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(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

To amend the Truth in Lending Act to provide for a safe harbor for small-dollar credit products, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. KIM of California introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Truth in Lending Act to provide for a safe harbor for small-dollar credit products, 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 “Small Dollar Loan
5 Certainty Act”.

1 **SEC. 2. SAFE HARBOR FOR SMALL-DOLLAR CREDIT PROD-**
2 **UCTS.**

3 (a) IN GENERAL.—The Truth in Lending Act (15
4 U.S.C. 1601 et seq.) is amended by inserting after section
5 109 the following:

6 **“§ 110. Safe harbor for small-dollar credit products**

7 “(a) IN GENERAL.—If a covered entity complies with
8 the requirements set forth in subsections (b), (c), and (e)
9 with respect to the offering of a small-dollar product to
10 a consumer, such covered entity shall not be liable in con-
11 nection with such offering of a small-dollar product, for—

12 “(1) any civil money penalties from any en-
13 forcement action brought by the Bureau, the appro-
14 priate Federal banking agency, or the National
15 Credit Union Administration for a violation of this
16 title; or

17 “(2) any damages or other monetary relief
18 through a private right of action brought under this
19 title.

20 **“(b) PRODUCT STRUCTURE REQUIREMENTS.—**

21 “(1) IN THE CASE OF AN INSTALLMENT
22 LOAN.—If a small-dollar credit product is structured
23 by a covered entity as an installment loan—

24 “(A) the repayment term shall be more
25 than 45 days;

1 “(B) payments shall be fully amortized
2 across more than one payment;

3 “(C) rollovers into new small-dollar credit
4 products shall be prohibited; and

5 “(D) the covered entity may not issue any
6 small-dollar credit product to a consumer if
7 such consumer has a small-dollar credit product
8 open with such covered entity at the time such
9 consumer applies for a small-dollar credit prod-
10 uct.

11 “(2) IN THE CASE OF A LINE OF CREDIT.—If
12 a small-dollar credit product is structured by a cov-
13 ered entity as a line of credit—

14 “(A) the repayment term for each draw
15 shall be more than 45 days unless a single pay-
16 ment is used and the draw is not more than 10
17 percent of the lesser of \$3,500 or 20 percent of
18 the total amount of a consumer’s average
19 monthly direct deposits during the preceding six
20 months; and

21 “(B) payments for each draw shall be fully
22 amortized across more than one payment, ex-
23 cept in the case of any single-payment loans.

24 “(3) RULES OF CONSTRUCTION.—

1 “(A) IN GENERAL.—Nothing in this sub-
2 section may be construed to prohibit the Bu-
3 reau, a Federal banking agency, or the National
4 Credit Union Administration from issuing a
5 cease-and-desist order or restitution order
6 under this title against a covered entity.

7 “(B) ENFORCEMENT OF OTHER STAT-
8 UTES.—Nothing in this subsection may be con-
9 strued to prohibit the Bureau, a Federal bank-
10 ing agency, or the National Credit Union Ad-
11 ministration from enforcing any provision of
12 law not contained within this title against a
13 covered entity.

14 “(c) UNDERWRITING REQUIREMENTS.—When con-
15 sidering whether to offer a small-dollar credit product to
16 a specific consumer, a covered entity—

17 “(1) shall use sound underwriting processes;
18 and

19 “(2) may analyze internal or external data
20 sources, including consumer deposit account activity,
21 to assess the creditworthiness of a consumer.

22 “(d) RULE OF CONSTRUCTION.—Nothing in this title
23 may be construed to prohibit a covered entity from offer-
24 ing a small-dollar product that does not comply with the
25 safe harbor requirements set forth under this section.

1 “(e) ADDITIONAL LIMITATIONS AND REQUIRE-
2 MENTS.—

3 “(1) BALLOON PAYMENTS.—No payment re-
4 quired in association with a small-dollar credit prod-
5 uct offered by a covered entity may be greater than
6 double the amount of any other payment required in
7 association with such product.

8 “(2) DISCLOSURES.—Each covered entity that
9 offers a small-dollar credit product shall comply with
10 all disclosure requirements set forth by this title.

11 “(3) PENALTIES AND FEES.—A covered entity
12 may not impose any prepayment penalty, overdraft
13 fee, or nonsufficient funds fee in connection with a
14 small-dollar credit product.

15 “(4) TRANSFER OF AMOUNTS.—Amounts made
16 available to a consumer through a small-dollar credit
17 product offered by a covered entity shall be dis-
18 bursed to the account of such consumer by such cov-
19 ered entity not later than 5 days after the approval
20 of the consumer for the small-dollar credit product.

21 “(f) DEFINITIONS.—In this section:

22 “(1) COVERED ENTITY.—The term ‘covered en-
23 tity’ means—

24 “(A) an insured depository institution;

25 “(B) an insured credit union;

1 “(C) a third-party with whom an insured
2 depository institution has contracted for prod-
3 ucts or services related to origination, servicing,
4 or administrative management of a small-dollar
5 credit product; or

6 “(D) a third-party with whom an insured
7 credit union has contracted for products or
8 services related to origination, servicing, or ad-
9 ministrative management of a small-dollar cred-
10 it product.

11 “(2) FEDERAL BANKING AGENCY DEFINI-
12 TIONS.—The terms ‘appropriate Federal banking
13 agency’ and ‘Federal banking agency’ have the
14 meaning given those terms, respectively, in section 3
15 of the Federal Deposit Insurance Act.

16 “(3) INSURED CREDIT UNION.—The term ‘in-
17 sured credit union’ has the meaning given the term
18 in section 101 of the Federal Credit Union Act.

19 “(4) INSURED DEPOSITORY INSTITUTION.—The
20 term ‘insured depository institution’ has the mean-
21 ing given the term in section 3 of the Federal De-
22 posit Insurance Act.

23 “(5) SMALL-DOLLAR CREDIT PRODUCT.—The
24 term ‘small-dollar product’ means a loan or line of
25 credit with a value of \$3,500 or less.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 for chapter 1 of the Truth in Lending Act is amended
3 by striking the item relating to section 110 and inserting
4 the following:

“110. Safe harbor for small-dollar credit products.”.