

read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (H.R. 4008) was ordered to a third reading, was read the third time, and passed.

Mr. SCHUMER. Mr. President, I am glad we have just passed H.R. 4008. I thank all of my colleagues and Representative MAHONEY in the House, who authored the Credit and Debt Card Receipt Clarification Act. I introduced an identical bill on the Senate side, which was S. 2978. The House passed this bill last week by the unanimous vote of 407 to 0.

H.R. 4008 is a narrow, commonsense bill that will smooth the transition to new rules for printing credit card receipts under the Fair and Accurate Credit Transaction Act, or FACTA.

FACTA says the credit card receipts can only display one of two things: either the last five digits of the credit card account number or the expiration date.

Unfortunately, the law was not as clear as it could have been, and many companies misunderstood this requirement. They redacted account numbers in order to comply with FACTA but mistakenly left expiration dates in place.

But unlike the State laws after which it is modeled, FACTA is tied to a statutory damages provision that sparked the filing of hundreds of class action lawsuits against companies whose sole error was printing expiration dates on receipts.

Let's be clear. These lawsuits are not alleging that consumers were harmed in any way. I will repeat that. The lawsuits are not alleging that consumers were harmed in any way. In fact, experts on identity theft will tell you that printing the expiration date doesn't present any risk of fraud or identity theft, as long as the account number is truncated.

Yet companies are facing sky-high liability of up to \$1,000 per receipt. Some of them are large retail businesses; most of them are small mom-and-pop stores. The damages in these cases are so huge that judges have refused to certify class actions because the lawsuits could actually destroy the companies—small and large.

The long list of defendants in these cases includes many major corporations—we have all heard of the hotels, restaurant chains, et cetera—as well as little mom-and-pop stores.

It is fair to say that these lawsuits will actually hurt consumers because companies will be forced to raise prices, or even close stores, in order to cover the cost of legal fees and expensive settlements. This is at a time when our economy and businesses—particularly those dealing with retail—are already struggling to rebound from tough times.

So the bill is a win-win proposition for everyone. It stops destructive lawsuits against companies that made a harmless error in the past, but it also ensures that consumers can still sue in any case where they were actually harmed.

Going forward, companies will still have to meet the same strict rules Congress originally passed in fact. I am glad the Senate was able to take quick action on this important bill.

EXECUTIVE SESSION

Mr. SCHUMER. Mr. President, I now ask unanimous consent that the Senate resume executive session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Florida.

Mr. MARTINEZ. Mr. President, I wish to speak on the executive business of the Senate. I am proud today to speak on behalf of my brother, Ralph Martinez, who has been nominated by the President.

The ACTING PRESIDENT pro tempore. The minority has no time remaining.

Mr. MARTINEZ. Mr. President, I ask unanimous consent that I be allowed 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MARTINEZ. Mr. President, my brother, Ralph Martinez, has been nominated by the President to be a member of the Foreign Claims Settlement Commission of the United States.

I am extremely proud of Ralph. He is someone, such as myself, who has adopted this country as his own and who, after the struggles of all immigrants, succeeded in life. He is the proud father of three wonderful children and has raised a wonderful family. He also has excelled in the practice of law in central Florida. I am delighted he is going to have an opportunity to serve this Nation in this very important capacity.

I am also delighted to thank Leader REID and Leader MCCONNELL for expediting his confirmation, as well as Chairman LEAHY and Ranking Member SPECTER for their courtesies throughout this process for Ralph Martinez.

I know he will serve this Nation well. I am proud to second his nomination and urge the Senate to confirm him swiftly.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Will the Senator withhold?

Mr. MARTINEZ. Yes.

RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

EXECUTIVE SESSION

NOMINATION OF MICHAEL G. MCGINN TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF MINNESOTA, RALPH E. MARTINEZ TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES, AND G. STEVEN AGEE TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH DISTRICT—Continued

The PRESIDING OFFICER. Under the previous order, there will be 15 minutes equally divided and controlled between the senior Senator from Virginia, Mr. WARNER, and the junior Senator from Virginia, Mr. WEBB, or their designees.

The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I will take the time allotted on the Democratic side to Senator WEBB.

Mr. President, we have heard the sad news about our friend TED KENNEDY. Those of us who stood by his side know that there is no better ally and no more determined fighter. Now, as TED KENNEDY faces another great fight, we know he will bring the same courage and determination to the battle. We also know TED has spent his entire life caring for those in need. It is time for those of us who love TED and his family to care for them and join in prayer to give them strength.

Mr. President, at 2:30 we will consider the nomination of Steven Agee of Virginia to serve on the U.S. Court of Appeals for the Fourth Circuit. It is a lifetime appointment. He is a consensus nominee. Both Senators WARNER and WEBB support him. Of the 11 appellate court nominees pending before the Senate, only 6 can claim the same home State Senator support. That is one of the reasons some of them have been delayed. If we work more toward bipartisan consensus, more nominations would be approved.

Also, it is difficult to hear criticisms that these nominations have been delayed. The Republican minority has delayed so many bills and so many matters in this Congress, they have set a new record for filibusters and delay. That is a fact.

The Senate has confirmed 303 judges for lifetime appointments during the Bush Presidency. President Bush has had 86 percent of his judicial nominees confirmed; President Clinton, only 75 percent. When it comes to circuit court nominees, President Bush has even had a higher confirmation rate than President Clinton—71 percent to 57 percent. There has been no mistreatment here when it comes to the nominees sent to us by the Bush White House. Under