[DISCUSSION DRAFT]

117TH CONGRESS
2D 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.

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IN THE HOUSE OF REPRESENTATIVES

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

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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”.


SEC. 2. TREATMENT OF FRAUDULENTLY INDUCED ELECTRONIC FUND TRANSFERS.

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

(1) in paragraph (7)—

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

(B) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(C) in subparagraph (B), as so redesignated, by adding “or” at the end; and

(D) in subparagraph (C), as so redesignated, by striking “or” at the end; and

(2) by amending paragraph (12) to read as follows:

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

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

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

“(ii) the consumer, if the consumer’s authorization or initiation of the electronic
(b) DEFINITION OF ERROR.—Section 908(f) of the Electronic Fund Transfer Act (15 U.S.C. 1693f(f)) is amended—

"(B) does not include any electronic fund transfer—

"(i) initiated by a natural person other than the consumer who was furnished with the card, code, or other means of access to such consumer’s account by such consumer, unless—

"(I) the consumer has notified the financial institution involved that transfers by such other person are no longer authorized; or

"(II) the consumer was fraudulently or coercively induced to furnish the card, code, or other means of access;

"(ii) initiated by a consumer who has fraudulent intent, or anyone acting in concert with such a consumer; or

"(iii) which constitutes an error committed by a financial institution.".
(1) in paragraph (2), by inserting “, including an error made by a consumer” before the semicolon;

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

(3) by inserting after paragraph (5) the following:

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

(c) CONSUMER LIABILITY FOR UNAUTHORIZED TRANSFERS.—Section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693g) is amended—

(1) in the heading, by striking “unauthorized transfers” and inserting “unauthorized or fraudulently induced electronic fund transfer”;

(2) in subsection (a)—

(A) by striking “unauthorized transfer” and inserting “unauthorized or fraudulently induced electronic fund transfer”; and

(B) by inserting “fraudulently induced transfer or” before “loss or theft” each place such term appears;
(3) in subsection (b)—

(A) by striking “financial institution to show that” and inserting “financial institution—

“(1) to show that”;

(B) by striking “was authorized or, if the electronic fund transfer was unauthorized, then the burden of proof is upon the financial institution” and inserting “was authorized or was not fraudulently induced, as applicable; or

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

(C) by striking “, if the transfer was initiated after the effective date of section 905,”;

(4) by striking “unauthorized electronic fund transfer” each place such term appears and inserting “unauthorized or fraudulently induced electronic fund transfer”;

(5) by striking “unauthorized electronic fund transfers” each place such term appears and inserting “unauthorized or fraudulently induced electronic fund transfers”; and

(6) by adding at the end the following:

“(f) LIABILITY OF INSTITUTION THAT RECEIVES A FRAUDULENTLY INDUCED ELECTRONIC FUND TRANS-
FER.—If a consumer’s financial institution credits the consumer’s account for an electronic fund transfer that was initiated by the consumer but was fraudulently induced, the financial institution that received the transfer shall be liable to the consumer’s financial institution for the amount of the credit.”.