



SUPPORT H.R. 946

The Consumer Overdraft Protection Fair Practices Act

CRL Policy Brief No. 12

June 2007

Overdraft lending: the problem

Our nation's major banks and credit unions are making unsolicited, high-cost loans to their checking account holders when their account balance dips below zero, generating enormous fees for the banks and frequently driving their customers deeper into the negative.

Financial institutions never have to reveal that customers pay *triple- and quadruple-digit interest rates*. They make overdraft loans without customers' consent, and they manipulate the order in which they clear deposits and withdrawals in order to maximize overdrafts. Research shows that low-income families pay a disproportionate share of overdraft loan fees.

Under these systems, the bank or credit union generally pays the customer's checks, debit card transactions, and ATM withdrawals when the customer's account lacks sufficient funds. When the customer's next deposit is made, the financial institution debits the amount of the overdrafts, plus a fee averaging \$34 for each incident.

The Center for Responsible Lending estimates that Americans now pay \$17.5 billion per year in fees for abusive overdraft loans, more than the \$15.8 billion total paid out in loans.

H.R. 946: the solution

On February 8, 2007, Representative Carolyn Maloney, Chairwoman of the Financial Institutions Subcommittee (D-NY), Financial Services Committee Chairman Barney Frank (D-MA), and Representative Julia Carson (D-IN) introduced legislation to protect consumers from abusive overdraft loan programs and stop financial institutions from deliberately manipulating their systems to generate more overdrafts—while preserving the institutions' ability to cover occasional overdrafts as a courtesy without triggering the Act's requirements. The Act would:

- (1) **Amend the Truth in Lending Act to clarify that overdraft fees are finance charges**, so that annual interest rates are reported. Consumers would then be able to compare the cost of overdraft loans with the cost of other credit options.
- (2) **Require written consent before enrollment in the overdraft loan program.**
- (3) **Require financial institutions to warn the customer when an ATM withdrawal will trigger a fee**—and allow the customer to cancel the transaction at that time.
- (4) **Prohibit financial institutions from manipulating the order of check clearing or delaying the posting of deposits** to increase customers' overdraft loan fees.