

106TH CONGRESS
1ST SESSION

H. R. 2626

To amend certain consumer protection laws to facilitate the electronic delivery of disclosures and other information.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 1999

Mrs. ROUKEMA (for herself, Mr. LAZIO, and Mr. INSLEE) introduced the following bill; which was referred to the Committee on Banking and Financial Services

A BILL

To amend certain consumer protection laws to facilitate the electronic delivery of disclosures and other information.

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 “Electronic Disclosures
5 Delivery Act of 1999”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress finds as follows:

8 (1) Dramatic growth in the use of the Internet
9 is enabling more consumers to access financial prod-
10 ucts and services on-line.

1 (2) Electronic media also make it possible for
2 consumer disclosures and other information to be
3 provided more efficiently and in a more user-friendly
4 fashion than in static, paper formats.

5 (3) To take full advantage of this new tech-
6 nology, however, it is desirable to clarify the provi-
7 sions of certain consumer protection laws to facili-
8 tate delivery of disclosures and other information
9 electronically.

10 (b) PURPOSES.—

11 (1) IN GENERAL.—The purpose of this Act is to
12 provide a procedure by which persons subject to
13 Federal consumer protections laws may satisfy re-
14 quirements for provision of disclosures, notices, and
15 other information through electronic communications
16 with the informed consent of consumers.

17 (2) SCOPE.—It is the purpose of this Act to ad-
18 dress only electronic delivery of information to and
19 from consumers and financial services providers and
20 not to affect the substantive rights and responsibil-
21 ities of any person or the content of any disclosure,
22 including both the timing and format of disclosures
23 and information to be provided.

24 **SEC. 3. ELECTRONIC COMMUNICATIONS MODERNIZATION.**

25 (a) AMENDMENTS TO TRUTH IN LENDING ACT.—

1 (1) DEFINITIONS.—Section 103 of the Truth in
2 Lending Act (15 U.S.C. 1602) is amended by add-
3 ing at the end the following new subsection:

4 “(cc) DEFINITIONS RELATING TO ELECTRONIC COM-
5 MUNICATION.—

6 “(1) ACKNOWLEDGMENT.—The term ‘acknowl-
7 edgment’ includes an electronic acknowledgment.

8 “(2) COMMUNICATION.—The term ‘communica-
9 tion’ means any provision of information pursuant to
10 this title and includes the delivery or provision of
11 disclosures, booklets, notices, copies, written or
12 printed materials, documents, records, statements,
13 authorizations, and acknowledgments.

14 “(3) ELECTRONIC ACKNOWLEDGMENT.—The
15 term ‘electronic acknowledgment’ means an elec-
16 tronic identifying sound, symbol, or process, at-
17 tached to or logically associated with an electronic
18 communication and executed or adopted by a person
19 with the intent and effect of—

20 “(A) establishing the assent or association
21 of the person to the electronic communication
22 in the same manner and to the same extent
23 that a physical signature establishes the assent
24 or association of an identifiable person to a
25 physical document; and

1 “(B) establishing, or permitting the estab-
2 lishment of, the form and content beyond a rea-
3 sonable doubt as of the time of acknowledgment
4 of an electronic communication to which the
5 electronic acknowledgment is attached.

6 “(4) ELECTRONIC COMMUNICATION.—The term
7 ‘electronic communication’ means a communication
8 created, stored, generated, received, or transmitted
9 by electronic means in a format that allows visual
10 text to be displayed.

11 “(5) ELECTRONIC.—The term ‘electronic’
12 means of or relating to technology having electrical,
13 digital, magnetic, optical, electromagnetic, or similar
14 capabilities regardless of medium.”.

15 (2) ELECTRONIC COMMUNICATION.—The Truth
16 in Lending Act (15 U.S.C. 1601 et seq.) is amended
17 by inserting after section 103 the following new sec-
18 tion:

19 **“SEC. 103A. ELECTRONIC COMMUNICATIONS.**

20 “(a) IN GENERAL.—Any communication delivered
21 pursuant to this title (other than chapter 5) may be deliv-
22 ered in the form of an electronic communication, and any
23 acknowledgment which may be affixed to a communication
24 pursuant to this title (other than chapter 5) may be af-
25 fixed as an electronic acknowledgment to an electronic

1 communication if the person who is sent such communica-
2 tion or who provides an acknowledgement—

3 “(1) is provided with—

4 “(A) a description of the types of commu-
5 nications to be provided electronically;

6 “(B) an explanation of how to access and
7 retain such electronic communications which di-
8 rects the person’s attention to consideration of
9 the person’s ability to print or download such
10 disclosures; and

11 “(C) a notice of the period of time that the
12 communications will be available to such person
13 in electronic form; and

14 “(2) expressly consents by electronic means to
15 the electronic communication or the use of an elec-
16 tronic acknowledgment.

17 “(b) REGULATIONS.—The Board may—

18 “(1) from time to time and with respect to fed-
19 erally related mortgage loans, in consultation with
20 the Secretary of Housing and Urban Development,
21 prescribe regulations to clarify the procedures appli-
22 cable to the delivery of electronic communications
23 provided for in this section; and

24 “(2) without affecting or impairing the legal ef-
25 fectiveness of the delivery of any electronic commu-

1 nication provided in accordance with this section,
2 prescribe procedures which provide consumers with
3 the option to request paper copies of any such com-
4 munications if the Board finds that such procedures
5 are necessary and appropriate to supplement elec-
6 tronic communications.”.

7 (b) AMENDMENTS TO EQUAL CREDIT OPPORTUNITY
8 ACT.—

9 (1) DEFINITIONS.—Section 702 of the Equal
10 Credit Opportunity Act (15 U.S.C. 1691a) is
11 amended by adding at the end the following new
12 subsection:

13 “(g) DEFINITIONS RELATING TO ELECTRONIC COM-
14 MUNICATIONS.—

15 “(1) ACKNOWLEDGMENT.—The term ‘acknowl-
16 edgment’ includes an electronic acknowledgment.

17 “(2) COMMUNICATION.—The term ‘communica-
18 tion’ means any provision of information pursuant to
19 this title and includes the delivery or provision of
20 disclosures, booklets, notices, copies, written or
21 printed materials, documents, records, statements,
22 authorizations, and acknowledgments.

23 “(3) ELECTRONIC ACKNOWLEDGMENT.—The
24 term ‘electronic acknowledgment’ means an elec-
25 tronic identifying sound, symbol, or process, at-

1 tached to or logically associated with an electronic
2 communication and executed or adopted by a person
3 with the intent and effect of—

4 “(A) establishing the assent or association
5 of the person to the electronic communication
6 in the same manner and to the same extent
7 that a physical signature establishes the assent
8 or association of an identifiable person to a
9 physical document; and

10 “(B) establishing, or permitting the estab-
11 lishment of, the form and content beyond a rea-
12 sonable doubt as of the time of acknowledgment
13 of an electronic communication to which the
14 electronic acknowledgment is attached.

15 “(4) ELECTRONIC COMMUNICATION.—The term
16 ‘electronic communication’ means a communication
17 created, stored, generated, received, or transmitted
18 by electronic means in a format that allows visual
19 text to be displayed.

20 “(5) ELECTRONIC.—The term ‘electronic’
21 means of or relating to technology having electrical,
22 digital, magnetic, optical, electromagnetic, or similar
23 capabilities regardless of medium.”.

24 (2) ELECTRONIC COMMUNICATION.—The Equal
25 Credit Opportunity Act (15 U.S.C. 191 et seq.) is

1 amended by inserting after section 702 the following
2 new section:

3 **“SEC. 702A. ELECTRONIC COMMUNICATIONS.**

4 “(a) IN GENERAL.—Any communication delivered
5 pursuant to this title may be delivered in the form of an
6 electronic communication, and any acknowledgment which
7 may be affixed to a communication pursuant to this title
8 may be affixed as an electronic acknowledgment to an elec-
9 tronic communication if the person who is sent such com-
10 munication or who provides an acknowledgment—

11 “(1) is provided with—

12 “(A) a description of the types of commu-
13 nications to be provided electronically;

14 “(B) an explanation of how to access and
15 retain such electronic communications which di-
16 rects the person’s attention to consideration of
17 the person’s ability to print or download such
18 disclosures; and

19 “(C) a notice of the period of time that the
20 communications will be available to such person
21 in electronic form; and

22 “(2) expressly consents by electronic means to
23 the electronic communication or the use of an elec-
24 tronic acknowledgment.

25 “(b) REGULATIONS.—The Board may—

1 “(1) from time to time prescribe regulations to
2 clarify the procedures applicable to the delivery of
3 electronic communications provided for in this sec-
4 tion; and

5 “(2) without affecting or impairing the legal ef-
6 fectiveness of the delivery of any electronic commu-
7 nication provided in accordance with this section,
8 prescribe procedures which provide consumers with
9 the option to request paper copies of any such com-
10 munications if the Board finds that such procedures
11 are necessary and appropriate to supplement elec-
12 tronic communications.”.

13 (c) AMENDMENTS TO FAIR CREDIT REPORTING
14 ACT.—

15 (1) DEFINITIONS.—Section 603 of the Fair
16 Credit Reporting Act (15 U.S.C. 1681a) is amended
17 by adding at the end the following new subsection:

18 “(q) DEFINITIONS RELATING TO ELECTRONIC COM-
19 MUNICATION.—

20 “(1) ACKNOWLEDGMENT.—The term ‘acknowl-
21 edgment’ includes an electronic acknowledgment.

22 “(2) COMMUNICATION.—The term ‘communica-
23 tion’ means any provision of information pursuant to
24 this title and includes the delivery or provision of
25 disclosures, booklets, notices, copies, written or

1 printed materials, documents, records, statements,
2 authorizations, and acknowledgments.

3 “(3) ELECTRONIC ACKNOWLEDGMENT.—The
4 term ‘electronic acknowledgment’ means an elec-
5 tronic identifying sound, symbol, or process, at-
6 tached to or logically associated with an electronic
7 communication and executed or adopted by a person
8 with the intent and effect of—

9 “(A) establishing the assent or association
10 of the person to the electronic communication
11 in the same manner and to the same extent
12 that a physical signature establishes the assent
13 or association of an identifiable person to a
14 physical document; and

15 “(B) establishing, or permitting the estab-
16 lishment of, the form and content beyond a rea-
17 sonable doubt as of the time of acknowledgment
18 of an electronic communication to which the
19 electronic acknowledgment is attached.

20 “(4) ELECTRONIC COMMUNICATION.—The term
21 ‘electronic communication’ means a communication
22 created, stored, generated, received, or transmitted
23 by electronic means in a format that allows visual
24 text to be displayed.

1 “(5) ELECTRONIC.—The term ‘electronic’
2 means of or relating to technology having electrical,
3 digital, magnetic, optical, electromagnetic, or similar
4 capabilities regardless of medium.”.

5 (2) ELECTRONIC COMMUNICATIONS.—The Fair
6 Credit Reporting Act (15 U.S.C. 1681 et seq.) is
7 amended by inserting after section 603 the following
8 new section:

9 **“SEC. 603A. ELECTRONIC COMMUNICATIONS.**

10 “Any communication delivered pursuant to this title
11 may be delivered in the form of an electronic communica-
12 tion, and any acknowledgment which may be affixed to
13 a communication pursuant to this title may be affixed as
14 an electronic acknowledgment to an electronic communica-
15 tion if the person who is sent such communication or who
16 provides an acknowledgment—

17 “(1) is provided with—

18 “(A) a description of the types of commu-
19 nications to be provided electronically;

20 “(B) an explanation of how to access and
21 retain such electronic communications which di-
22 rects the person’s attention to consideration of
23 the person’s ability to print or download such
24 disclosures; and

1 “(C) a notice of the period of time that the
2 communications will be available to such person
3 in electronic form; and

4 “(2) expressly consents by electronic means to
5 the electronic communication or the use of an elec-
6 tronic acknowledgment.”.

7 (d) AMENDMENTS TO REAL ESTATE SETTLEMENT
8 PROCEDURES ACT OF 1974.—

9 (1) DEFINITIONS.—Section 3 of the Real Es-
10 tate Settlement Procedures Act (12 U.S.C. 2602) is
11 amended—

12 (A) by striking “and” at the end of para-
13 graph (7);

14 (B) by striking the period at the end of
15 paragraph (8) and inserting a semicolon; and

16 (C) by adding at the end the following new
17 paragraphs:

18 “(9) the term ‘acknowledgment’ includes an
19 electronic acknowledgment;

20 “(10) the term ‘communication’ means any pro-
21 vision of information pursuant to this title and in-
22 cludes the delivery or provision of disclosures, book-
23 lets, notices, copies, written or printed materials,
24 documents, records, statements, authorizations, and
25 acknowledgments;

1 “(11) the term ‘electronic acknowledgment’
2 means an electronic identifying sound, symbol, or
3 process, attached to or logically associated with an
4 electronic communication and executed or adopted
5 by a person with the intent and effect of—

6 “(A) establishing the assent or association
7 of the person to the electronic communication
8 in the same manner and to the same extent
9 that a physical signature establishes the assent
10 or association of an identifiable person to a
11 physical document; and

12 “(B) establishing, or permitting the estab-
13 lishment of, the form and content beyond a rea-
14 sonable doubt as of the time of acknowledgment
15 of an electronic communication to which the
16 electronic acknowledgment is attached;

17 “(12) the term ‘electronic communication’
18 means a communication created, stored, generated,
19 received, or transmitted by electronic means in a for-
20 mat that allows visual text to be displayed; and

21 “(13) the term ‘electronic’ means of or relating
22 to technology having electrical, digital, magnetic, op-
23 tical, electromagnetic, or similar capabilities regard-
24 less of medium.”.

1 (2) **ELECTRONIC COMMUNICATION.**—The Real
2 Estate Settlement Procedures Act (12 U.S.C. 2601
3 et seq.) is amended by inserting after section 3 the
4 following new section:

5 **“SEC. 3A. ELECTRONIC COMMUNICATIONS.**

6 “(a) **IN GENERAL.**—Any communication delivered
7 pursuant to this Act may be delivered in the form of an
8 electronic communication, and any acknowledgment which
9 may be affixed to a communication pursuant to this Act
10 may be affixed as an electronic acknowledgment to an elec-
11 tronic communication if the person who is sent such com-
12 munication or who provides an acknowledgment—

13 “(1) is provided with—

14 “(A) a description of the types of commu-
15 nications to be provided electronically;

16 “(B) an explanation of how to access and
17 retain such electronic communications which di-
18 rects the person’s attention to consideration of
19 the person’s ability to print or download such
20 disclosures; and

21 “(C) a notice of the period of time that the
22 communications will be available to such person
23 in electronic form; and

1 “(2) expressly consents by electronic means to
2 the electronic communication or the use of an elec-
3 tronic acknowledgment.

4 “(b) REGULATIONS.—The Secretary may—

5 “(1) from time to time and in consultation with
6 the Board of Governors of the Federal Reserve Sys-
7 tem, prescribe regulations to clarify the procedures
8 applicable to the delivery of electronic communica-
9 tions provided for in this section; and

10 “(2) without affecting or impairing the legal ef-
11 fectiveness of the delivery of any electronic commu-
12 nication provided in accordance with this section,
13 prescribe procedures which provide consumers with
14 the option to request paper copies of any such com-
15 munications if the Secretary finds that such proce-
16 dures are necessary and appropriate to supplement
17 electronic communications.”.

18 (e) AMENDMENTS TO TRUTH IN SAVINGS ACT.—

19 (1) DEFINITIONS.—Section 274 of the Truth in
20 Savings Act (12 U.S.C. 4313) is amended by adding
21 at the end the following new paragraphs:

22 “(9) ACKNOWLEDGMENT.—The term ‘acknowl-
23 edgment’ includes an electronic acknowledgment.

24 “(10) COMMUNICATION.—The term ‘commu-
25 nication’ means any provision of information pursu-

1 ant to this title and includes the delivery or provi-
2 sion of disclosures, booklets, notices, copies, written
3 or printed materials, documents, records, state-
4 ments, authorizations, and acknowledgments.

5 “(11) ELECTRONIC ACKNOWLEDGMENT.—The
6 term ‘electronic acknowledgment’ means an elec-
7 tronic identifying sound, symbol, or process, at-
8 tached to or logically associated with an electronic
9 communication and executed or adopted by a person
10 with the intent and effect of—

11 “(A) establishing the assent or association
12 of the person to the electronic communication
13 in the same manner and to the same extent
14 that a physical signature establishes the assent
15 or association of an identifiable person to a
16 physical document; and

17 “(B) establishing, or permitting the estab-
18 lishment of, the form and content beyond a rea-
19 sonable doubt as of the time of acknowledgment
20 of an electronic communication to which the
21 electronic acknowledgment is attached.

22 “(12) ELECTRONIC COMMUNICATION.—The
23 term ‘electronic communication’ means a commu-
24 nication created, stored, generated, received, or

1 transmitted by electronic means in a format that al-
2 lows visual text to be displayed.

3 “(13) ELECTRONIC.—The term ‘electronic’
4 means of or relating to technology having electrical,
5 digital, magnetic, optical, electromagnetic, or similar
6 capabilities regardless of medium.”.

7 (2) ELECTRONIC COMMUNICATION.—The Truth
8 in Savings Act (12 U.S.C. 4301 et seq.) is amended
9 by inserting after section 274 the following new sec-
10 tion:

11 **“SEC. 275. ELECTRONIC COMMUNICATIONS.**

12 “(a) IN GENERAL.—Any communication delivered
13 pursuant to this title may be delivered in the form of an
14 electronic communication, and any acknowledgment which
15 may be affixed to a communication pursuant to this title
16 may be affixed as an electronic acknowledgment to an elec-
17 tronic communication if the person who is sent such com-
18 munication or who provides an acknowledgment—

19 “(1) is provided with—

20 “(A) a description of the types of commu-
21 nications to be provided electronically;

22 “(B) an explanation of how to access and
23 retain such electronic communications which di-
24 rects the person’s attention to consideration of

1 the person's ability to print or download such
2 disclosures; and

3 "(C) a notice of the period of time that the
4 communications will be available to such person
5 in electronic form; and

6 "(2) expressly consents by electronic means to
7 the electronic communication or the use of an elec-
8 tronic acknowledgment.

9 "(b) REGULATIONS.—The Board may—

10 "(1) from time to time prescribe regulations to
11 clarify the procedures applicable to the delivery of
12 electronic communications provided for in this sec-
13 tion; and

14 "(2) without affecting or impairing the legal ef-
15 fectiveness of the delivery of any electronic commu-
16 nication provided in accordance with this section,
17 prescribe procedures which provide consumers with
18 the option to request paper copies of any such com-
19 munications if the Board finds that such procedures
20 are necessary and appropriate to supplement elec-
21 tronic communications.”.

22 (f) AMENDMENTS RELATING TO CONSUMER LEAS-
23 ING.—

1 (1) DEFINITIONS.—Section 181 of the Truth in
2 Lending Act (15 U.S.C. 1667) is amended by add-
3 ing at the end the following new paragraphs:

4 “(6) ACKNOWLEDGMENT.—The term ‘acknowl-
5 edgment’ includes an electronic acknowledgment.

6 “(7) COMMUNICATION.—The term ‘communica-
7 tion’ means any provision of information pursuant to
8 this title and includes the delivery or provision of
9 disclosures, booklets, notices, copies, written or
10 printed materials, documents, records, statements,
11 authorizations, and acknowledgments.

12 “(8) ELECTRONIC ACKNOWLEDGMENT.—The
13 term ‘electronic acknowledgment’ means an elec-
14 tronic identifying sound, symbol, or process, at-
15 tached to or logically associated with an electronic
16 communication and executed or adopted by a person
17 with the intent and effect of—

18 “(A) establishing the assent or association
19 of the person to the electronic communication
20 in the same manner and to the same extent
21 that a physical signature establishes the assent
22 or association of an identifiable person to a
23 physical document; and

24 “(B) establishing, or permitting the estab-
25 lishment of, the form and content beyond a rea-

1 sonable doubt as of the time of acknowledgment
2 of an electronic communication to which the
3 electronic acknowledgment is attached.

4 “(9) ELECTRONIC COMMUNICATION.—The term
5 ‘electronic communication’ means a communication
6 created, stored, generated, received, or transmitted
7 by electronic means in a format that allows visual
8 text to be displayed.

9 “(10) ELECTRONIC.—The term ‘electronic’
10 means of or relating to technology having electrical,
11 digital, magnetic, optical, electromagnetic, or similar
12 capabilities regardless of medium.”.

13 (2) ELECTRONIC COMMUNICATION.—Chapter 5
14 of the Truth in Lending Act (15 U.S.C. 1667 et
15 seq.) is amended by inserting after section 181 the
16 following new section:

17 **“SEC. 181A. ELECTRONIC COMMUNICATIONS.**

18 “(a) IN GENERAL.—Any communication delivered
19 pursuant to this chapter may be delivered in the form of
20 an electronic communication, and any acknowledgment
21 which may be affixed to a communication pursuant to this
22 chapter may be affixed as an electronic acknowledgment
23 to an electronic communication if the person who is sent
24 such communication or who provides an
25 acknowledgment—

1 “(1) is provided with—

2 “(A) a description of the types of commu-
3 nications to be provided electronically;

4 “(B) an explanation of how to access and
5 retain such electronic communications which di-
6 rects the person’s attention to consideration of
7 the person’s ability to print or download such
8 disclosures; and

9 “(C) a notice of the period of time that the
10 communications will be available to such person
11 in electronic form; and

12 “(2) expressly consents by electronic means to
13 the electronic communication or the use of an elec-
14 tronic acknowledgment.

15 “(b) REGULATIONS.—The Board may—

16 “(1) from time to time prescribe regulations to
17 clarify the procedures applicable to the delivery of
18 electronic communications provided for in this sec-
19 tion; and

20 “(2) without affecting or impairing the legal ef-
21 fectiveness of the delivery of any electronic commu-
22 nication provided in accordance with this section,
23 prescribe procedures which provide consumers with
24 the option to request paper copies of any such com-
25 munications if the Board finds that such procedures

1 are necessary and appropriate to supplement elec-
2 tronic communications.”.

○