

**SUPPORT [S.J.Res. 130](#) to Protect Consumers from Surprise Overdraft Fees**

In 2024, the Consumer Financial Protection Bureau (CFPB) issued guidance to crack down on the abusive practice of hiding potential overdraft fees from consumers until after a transaction is completed. The guidance clarified that for consumers taking out money from an ATM or a one-time debit transaction, banks cannot charge an overdraft fee without having disclosed it in advance and gotten a consumer's affirmative consent. But in a rule submitted to Congress, the Trump CFPB rescinded that guidance, making it easier for banks to saddle consumers with surprise overdraft fees.

Senator Van Hollen's joint resolution of congressional disapproval would undo the Trump CFPB decision and restore the earlier rule: "Improper Overdraft Opt-In Practices."

Endorsers: National Consumer Law Center (on behalf of its low-income clients), Consumer Federation of America, Center for Responsible Lending, Protect Borrowers, Americans for Financial Reform, National Community Reinvestment Coalition

Key Points

- **Overdraft fees can be a huge financial burden on cash-strapped families.** Overdraft fees are a [particular burden](#) for lower-income families. Thirty-four percent of households with annual income below \$65,000 were charged an overdraft fee in 2022—over three times higher than households with annual income above \$175,000.
- **Some financial institutions are illegally deceiving consumers to charge overdraft fees.** Though the Electronic Fund Transfer Act (EFTA) prohibits overdraft fees on ATM or one-time debit transactions without a consumer's affirmative consent, reports suggest that some banks have continued to impose them without consent or have used deceptive tactics to coerce consumers to opt into overdraft programs.
- **The Biden CFPB issued guidance to crack down on abusive overdraft fee practices.** In 2024, after discovering that some banks were not consistently adhering to their own policies requiring opt-in overdraft consent, the CFPB issued an [advisory opinion](#) clarifying that financial institutions must be able to show proof that they obtained affirmative, opt-in consent before charging an overdraft fee on an ATM or one-time debit card transaction.
- **The Trump Administration withdrew this rule, and this JRD seeks to restore it.** Although underlying statutes like the EFTA continue to require affirmative consent for certain overdraft fees, the Trump Administration's rescission of guidance meant to clarify specific obligations signals to banks that they may have leeway to saddle consumers with overdraft fees in the absence of opt-in consent, without fear of facing any real consequences from the current CFPB. It is critical for Congress to restore the earlier guidance.