

**AMENDMENT IN THE NATURE OF A SUBSTITUTE TO
DISCUSSION DRAFT OF SEPTEMBER 25, 2009
OFFERED BY MRS. BIGGERT OF ILLINOIS**

Strike all after the enacting clause and insert the following:

1 SEC. 1. SHORT TITLE.

2 This Act may be cited as the “Financial Institutions
3 Consumer Protection and Examination Council Act of
4 2009”.

5 SEC. 2. DEFINITIONS.

6 (a) RENAMING COUNCIL.—The Federal Financial In-
7 stitutions Examination Council Act of 1978 (12 U.S.C.
8 3301 et seq.) is amended by striking “Financial Institu-
9 tions Examination Council” each place it appears, except
10 for in section 1001 of such Act, and inserting “Financial
11 Institutions Consumer Protection and Examination Coun-
12 cil”.

13 (b) DEFINITIONS RELATING TO CONSUMER PROTEC-
14 TION.—Section 1003 of such Act (12 U.S.C. 3302) is
15 amended—

16 (1) in paragraph (2), by striking “and”; and

17 (2) by adding at the end the following new
18 paragraphs:

1 “(4) the term ‘enumerated consumer laws’
2 means—

3 “(A) the Alternative Mortgage Transaction
4 Parity Act (12 U.S.C. 3801 et seq.);

5 “(B) the Community Reinvestment Act;

6 “(C) the Consumer Leasing Act;

7 “(D) the Electronic Funds Transfer Act
8 (15 U.S.C. 1693 et seq.);

9 “(E) the Equal Credit Opportunity Act
10 (15 U.S.C. 1691 et seq.);

11 “(F) the Fair Credit Billing Act;

12 “(G) the Fair Credit Reporting Act (15
13 U.S.C. 1681 et seq.);

14 “(H) the Fair Debt Collection Practices
15 Act (15 U.S.C. 1692 et seq.);

16 “(I) subsections (c), (d), (e), and (f) of
17 section 43 of the Federal Deposit Insurance Act
18 (12 U.S.C. 1831t);

19 “(J) sections 502, 503, 504, 505, 506,
20 507, 508, and 509 of the Gramm-Leach-Bliley
21 Act (15 U.S.C. 6802 et seq.);

22 “(K) the Home Mortgage Disclosure Act
23 (12 U.S.C. 2801 et seq.);

24 “(L) the Real Estate Settlement Proce-
25 dures Act (12 U.S.C. 2601 et seq.);

1 “(M) the Secure and Fair Enforcement for
2 Mortgage Licensing Act (12 U.S.C. 5101 et
3 seq.);

4 “(N) the Truth in Lending Act (15 U.S.C.
5 1601 et seq.);

6 “(O) the Truth in Savings Act (12 U.S.C.
7 4301 et seq.); and

8 “(5) the term ‘expanded Board’ means——

9 “(A) the members of the Council described
10 under section 1004(a);

11 “(B) the Secretary of Housing and Urban
12 Development;

13 “(C) the Chairman of the Securities and
14 Exchange Commission;

15 “(D) the Chairman of the Commodities
16 Futures Trading Commission;

17 “(E) the Chairman of the Federal Trade
18 Commission;

19 “(F) the Director of the Federal Housing
20 Finance Agency;

21 “(G) the Director of the Pension Benefit
22 Guarantee Corporation;

23 “(H) the Secretary of the Treasury;

24 “(I) the Secretary of Defense; and

25 “(J) the Secretary of Veterans’ Affairs.”.

1 (c) DEFINITIONS RELATED TO THE STATE LIAISON
2 COMMITTEE.—Section 1007 of such Act (12 U.S.C. 3306)
3 is amended by inserting after “financial institutions” the
4 following: “and one representative of the National Associa-
5 tion of Insurance Commissioners”.

6 **SEC. 3. FINANCIAL INSTITUTIONS CONSUMER PROTECTION**
7 **AND EXAMINATION COUNCIL.**

8 (a) CONSUMER PROTECTION DUTIES.—Section 1006
9 of the Federal Financial Institutions Examination Council
10 Act of 1978 (12 U.S.C. 3305) is amended by adding at
11 the end the following new subsection:

12 “(h) CONSUMER PROTECTION REGULATIONS.—

13 “(1) IN GENERAL.—The Council shall study the
14 need for revised or new regulations for the protec-
15 tion of consumers under the enumerated consumer
16 laws and shall vote on suggested model regulations
17 that the Council determines necessary for the protec-
18 tion of consumers under the enumerated consumer
19 laws.

20 “(2) REGULATIONS ISSUED BY COUNCIL MEM-
21 BERS.—Not later than the end of the 1-month pe-
22 riod beginning on the date a suggested model regula-
23 tion is agreed to by the Council by a majority vote
24 of the members of the Council, the members of the
25 Council, other than the Chairman of the State Liai-

1 son Committee, shall jointly issue regulations based
2 on such suggested model regulation, where applica-
3 ble.

4 “(3) EXPANDED BOARD REQUIRED.—For pur-
5 poses of any action taken pursuant to this sub-
6 section and any reference to the members of the
7 Council under this subsection, the Council shall con-
8 sist of the expanded Board.

9 “(4) NO COUNCIL ENFORCEMENT POWER.—No
10 provision of this subsection shall be construed as
11 conferring any enforcement authority to the Council.

12 “(5) REQUIREMENTS FOR REGULATIONS PRO-
13 POSED BY THE CHAIRMAN OF THE STATE LIAISON
14 COMMITTEE.—

15 “(A) IN GENERAL.—The Chairman of the
16 State Liaison Committee may not propose any
17 suggested model regulation for the Council to
18 vote on under this subsection unless such pro-
19 posed suggested model regulation is accom-
20 panied by a certification from the Chairman of
21 the State Liaison Committee stating that more
22 than half of the States support such proposal.

23 “(B) METHOD OF DETERMINATION.—For
24 purposes of this paragraph, the Chairman of
25 the State Liaison Committee shall determine

1 the method for determining if a State supports
2 a proposal.”.

3 (b) **ADDITIONAL STAFF.**—Section 1008 of such Act
4 (12 U.S.C. 3307) is amended by adding at the end the
5 following new subsection:

6 “(d) **CONSUMER PROTECTION STAFF.**—

7 “(1) **IN GENERAL.**—At the request of the Coun-
8 cil, any member of the expanded Board, other than
9 the Chairman of the State Liaison Committee, may
10 detail, on a reimbursable basis, any of the personnel
11 of that member’s department or agency to the Coun-
12 cil to assist it in carrying out the Council’s duties
13 under subsection (h).

14 “(2) **EXPANDED BOARD REQUIRED.**—When
15 making any request under this subsection, the Coun-
16 cil shall consist of the expanded Board.”.

17 **SEC. 4. OFFICE OF CONSUMER PROTECTION.**

18 The Federal Financial Institutions Examination
19 Council Act of 1978 (12 U.S.C. 3301 et seq.) is amended
20 by adding at the end the following new section:

21 **“SEC. 1012. OFFICE OF CONSUMER PROTECTION.**

22 “(a) **OFFICE OF CONSUMER PROTECTION.**—There is
23 hereby established within the Council an Office of Con-
24 sumer Protection (hereinafter in this section referred to
25 as the ‘Office’).

1 “(b) CONSUMER COMPLAINT HOTLINE AND
2 WEBSITE.—The Office shall establish a toll-free hotline
3 and a website for consumers to contact regarding inquiries
4 or complaints related to consumer protection. Such hotline
5 and website shall then refer such inquiries or complaints
6 to the appropriate Council member, which will then re-
7 spond to the inquiry or complaint.

8 “(c) DISCLOSURE REVIEW.—Not less than once every
9 7 years, the Office shall undertake a comprehensive review
10 of all public disclosures (including policies, procedures,
11 guidelines, standards, and regulatory filings) made by the
12 members of the Council. In making such review the Office
13 shall perform a cost and benefit analysis of each such dis-
14 closure and determine if the policy of the members of the
15 Council towards such disclosure should remain the same
16 or be revised.

17 “(d) CONSUMER TESTING REQUIREMENT.—Before
18 prescribing any regulation pursuant to section 1006(h),
19 the Council shall have the Office carry out consumer test-
20 ing with respect to such proposed model regulation.

21 “(e) PERIODIC REVIEW OF REGULATIONS.—

22 “(1) REVIEW.—Not less than once every 7
23 years, the Office shall undertake a comprehensive re-
24 view of all regulations issued by the members of the
25 Council pursuant to section 1006(h)(2). In making

1 such review, the Office shall perform a cost and ben-
2 efit analysis of each regulation and determine if such
3 regulation should remain the same or if such regula-
4 tion should be revised.

5 “(2) REPORT.—After performing a review re-
6 quired by paragraph (1), the Office shall issue a re-
7 port to the Congress describing the review process,
8 any determinations made by the Office, and any re-
9 visions to regulations that the Office determined
10 were needed.”.

11 **SEC. 5. STATE ENFORCEMENT AUTHORITY.**

12 (a) ENFORCEMENT OF COUNCIL REGULATIONS.—
13 The Federal Financial Institutions Examination Council
14 Act of 1978 (12 U.S.C. 3301 et seq.), as amended by sec-
15 tion 4, is further amended by adding at the end the fol-
16 lowing new section:

17 **“SEC. 1013. STATE ENFORCEMENT AUTHORITY.**

18 “The chief law enforcement officer of a State, or an
19 official or agency designated by a State, shall have the
20 authority to enforce any regulations issued by the mem-
21 bers of the Council pursuant to section 1006(h)(2) against
22 entities regulated by such State.”.

23 (b) ENFORCEMENT OF STATE CONSUMER PROTEC-
24 TION LAWS AGAINST NATIONAL BANKS AND THRIFTS.—
25 Notwithstanding any other provision of law, other than

1 section 5240 of the Revised Statutes and the comparable
2 limitation on visitorial authority applicable to federal sav-
3 ings associations, the chief law enforcement officer of a
4 State, or an official or agency designated by a State, shall
5 have the right to enforce such State’s non-preempted con-
6 sumer protection laws against national banks.

7 **SEC. 7. UNFAIR OR DECEPTIVE ACTS OR PRACTICES AU-**
8 **THORITY TRANSFERRED.**

9 Section 18(f)(1) of the Federal Trade Commission
10 Act (15 U.S.C. 57a(f)(1)) is amended—

11 (1) by striking “(with respect to banks) and the
12 Federal Home Loan Bank Board (with respect to
13 savings and loan institutions described in paragraph
14 (3))” and inserting the following: “(with respect to
15 entities described in paragraph (2)(B)), the Comp-
16 troller of the Currency (with respect to entities de-
17 scribed in paragraph (2)(A)), the Board of Directors
18 of the Federal Deposit Insurance Corporation (with
19 respect to entities described under paragraph
20 (2)(C)), the Director of the Office of Thrift Super-
21 vision (with respect to savings associations or any
22 savings and loan institutions described in paragraph
23 (3)),”;

24 (2) by striking “each such Board” and insert-
25 ing “each such entity”; and

1 (3) by striking “any such Board” and inserting
2 “any such entity”.

3 **SEC. 8. EQUALITY OF CONSUMER PROTECTION FUNCTIONS;**
4 **CONSUMER PROTECTION DIVISIONS.**

5 (a) EQUALITY OF CONSUMER PROTECTION FUNC-
6 TIONS.—With respect to each regulatory agency, the func-
7 tions of such agency related to consumer protection shall
8 be of equal importance to such agency as the other func-
9 tions of such agency.

10 (b) CONSUMER PROTECTION DIVISIONS.—

11 (1) IN GENERAL.—There is hereby established
12 within each regulatory agency a consumer protection
13 division.

14 (2) REPORT.—The head of each consumer pro-
15 tection division established under paragraph (1)
16 shall submit an annual report to the Congress detail-
17 ing the performance of the regulatory agency in
18 which such division is located in enforcing the con-
19 sumer protection laws.

20 (c) REGULATORY AGENCY DEFINED.—For purposes
21 of this section, the term “regulatory agency” means the
22 Office of the Comptroller of the Currency, the Board of
23 Governors of the Federal Reserve System, the Federal De-
24 posit Insurance Corporation, the Office of Thrift Super-
25 vision, the National Credit Union Administration, the

1 Federal Trade Commission, and the Department of Hous-
2 ing and Urban Development.

3 **SEC. 9. PROHIBITION ON CHARTER CONVERSIONS WHILE**
4 **UNDER REGULATORY SANCTION.**

5 With respect to an entity for which there is an appro-
6 priate Federal banking agency, as such term is defined
7 under section 3(q) of the Federal Deposit Insurance Act
8 (12 U.S.C. 1813(q)), such agency shall issue regulations
9 prohibiting such an entity from converting the type of
10 such entity's charter during any time in which such entity
11 is under a regulatory sanction by such agency.

