

East, these systems could pick up that launched missile, could relay the information back to either an American ship or American theater antimissile forces and they could launch a missile like we launched the Patriots against the Scuds that occurred in desert Storm. They could launch a missile at the incoming ballistic missile and knock it out of the sky before it damaged American troops or American equipment.

These are on display in 2118 Rayburn. We have an SDI exhibit on display today. I would urge all Members to come down and look at the emerging technology we are building for missile defense.

THE NATIONAL DEBT

(Mr. TAYLOR of Mississippi asked and was given permission to address the House for 1 minute.)

Mr. TAYLOR of Mississippi. Mr. Speaker, by the clock on the wall, it is 20 minutes after 12. By 30 minutes after 12 this Nation will have spent another \$5 million on interest on the national debt. Because of the national debt, we are spending \$1 million every 2 minutes just to pay the interest. That is not the principal; that is just the interest.

That is why I want to compliment my Republican colleagues on passing some much-needed cuts. They were not the cuts I would have made, but they were necessary because we have to reduce spending.

Let me criticize them for not taking those savings and applying it toward our annual operating deficits but instead to give a tax break to millionaires.

This Nation will still spend about \$200 billion more than it collects in taxes this year. That means the debt goes up and that means the interest on that, for those of you who are wondering where your tax money goes, the biggest portion of the money that you pay in taxes goes to pay interest on the national debt, does not pave an inch of highway, does not buy one round for one M-16, does not educate a child.

It goes to some rich lending institution and the chances are one out of three that that money goes to a German or a Japanese lending institution because they are the ones who control our debt.

A TRIBUTE TO HIS MAJESTY, KING BHUMIBOL ADULYADEJ— KING RAMA IX—OF THAILAND

(Mr. ROHRBACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRBACHER. Mr. Speaker, I rise today to express the deep-felt concern by many Members of Congress over the health of the king of Thailand, King Rama IX and the enormous sense of relief we all felt on hearing the news that the king's health is improving. A

50-year reign for a king this good is too short.

As a member of the Committee on International Relations of the House of Representatives, I would like to pass along to the king the committee's best wishes for a speedy and a complete recovery.

In the last decades, Thailand has been an island of tranquility compared to the strife and war that has visited its neighbors. His majesty's wisdom has been key to Thailand's ability to avoid such dangers and cataclysms.

The king is a blessing to Thailand and, yes, to the whole world.

Once again, I, my colleagues and my fellow Americans wish him and his family greetings and good health from his friends in the United States of America.

As their new year approaches, we would like to wish a happy new year to the king and all the people of Thailand.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BUNNING of Kentucky). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

TRUTH IN LENDING CLASS ACTION RELIEF ACT OF 1995

Mrs. ROUKEMA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1380) to provide a moratorium on certain class action lawsuits relating to the Truth in Lending Act.

The Clerk read as follows:

H.R. 1380

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Truth in Lending Class Action Relief Act of 1995".

SEC. 2. MORATORIUM.

Section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended by adding at the end the following new subsection:

"(i) CLASS ACTION MORATORIUM.—

"(1) IN GENERAL.—During the period beginning on the date of the enactment of the Truth in Lending Class Action Relief Act of 1995 and ending on October 1, 1995, no court may enter any order certifying any class in any action under this title—

"(A) which is brought in connection with any credit transaction not under an open end credit plan which is secured by a first lien on real property or a dwelling and constitutes a refinancing or consolidation of an existing extension of credit; and

"(B) which is based on the alleged failure of a creditor—

"(i) to include a charge actually incurred (in connection with the transaction) in the finance charge disclosed pursuant to section 128;

"(ii) to properly make any other disclosure required under section 128 as a result of the failure described in clause (i); or

"(iii) to provide proper notice of rescission rights under section 125(a) due to the selection by the creditor of the incorrect form from among the model forms prescribed by the Board or from among forms based on such model forms.

"(2) EXCEPTIONS FOR CERTAIN ALLEGED VIOLATIONS.—Paragraph (1) shall not apply with respect to any action—

"(A) described in clause (i) or (ii) of paragraph (1)(B), if the amount disclosed as the finance charge results in an annual percentage rate that exceeds the tolerance provided in section 107(c); or

"(B) described in paragraph (1)(B)(iii), if—

"(i) no notice relating to rescission rights under section 125(a) was provided in any form; or

"(ii) proper notice was not provided for any reason other than the reason described in such paragraph.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New Jersey [Mrs. ROUKEMA] will be recognized for 20 minutes, and the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I yield myself such time as I may consume.

(Mrs. ROUKEMA asked and was given permission to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Speaker, the Truth in Lending Act generally requires lenders to disclose credit terms to borrowers in a manner that allows borrowers to compare between lenders.

One of the remedies available under the Truth in Lending Act for refinance and second mortgage loans is the ability to rescind the loan up to 3 years. The Truth in Lending Act has been interpreted by the courts to allow borrowers to seek rescission for minor discrepancies, as little as \$10, in the required disclosures.

If a mortgage is rescinded, the lender must reimburse all fees and costs to the borrower, including all interest paid for up to 3 years and must release the mortgage lien, leaving the lender with an unsecured loan.

In March 1994, the Circuit Court of Appeals for the 11th Circuit in *Rodash versus AIB Mortgage Co.* allowed a borrower to rescind a mortgage based on a technical violation of the disclosure and notice requirements provided for in the Truth in Lending Act.

As a result of the *Rodash* decision, nearly 50 class action lawsuits have been filed and in virtually all of the cases, the remedy sought is rescission. We have seen newspaper advertisements seeking plaintiffs for further class action. These ads are placed by class action attorneys and simply state if you have refinanced your mortgage in the last 3 years, you may be eligible to have your mortgage rescinded.

Mr. Speaker, I will include at the end of my statement reprints of representative newspaper advertisements.

If the courts were to permit borrowers to rescind loans as part of a class action lawsuit, based on technical disclosure and notice violations, the potential disruption to the secondary mortgage market and the liability that lenders face as well as the impact on safety and soundness of lending institutions may be enormous. For example, since 1991, 11.8 million loans totaling \$1.3 trillion have been refinanced. The estimated potential cost of rescinding these loans is approximately \$217 billion.

This amendment establishes a temporary moratorium that begins on the date of enactment of the Truth in Lending Class Action Relief Act of 1995 and ends on October 1, 1995 on class action lawsuits filed under the Truth in Lending Act for certain loans secured by real estate. Other types of consumer lending will be unaffected.

Last Congress, the House passed by voice vote a bill, H.R. 5178, that included legislative language to address the problem created by the Rodash decision. That language included a cut off date for new class actions. H.R. 5178, however, was never considered by the Senate and died at the end of the last Congress.

This temporary moratorium will allow Congress sufficient time to deal with the underlying issues in the Rodash case while putting a temporary halt to the certification of class action lawsuits.

This amendment is narrowly focused on the potential abuse of the right of rescission in the Truth in Lending Act. It does not prevent individual consumers from bringing suit under the Truth in Lending Act. It only prevents class action certifications for suits under the Truth in Lending Act for certain loans secured by real estate.

We are currently working closely with the other body to resolve this problem. We believe that they plan to take up the class action moratorium as soon as practicable.

I am pleased to inform my colleagues of the broad bipartisan support this moratorium enjoys.

This moratorium also enjoys broad support from the industry groups, that is, Mortgage Bankers Association, National Consumer Loan Center and others.

COLLECT MONEY BACK FROM YOUR LENDER

If you have borrowed on your home in the last few years, you may be able to rescind the loan and get your interest payments back. Create equity in your home whether you are current or facing foreclosure.

Call Atty. Cook now for free information: 407-744-1663, Jupiter; 1-800-741-6663, Boca/Delray.

HOME OWNERS RECOVER MONEY FROM THEIR LENDERS WITH FEDERAL LAWS

Two examples in Palm Beach County:

Court reduces \$276,000 residential mortgage to only \$64,702.45.

Judge voids mortgage and orders lender to return over \$28,000 to borrower.

To learn if you can recover money from your lender, call: Atty. Stephen Cook.

DO YOU WANT YOUR MONEY BACK?

Have you refinanced your residential mortgage or borrowed on your home? Under Federal Laws you may be entitled to recover money back from your lender.

This could be thousands of dollars in payment to you or increased equity in your home.

Free consultation to determine if you may be entitled to recover money under Federal Laws.

Call Atty. Stephen Cook.

EDWARD K. O'BRIEN, P.C.

ATTORNEY AT LAW

Needham, MA

We are consumer lawyers. We have recovered millions of dollars for mortgage borrowers like you.

We are writing to homeowners who refinanced in the past year with certain lenders. (We get our mailing list from public deeds records).

If you were charged fees for overnight mail (E.G., Federal Express, Express Mail, etc.) or if you were charged fees for couriers, or any other delivery fees, you are probably entitled to money damages under the Federal Truth-in-Lending Act.

Please phone us—with the loan papers in front of you—and we will let you know your rights under the Federal Truth in Lending Act. (617-449-9111—collect—or mail us the sheet showing the closing costs: or fax it to 617-449-4383, 24 hours.

No obligation: You pay us no fees or costs for this phone call. If we find violations and if you want us to represent you—even then you will not pay us fees except out of any recovery we get back for you.

We are now seeking consumers who make payments to:

Sears (PNC) Margaretten Plaza Home Huntington GMAC, Mellon Citicorp Chemical Independence One.

ADVERTISEMENT

Since we may agree to represent you, lawyers' ethics rules require us to disclose this letter is an "advertisement."

□ 1230

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

(Mr. VENTO asked and was given permission to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, I rise, of course, in support of this legislation that was the product of negotiations of several members of the Committee on Banking and Financial Services to address the results of the 11th Circuit Court decision on the case simply known as the Rodash case, Rodash versus AIB Mortgage Co.

The chairwoman, the gentlewoman from New Jersey [Mrs. ROUKEMA] has well described the purposes and problem this legislation addresses. It is a 6-month moratorium which has bipartisan support and the support of the consumer and industry groups because the measure accomplishes its goal.

The bill provides, as I said, temporary relief for the mortgage industry as a whole from the potential ramifications of certain class action suits filed under the Truth In Lending Act. It is a reasonable solution for the timeframe in which we are working today, and Re-

publican and Democrat members of the Committee on Banking and Financial Services worked cooperatively in achieving this temporary legislative solution.

The legislation is responding to an emergency of sorts, because of the number of class action suits, nearly 50, that have been filed because of technical violations of disclosure requirements provided in the Truth In Lending Act. The sheer volume of refinancing of home mortgages that has occurred in the last few years gives rise to a great potential for many more of this type of suit. Allowing for the emergency nature of the problems presented will, of course, with the expectation that we will work cooperatively in terms of resolving the deficiencies of the Truth In Lending Act.

For the record, of course, I want to note to our chairman, the gentleman from Iowa [Mr. LEACH], and the chairwoman of the subcommittee, the gentlewoman from New Jersey [Mrs. ROUKEMA], that it is my hope that we will proceed with the deliberations of modifying the Truth In Lending Act in an orderly manner with regular and full hearings, and trying to deal with the intricacies of what is fundamentally a fairly complex law.

We need to have that careful deliberation so that we can retain the essence of truth in lending, and deal with the streamlining and the avoidance of the types of problems that have been evidenced by this legislation and by the events of the last few years. Hopefully this 6 months will give us the time. I ask my colleagues' support for it.

Mr. Speaker, I reserve the balance of my time.

Mrs. ROUKEMA. Mr. Speaker, I yield 2 minutes to our colleague, the gentleman from Michigan [Mr. CHRYSLER], a member of the Committee on Banking and Financial Services.

Mr. CHRYSLER. Obviously, Mr. Speaker, when people borrow money they are expected to pay it back. Certainly when lawyers start lining their pockets based on technicalities to keep people from having to pay those funds back, then it is time for the Congress to come forward.

I am glad the last Congress came forward, and I am glad we have good bipartisan support to make this change in this Rodash law, to make sure that the banks and the mortgage companies that have made mortgages over the past few years are not penalized unfairly over these kinds of technicalities.

I just rise in support of this legislation, and appreciate the gentlewoman from New Jersey bringing it forward and having this hearing.

Mr. GONZALEZ. Mr. Speaker, I rise in support of this bill because it is a reasonable response to a situation that exposes lenders and the secondary mortgage market to great uncertainty and potentially exploding liability. I also endorse this approach because it will not impede individuals from seeking relief under

the Truth in Lending Act. I applaud the efforts here today because they provide temporary, stop gap relief to the industry, and afford the Congress an opportunity to shape long term reform in a more deliberate and reasoned manner.

The bill originally introduced to address this so-called emergency situation would have seriously eroded key consumer protections in the Truth in Lending Act. It would have eliminated the consumer's right to rescind a mortgage that had been refinanced. It would have limited the consumer's recourse against the secondary market when the lender is long gone. It would have permitted lenders to provide faulty loan disclosures. All this, without a hearing on the subject. All this, in response to a number of class actions that have been filed but have yet to be decided in a single instant.

If Congress intends to modernize truth in lending, we need thorough hearings on the issues. If we are to reduce burdens on the industry, we must not simply shift those burdens onto the consumer. Truth in lending must always ensure that lenders give consumers complete, accurate, and uniform disclosures about the terms of their loans and their credit cards. And the Truth in Lending Act must contain sufficient penalties to ensure that these disclosures are made.

With these considerations in mind, I look forward to working with my colleagues on the other side of the aisle to modernize truth in lending—to make it a more meaningful act for consumers and a less burdensome law for the industry.

Mrs. ROUKEMA. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. ROTH], a member of the Committee on Banking and Financial Services.

Mr. ROTH. Mr. Speaker, I thank the gentlewoman for yielding time to me, and I want to thank her for bringing up this legislation, and for the excellent job she is doing as chairperson of that committee.

Mr. Speaker, this is a very important piece of legislation if we are concerned about our home buyers. I think all of us are. It is another example where we have too much government.

Here is the Truth in Lending Act that passed in 1968, and the gentlewomen from New Jersey I think very well explained the problem here. Here we have a court coming in and saying "Well, you can have rescission."

In other words, if you come to the court in a class action suit, the lender has to give you back your fees and your interest, up to 3 years. Then we have lawyers out there advertising. In other words, they are looking for complainants, saying, "Hey, if you want some extra dollars, here is a legal rip-off. Come on in and we will help you."

I think it shows what happens when there are no ethics left in a society, when there is no sense of right and wrong. We should not even have a piece of legislation like this.

However, the rescission under this statute means that the lender must reimburse, let me repeat that, all fees and costs of the borrower, including all interest paid up to 3 years, and must release the mortgage lien. The result

leaves the lender with an uninsured loan.

Therefore, without this moratorium, consumers are going to find sources for these kinds of mortgages drying up very quickly. It should be emphasized that this moratorium can only be on a class action suit. That means that the individual consumer can still file suit under remedies prescribed by the Truth in Lending Act.

The Truth In Lending Act, let us have some courage in this House, it is a joke. I have worked in the real estate industry. When you come to a closing, no one reads them. Do Members know how it works? The banker says "Here, sign this." The client says to his broker "Is it okay?" "Sure. Go ahead and sign it." The banker has not read it, the broker has not read it, and certainly the person buying the home has not read it.

It is another example of too much government. That is why the people are so upset with government today. There is no common sense left. Let us at least pass this legislation and give us time to get back on the right track again, and bring some common sense back into this area of the law again.

Mr. VENTO. Mr. Speaker, I yield myself 1 minute.

Obviously, there have been problems developing with regard to the abuse of the provisions of law that have a great problem and pause to an important segment of our industry in terms of financing and the orderly process and proceeding with that. I think it is also very evident that truth in lending is an enormously important legislation to inform the consumer and to provide for reputable lenders the opportunity to share information so there is a good understanding in terms of going forward with mortgages.

I think, obviously, when a problem exists here, there is an enormous need to have solid information in terms of making decisions on the part of the consumer and on the part of the finance industry. We want to make certain that we are trying to respond to what clearly has been a demonstrated problem, but I hope that when we get ready to legislate we remember the essence of trying to maintain a proper balance in terms of consumer rights and the importance of that with regard to this matter.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. ROUKEMA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New Jersey [Mrs. ROUKEMA] that the House suspend the rules and pass the bill, H.R. 1380.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SEXUAL CRIMES AGAINST CHILDREN PREVENTION ACT OF 1995

Mr. SCHIFF. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1240) to combat crime by enhancing the penalties for certain sexual crimes against children, as amended.

The Clerk read as follows:

H.R. 1240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sexual Crimes Against Children Prevention Act of 1995".

SEC. 2. INCREASED PENALTIES FOR CERTAIN CONDUCT IN SEXUAL EXPLOITATION OF CHILDREN.

The United States Sentencing Commission shall amend the sentencing guidelines to increase the base offense level for offenses under section 2251 or 2252 of title 18, United States Code, by at least 2 levels.

SEC. 3. INCREASED PENALTIES FOR USE OF COMPUTERS IN SEXUAL EXPLOITATION OF CHILDREN.

The United States Sentencing Commission shall amend the sentencing guidelines with respect to an offense under—

(1) section 2251(c)(1)(A); or

(2) any of paragraphs (1) through (3) of section 2252(a);

of title 18, United States Code, to increase the offense level by at least 2 levels if a computer was used to transmit the notice or advertisement to the intended recipient or to transport or ship the visual depiction.

SEC. 4. INCREASED PENALTIES FOR TRANSPORTATION OF CHILDREN WITH INTENT TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY.

The United States Sentencing Commission shall amend the sentencing guidelines to increase the base offense level for an offense under section 2423(a) of title 18, United States Code, by at least 3 levels.

SEC. 5. TECHNICAL CORRECTION.

Section 2423(b) of title 18, United States Code, is amended by striking "2245" and inserting "2246".

SEC. 6. REPORT BY THE UNITED STATES SENTENCING COMMISSION.

Not later than 180 days after the date of the enactment of this Act, the United States Sentencing Commission shall submit a report to Congress concerning offenses involving child pornography and other sexual crimes against children. In this report the Commission shall include—

(1) an analysis of the sentences imposed for offenses under sections 2251, 2252, and 2423 of title 18, United States Code, and recommendations as to any modifications to the sentencing guidelines that may be appropriate with respect to those offenses;

(2) an analysis of the sentences imposed for offenses under sections 2241, 2242, 2243, and 2244 of title 18, United States Code, where the victim was under the age of 18 years, and recommendations as to any modifications to the sentencing guidelines that may be appropriate with respect to those offenses;

(3) an analysis of the type of substantial assistance that courts have recognized as warranting a downward departure from the sentencing guidelines relating to offenses under section 2251 or 2252 of title 18, United States Code;

(4) a survey of the recidivism rate for offenders convicted of committing sexual crimes against children, an analysis of the impact on recidivism of sexual abuse treatment provided during or after incarceration or both, and an analysis of whether increased