

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2668
OFFERED BY M . _____**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Consumer Protection
3 and Recovery Act”.

**4 SEC. 2. FTC AUTHORITY TO SEEK PERMANENT INJUNC-
5 TIONS AND OTHER EQUITABLE RELIEF.**

6 (a) PERMANENT INJUNCTIONS AND OTHER EQUI-
7 TABLE RELIEF.—Section 13 of the Federal Trade Com-
8 mission Act (15 U.S.C. 53) is amended—

9 (1) in subsection (b)—

10 (A) in paragraph (1), by inserting “has
11 violated,” after “corporation”;

12 (B) in paragraph (2)—

13 (i) by striking “that” and inserting
14 “that either (A)”;

15 (ii) by striking “final,” and inserting
16 “final; or (B) the permanent enjoining
17 thereof or the ordering of equitable relief
18 under subsection (e),”; and

1 (C) in the matter following paragraph

2 (2)—

3 (i) by striking “to enjoin any such act
4 or practice”;

5 (ii) by striking “Upon” and inserting
6 “In a suit under paragraph (2)(A), upon”;

7 (iii) by striking “without bond”;

8 (iv) by striking “proper cases” and in-
9 serting “a suit under paragraph (2)(B)”;

10 (v) by striking “injunction.” and in-
11 serting “injunction, equitable relief under
12 subsection (e), or such other relief as the
13 court determines to be just and proper, in-
14 cluding temporary or preliminary equitable
15 relief.”;

16 (vi) by striking “Any suit” and insert-
17 ing “Any suit under this subsection”; and

18 (vii) by striking “In any suit under
19 this section” and inserting “In any such
20 suit”; and

21 (2) by adding at the end the following:

22 “(e) **EQUITABLE RELIEF.**—

23 “(1) **RESTITUTION; CONTRACT RESCISSION AND**
24 **REFORMATION; REFUNDS; RETURN OF PROPERTY.**—

25 In a suit brought under subsection (b)(2)(B), the

1 Commission may seek, and the court may order,
2 with respect to the violation that gives rise to the
3 suit, restitution for losses, rescission or reformation
4 of contracts, refund of money, or return of property.

5 “(2) DISGORGEMENT.—In a suit brought under
6 subsection (b)(2)(B), the Commission may seek, and
7 the court may order, disgorgement of any unjust en-
8 richment that a person, partnership, or corporation
9 obtained as a result of the violation that gives rise
10 to the suit.

11 “(3) CALCULATION.—Any amount that a per-
12 son, partnership, or corporation is ordered to pay
13 under paragraph (2) with respect to a violation shall
14 be offset by any amount such person, partnership, or
15 corporation is ordered to pay, and the value of any
16 property such person, partnership, or corporation is
17 ordered to return, under paragraph (1) with respect
18 to such violation.

19 “(4) LIMITATIONS PERIOD.—

20 “(A) IN GENERAL.—A court may not order
21 equitable relief under this subsection with re-
22 spect to any violation occurring before the pe-
23 riod that begins on the date that is 10 years be-
24 fore the date on which the Commission files the
25 suit in which such relief is sought.

1 “(B) CALCULATION.—For purposes of cal-
2 culating the beginning of the period described
3 in subparagraph (A), any time during which an
4 individual against which the equitable relief is
5 sought is outside of the United States shall not
6 be counted.”.

7 (b) CONFORMING AMENDMENT.—Section
8 16(a)(2)(A) of the Federal Trade Commission Act (15
9 U.S.C. 56(a)(2)(A)) is amended by striking “(relating to
10 injunctive relief)”.

11 (c) APPLICABILITY.—The amendments made by this
12 section shall apply with respect to any action or pro-
13 ceeding that is pending on, or commenced on or after, the
14 date of the enactment of this Act.

