

[DISCUSSION DRAFT]

117TH CONGRESS
2^D SESSION

H. R. _____

To amend the Electronic Fund Transfer Act to treat fraudulently induced electronic fund transfers in the same manner as unauthorized electronic fund transfer, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Electronic Fund Transfer Act to treat fraudulently induced electronic fund transfers in the same manner as unauthorized electronic fund transfer, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Consumers
5 From Payment Scams Act”.

1 **SEC. 2. TREATMENT OF FRAUDULENTLY INDUCED ELEC-**
2 **TRONIC FUND TRANSFERS.**

3 (a) DEFINITIONS.—Section 903 of the Electronic
4 Fund Transfer Act (15 U.S.C. 1693a) is amended—

5 (1) in paragraph (7)—

6 (A) by striking subparagraphs (B) and
7 (E);

8 (B) by redesignating subparagraphs (C)
9 and (D) as subparagraphs (B) and (C), respec-
10 tively;

11 (C) in subparagraph (B), as so redesign-
12 ated, by adding “or” at the end; and

13 (D) in subparagraph (C), as so redesign-
14 ated, by striking “or” at the end; and

15 (2) by amending paragraph (12) to read as fol-
16 lows:

17 “(12) the term ‘unauthorized or fraudulently
18 induced electronic fund transfer’—

19 “(A) means an electronic fund transfer
20 from a consumer’s account initiated by—

21 “(i) a person other than the consumer
22 without actual authority to initiate such
23 transfer; or

24 “(ii) the consumer, if the consumer’s
25 authorization or initiation of the electronic

1 fund transfer was fraudulently induced;
2 and

3 “(B) does not include any electronic fund
4 transfer—

5 “(i) initiated by a natural person
6 other than the consumer who was fur-
7 nished with the card, code, or other means
8 of access to such consumer’s account by
9 such consumer, unless—

10 “(I) the consumer has notified
11 the financial institution involved that
12 transfers by such other person are no
13 longer authorized; or

14 “(II) the consumer was fraudu-
15 lently or coercively induced to furnish
16 the card, code, or other means of ac-
17 cess;

18 “(ii) initiated by a consumer who has
19 fraudulent intent, or anyone acting in con-
20 cert with such a consumer; or

21 “(iii) which constitutes an error com-
22 mitted by a financial institution.”.

23 (b) DEFINITION OF ERROR.—Section 908(f) of the
24 Electronic Fund Transfer Act (15 U.S.C. 1693f(f)) is
25 amended—

1 (1) in paragraph (2), by inserting “, including
2 an error made by a consumer” before the semicolon;

3 (2) by redesignating paragraphs (6) and (7) as
4 paragraphs (7) and (8), respectively; and

5 (3) by inserting after paragraph (5) the fol-
6 lowing:

7 “(6) the consumer’s inability to access funds in
8 a frozen, closed, or otherwise inaccessible account,
9 except as required by a court order or law enforce-
10 ment or unless the consumer obtained the funds
11 through unlawful or fraudulent means;”.

12 (c) CONSUMER LIABILITY FOR UNAUTHORIZED
13 TRANSFERS.—Section 909 of the Electronic Fund Trans-
14 fer Act (15 U.S.C. 1693g) is amended—

15 (1) in the heading, by striking “**unauthor-**
16 **ized transfers**” and inserting “**unauthorized**
17 **or fraudulently induced electronic fund**
18 **transfer**”;

19 (2) in subsection (a)—

20 (A) by striking “unauthorized transfer”
21 and inserting “unauthorized or fraudulently in-
22 duced electronic fund transfer”; and

23 (B) by inserting “fraudulently induced
24 transfer or” before “loss or theft” each place
25 such term appears;

1 (3) in subsection (b)—

2 (A) by striking “financial institution to
3 show that” and inserting “financial institu-
4 tion—

5 “(1) to show that”;

6 (B) by striking “was authorized or, if the
7 electronic fund transfer was unauthorized, then
8 the burden of proof is upon the financial insti-
9 tution” and inserting “was authorized or was
10 not fraudulently induced, as applicable; or

11 “(2) if the showing under paragraph (1) is not
12 made,”; and

13 (C) by striking “, if the transfer was initi-
14 ated after the effective date of section 905,”;

15 (4) by striking “unauthorized electronic fund
16 transfer” each place such term appears and insert-
17 ing “unauthorized or fraudulently induced electronic
18 fund transfer”;

19 (5) by striking “unauthorized electronic fund
20 transfers” each place such term appears and insert-
21 ing “unauthorized or fraudulently induced electronic
22 fund transfers”; and

23 (6) by adding at the end the following:

24 “(f) LIABILITY OF INSTITUTION THAT RECEIVES A
25 FRAUDULENTLY INDUCED ELECTRONIC FUND TRANS-

1 FER.—If a consumer’s financial institution credits the
2 consumer’s account for an electronic fund transfer that
3 was initiated by the consumer but was fraudulently in-
4 duced, the financial institution that received the transfer
5 shall be liable to the consumer’s financial institution for
6 the amount of the credit.”.