayne F. Anderson

Wayne F. Anderson
Executive Director

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, D.C. 20429

OFFICE OF THE CHAIRMAN

October 22, 1974

Honorable Roy L. Ash
Director
Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Dear Mr. Ash:

By enrolled bill request dated October 11, 1974, the Office of Management and Budget requested our views and recommendation on H.R. 11221, 93d Congress, an enrolled bill "To increase deposit insurance from $20,000 to $40,000, to provide full insurance for public unit deposits of $100,000 per account, to establish a National Commission on Electronic Fund Transfers, and for other purposes."

In addition to an increase in the general deposit insurance limit to $40,000, a special deposit insurance limit of $100,000 per account for certain types of public unit deposits and establishment of a national commission to study electronic fund transfers, H.R. 11221 also includes, among other provisions, a temporary moratorium on the conversion of mutual savings and loan associations and mutual savings banks to the stock form of organization, a one-year extension of the flexible authority of the financial regulatory agencies to regulate deposit interest rates paid by banks and thrift institutions, and various amendments to the Truth in Lending Act such as fair credit billing provisions, limitation on class action damages and a prohibition against discrimination on the basis of sex or marital status in the granting of consumer credit.

Although certain of our suggestions made in the course of commenting on these various legislative proposals are not reflected in H.R. 11221 as passed, we believe that, on balance, it is a desirable piece of legislation and therefore recommend that it be approved by the President.

Sincerely,

Frank Wille

Frank Wille
Chairman

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OFFICE OF
MANAGEMENT & BUDGET

THE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D. C. 20410

OCT 23 1974

Mr. Wilfred H. Rommel
Assistant Director
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Attention: Mrs. Garziglia

Dear Mr. Rommel:

Subject: H. R. 11221, 93d Congress, Enrolled Enactment

This is in response to your request for our views on the enrolled enactment of H. R. 11221, an Act "To increase deposit insurance from $20,000 to $40,000, to provide full insurance for public unit deposits of $100,000 per account, to establish a National Commission on Electronic Fund Transfers, and for other purposes."

The enrolled bill contains six titles dealing with a wide range of financial and related consumer matters. Of particular interest to the Department are titles I and V. Title I would amend and extend authorities relating to Federal regulation of depository institutions. Among other things, it would provide for full deposit insurance of public funds in federally-insured institutions up to $100,000 per account; increase the present ceiling of $20,000 on Federal deposit insurance to $40,000; extend, with certain exceptions, the moratorium on the conversion of savings and loan associations from mutual to stock form of organization until June 30, 1976; and extend Regulation Q to December 31, 1975. Title V would amend the Consumer Credit Protection Act to prohibit discrimination on the basis of sex or marital status respecting any aspect of a credit transaction.

Although we generally see no major problems in the bill, there is one feature which we believe warrants comment. This involves the coverage and administration of title V.

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MANAGEMENT & BUDGET

Under that title the Federal Home Loan Bank Board would be responsible for enforcing the prohibitions against sex or marital status discrimination with respect to savings and loan associations and Federal home loan banks subject to the provisions of the Home Owners' Loan Act, section 407 of the National Housing Act, and the Federal Home Loan Bank Act, as applicable. The Federal Trade Commission would apparently have jurisdiction over other housing-related activities except for those involving federally-insured or -regulated banks, which, for purposes of the bill, would be under the jurisdiction of the Federal Reserve Board, the Comptroller of the Currency, or the FDIC.

Section 808 of the "Housing and Community Development Act of 1974", P. L. 93-383, amended the National Housing Act to prohibit discrimination on account of sex in the provision of federally-related mortgage loans, or Federal insurance, guaranty, or related assistance. In addition, that same section broadened this Department's administrative enforcement responsibilities under title VIII of the Civil Rights Act of 1968 involving discrimination in the sale, rental, or financing of housing to include discrimination on the basis of sex.

The enrolled bill would not only have the apparent potential for creating overlapping enforcement activities in different Federal agencies, but also would provide for different and potentially greater liability than that now provided under title VIII for some of the same discriminatory practices. Although our concern with this feature of the bill is not such as to raise any question as to Presidential approval, we believe that it may well prove desirable later to seek a clarifying amendment on this matter.

Subject to the above comments, this Department has no objection to approval of the enrolled enactment.

Sincerely,

Robert R. Elliott

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.: 711

Date: October 24, 1974 Time: 5:00 p.m.

FOR ACTION: Tom Hullin
Phil Buchen
Bill Timmons
Paul Theis

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Friday, October 25, 1974 Time: 2:00 p.m.

SUBJECT: Enrolled Bill H.R. 11221 - Depository institutions and consumer financial protection

ACTION REQUESTED:

____ For Necessary Action

____ Prepare Agenda and Brief

____ For Your Comments

xx For Your Recommendations

____ Draft Reply

____ Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

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____ Draft Remarks

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I recommend approval of this bill
i do not object to the statement.

JT

10.24.74

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Warren K. Hendriks
For the President

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No objection
D.C.

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ROOM 121 E. O. B.

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Warren K. Hendriks
For the President

(Babalvan edit)
H.R. 11221 SIGNING STATEMENT ~~BY THE PRESIDENT~~

PLEASE RETURN TO: [illegible] October 25, 1974

I am signing today H.R. 11221 which provides important new consumer protection in the area of credit and finance.

This legislation would double from $20,000 to $40,000 the basic Federal insurance limits for deposits and savings accounts in insured banks, savings and loan associations, and credit unions. This increase will help these financial institutions to attract larger deposits. It will also ~~help~~ encourage savers to build up funds for retirement or other purposes in institutions with which they are familiar and which are insured by Federal agencies that have earned their confidence over the years.

H.R. 11221 also ~~The bill also~~ contains fair credit billing provisions which will protect consumers against the ~~relentless~~ repeated incorrect billings of ~~unheeding~~ computers that ~~seem to be unable~~ sometimes fail to respond to ~~the~~ consumer's inquiries. Now creditors will be acknowledging customer inquiries within 30 days. Moreover, the creditor must resolve any dispute within 90 days either by correcting the customer's bill or explaining why the original bill is correct. Until these requirements have been met there can be no dunning letters sent or other action taken to collect amounts in dispute.

Another extremely important provision in this legislation prohibits discrimination on the basis of sex or marital status in the granting or denying of credit. While there has been a voluntary improvement in credit procedures in recent years, women are still too often treated as second-class citizens in the credit world. This legislation officially recognizes ~~establishes and provides protection for~~ the broad principle that women should have access to credit on the same terms as men.

This bill should also have a beneficial impact on the availability of mortgage credit since it returns to institutions insured by the Federal Savings and Loan Insurance Corporation well over a billion dollars in insurance premiums not now required by the Corporation.

One provision of H.R. 11221 is particularly unfortunate, however, in that it will severely undermine the present method of gathering and eliciting and coordinating the legitimate views of other Executive Branch agencies and identifying potential conflicts with other existing legislation in this field. Thus, it could seriously hamper efforts to achieve a coherent Administration legislative program. Therefore, I am asking the Congress to amend the law by deleting Section 111. This would preserve the Executive Branch's ability to develop a coordinated and coherent legislative program.

This bill includes a number of provisions which could more appropriately be considered in the framework of a larger, more comprehensive approach to strengthening this country's financial system. As a result I will continue to press hard for Congressional passage of S. 2591, the Financial Institutions Act, which seeks to accomplish such a strengthening through reducing, rather than increasing or perpetuating, the extent of government control over financial institutions.

STATEMENT BY THE PRESIDENT

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Warren K. Hendriks
For the President

(Bakshian edit) PT October 25, 1974

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This legislation would double the basic Federal insurance limits for deposits and savings accounts in insured banks, savings and loan associations, and credit unions from $20,000 to $40,000. This increase will help these financial institutions to attract larger deposits. It will also encourage savers to build up funds for retirement or other purposes in institutions with which they are familiar and which are insured by Federal agencies that have earned their confidence over the years.

H. R. 11221 also contains fair credit billing provisions which will protect consumers against the repeated incorrect billings of computers that sometimes fail to respond to consumer's inquiries. Now creditors ~~will be~~ must acknowledge customer inquiries within 30 days. Moreover, the creditor must resolve any dispute within 90 days either by correcting the customer's bill or explaining why the original bill is correct. Until these requirements have been met there can be no dunning letters sent or other action taken to collect amounts in dispute.

Another extremely important provision in this legislation prohibits discrimination on the basis of sex or marital status in

the granting or denying of credit. While there has been a voluntary improvement in credit procedures in recent years, women are still too often treated as second-class citizens in the credit world. This legislation officially recognizes the ~~broad~~ basic principle that women should have access to credit on the same terms as men.

This bill should also have a beneficial impact on the availability of mortgage credit since it returns to institutions insured by the Federal Savings and Loan Insurance Corporation well over a billion dollars in insurance premiums not now required by the corporation.

One provision of H.R. 11221 is particularly unfortunate, however, in that it will severely undermine the present method of gathering [redacted] legitimate views of other executive branch agencies and identifying potential conflicts with other existing legislation in this field. Thus, it could seriously hamper efforts to achieve a coherent Administration legislative program. Therefore, I am asking the Congress to amend the law by deleting section 111. This would preserve the executive branch's ability to develop a coordinated and coherent legislative program.

This bill includes a number of provisions which could more appropriately be considered in the framework of a larger, more comprehensive approach to strengthening this country's financial system.

As a result I will continue to press hard for Congressional passage of S. 2591, the Financial Institutions Act, which seeks to accomplish such a strengthening through reducing, rather than increasing or perpetuating, the extent of Government control over financial institutions.

THE WHITE HOUSE

WASHINGTON

October 25, 1974

MEMORANDUM FOR: MR. WARREN HENDRIKS

FROM: WILLIAM E. TIMMONS

SUBJECT: Action Memorandum - Log No. 711
Depository Institutions and Consumer
Financial Protection

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.: 711

Date: October 24, 1974 Time: 5:00 p.m.

FOR ACTION: Tod Hullin
Phil Buchen
Bill Timmons
Paul Theis

cc (for information) Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Friday, October 25, 1974 Time: 2:00 p.m.

SUBJECT: Enrolled Bill H.R. 11221 - Depository institutions and consumer financial protection

ACTION REQUESTED:

____ For Necessary Action

____ Prepare Agenda and Brief

____ For Your Comments

XX ____ For Your Recommendations

____ Draft Reply

____ Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

STATEMENT BY THE PRESIDENT

I am signing today H.R. 11221 which provides important new consumer protection in the area of credit and finance.

This legislation would double, from $20,000 to $40,000 the basic Federal insurance limits for deposits and savings accounts in insured banks, savings and loan associations, and credit unions. This increase will help these financial institutions to attract the larger deposits. It will also help savers to build up funds for retirement or other purposes in institutions with which they are familiar and which are insured by Federal agencies that have earned their confidence over the years.

The bill also contains fair credit billing provisions which will protect consumers against the relentless billing of unheeding computers that seem to be unable to respond to the consumer's inquiries. Now creditors will be acknowledging customer inquiries within 30 days. Moreover, the creditor must resolve any dispute within 90 days either by correcting the customer's bill or explaining why the original bill is correct. Until these requirements have been met there can be no dunning letters sent or other action taken to collect amounts in dispute.

Another extremely important provision in this legislation prohibits discrimination on the basis of sex or marital status in the granting or denying of credit. While there has been voluntary improvement in credit procedures in recent years, women are still too often treated as second-class citizens in the credit world. This legislation establishes and provides protection for the broad principle that women should have access to credit on the same terms as men.

This bill should also have a beneficial impact on the availability of mortgage credit since it returns to institutions insured by the Federal Savings and Loan Insurance Corporation well over a billion dollars in insurance premiums not now required by the Corporation.

One provision of the bill is particularly unfortunate, however, in that it will severely undermine the present mechanism for eliciting and coordinating the legitimate views of other Executive Branch agencies and identifying potential conflicts with other existing legislation. Thus, it could seriously hamper the process of achieving a coherent Administration legislative program. Therefore, I am asking the Congress to amend the law by deleting Section 111 which would preserve the Executive Branch's ability to develop a coordinated and coherent legislative program.

This bill includes a number of provisions which could more appropriately be considered in the framework of a comprehensive approach to strengthening this country's financial system. As a result I will continue to press hard for Congressional passage of S. 2591, the Financial Institutions Act which seeks to accomplish such a strengthening through reducing, rather than increasing or perpetuating, the extent of government control over financial institutions.

STATEMENT BY THE PRESIDENT

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Gerald R. Ford

(Bakshian edit) October 25, 1974

SIGNING STATEMENT - H.R. 11221

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