

TITLE II—IMPROVEMENTS TO THE FEDERAL TRADE COMMISSION ACT

SEC. 201. AMENDMENTS TO THE FEDERAL TRADE COMMISSION ACT.

(a) Section 5(m)(1)(A) of the Federal Trade Commission Act (15 U.S.C. 45(m)(1)(A)) is amended—

- (1) by inserting “this Act or” after “violates” the first place such term appears;
- (2) by inserting a comma after “Act” and after “section”;
- (3) by inserting “a violation of this Act or is” before “prohibited”.

(b) Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end thereof the following new subsection:

“(o) UNLAWFUL ASSISTANCE.—It is unlawful for any person, knowingly or recklessly, to provide substantial assistance to another in violating any provision of this Act or of any other Act enforceable by the Commission that relates to unfair or deceptive acts or practices. Any such violation shall constitute an unfair or deceptive act or practice described in section 5(a)(1) of this Act.”

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

(1) by amending subsection (b) to read as follows:

“(b) PROCEDURE APPLICABLE.—When prescribing a rule under subsection (a)(1)(B) of this section, the Commission shall proceed in accordance with section 553 of Title 5 (without regard to any reference in such section to sections 556 and 557 of such title).”;

(2) by striking subsections (c), (d)(1), (d)(2), (f), (i), and (j), and redesignating subsections (e), (g) and (h) as (d), (e) and (f);

(3) by redesignating paragraph (d)(3) as subsection (c); and

(4) in subsection (e)—

(A) in paragraph (1)(B), by striking “the transcript required by subsection (c)(5) of this section,”;

(B) in paragraph (2), by striking everything following “error”;

(C) in paragraph (5), by striking subparagraph (C).

(d) Section 16(a)(2) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)) is amended—

(1) in subparagraph (D) by striking “; or” and inserting a semicolon; and

(2) by inserting after subparagraph (E) the following:

“(F) to obtain a civil penalty authorized under any provision of law enforced by the Commission.”

(e) Section 5(l) of the Federal Trade Commission Act (15 U.S.C. 45(l)) is amended in the first sentence by inserting “the Commission or” after “brought by”.

PURPOSE AND SUMMARY

H.R. 3126, the Consumer Financial Protection Agency Act of 2009, was introduced on July 8, 2009, by Rep. Barney Frank. H.R. 3126 is intended to improve consumer protection in the financial arena by creating one commission whose sole mission is consumer financial protection. H.R. 3126 would pull the consumer protection functions from each of the banking agencies, and some consumer financial protection functions from the Federal Trade Commission (FTC), and give those functions to the new commission. The legislation calls for the Consumer Financial Protection Agency (CFPA) to ensure that:

1. consumers have, understand, and can use the information they need to make responsible decisions about consumer financial products or services;
2. consumers are protected from abuse, unfairness, deception, and discrimination;
3. markets for consumer financial products or services operate fairly and efficiently with ample room for sustainable growth and innovation; and
4. traditionally underserved consumers and communities have access to financial services.

H.R. 3126 would consolidate in this new commission all consumer protection functions related to financial products, including rulemaking, supervision and examination, and enforcement. CFPA would have its own authority to issue rules prohibiting unfair, deceptive, and abusive acts, and would become the sole rulemaking authority for consumer financial protection statutes, including the Truth in Lending Act, the Equal Credit Opportunity Act, and the Fair Debt Collection Practices Act.

In addition, H.R. 3126 would provide the FTC with additional authorities to conduct rulemaking and enforce against unfair or deceptive acts or practices.