

After five days of debate, the House Financial Services Committee approved legislation on Thursday to create a Consumer Financial Protection Agency to protect consumers against abusive and unfair home mortgages, credit cards and other financial products.

The 39-29 vote represents a victory for the Obama administration in its push to revamp the financial regulatory system and a defeat for the banking lobby that launched an aggressive campaign to sway moderate Democrats against the measure, contending it would complicate bank regulation with a new bureaucracy and lead to higher credit costs for consumers.

Two conservative Democrats, Reps. Walt Minnick of Idaho and Travis Childers of Mississippi voted against it, while Rep. Michael Castle of Delaware, who is running for an open Senate seat, was the only Republican to support the bill. The measure would take consumer protection duties from federal bank regulators and transfer them to the proposed agency with additional oversight for payday lenders, check-cashing outlets and remittance providers. The agency would not have oversight of insurance and securities.

The bill was modified in two significant ways: It includes language allowing for a limited pre-emption of state consumer laws for federally regulated banks, and it excludes most banks and credit unions from primary enforcement and examination for the agency. Under the bill, the CFPB could take an enforcement action if the primary bank regulator did not.

"I will predict it will only get better from our standpoint going further," said Financial Services Committee Chairman Barney Frank, D-Mass.

Frank said he thought that Rep. Melissa Bean, D-Ill., would not offer a floor amendment to provide a complete pre-emption of state consumer laws but instead would work with him to clarify the pre-emption language.

The issue is of primary importance to banking lobbyists because national banks have been operating under a full range of pre-emption of state consumer laws since a 2004 Office of the Comptroller of the Currency ruling.

Bean has pushed her language, to the consternation of consumer activists and state regulators, but she backed off from pushing for a committee vote. Republicans then offered up the Bean language on their own amendment, but it failed Wednesday, 38-29.

"I think the general framework [on pre-emption] has been accepted," Frank said.

No banking group supported the measure, which was not surprising given that most ramped up their opposition to kill or severely weaken it.

Before approval, the panel adopted, 47-21, an amendment by **Rep. John Campbell, R-Calif.**, that would exempt car dealers from agency oversight if they do not engage directly in lending. Frank said he would seek clarifying language because he thought it was too loose and could give dealers carte blanche to engage in abusive lending practices.

The panel defeated, 35-33, an amendment by Rep. Maxine Waters, D-Calif., that would expand CFPA coverage to for-profit colleges that facilitate student loans. Waters has been a longtime critic of those institutions, citing a recent GAO report that showed students at for-profit schools have a default loan rate of 23 percent, well above the rate for nonprofit institutions. But panel members had reservations about extending the agency's authority to the education realm, especially because the bill would exempt merchants and retailers from oversight.

The panel adopted, 35-34, another Waters amendment that would reaffirm language in the bill that attorneys are not excluded from CFPA oversight, except those providing bankruptcy and foreclosure services. Rep. Paul Kanjorski, D-Pa., switched his vote on the amendment, a change that ensured its adoption. Kanjorski mistakenly voted no initially, his staff said.

The CFPA is a major focus of discussion for Senate Banking Committee Chairman Christopher Dodd, D-Conn., in his talks with Banking ranking member Richard Shelby, R-Ala. The agency is a priority to Dodd, and lobbyists expect Shelby to get considerable concessions in the reform package if he agrees to accept it.

Shelby said Thursday that despite K Street speculation, talks with Dodd have not broken down, even though another Banking Committee member, Sen. Bob Corker, R-Tenn., said he sensed little movement.