

110TH CONGRESS
1ST SESSION

H. R. 1461

To amend the Consumer Credit Protection Act to ban abusive credit practices, enhance consumer disclosures, protect underage consumers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2007

Mr. UDALL of Colorado (for himself and Mr. CLEAVER) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Consumer Credit Protection Act to ban abusive credit practices, enhance consumer disclosures, protect underage consumers, and for other purposes.

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; TABLE OF CONTENTS.**

4 This Act may be cited as the “Credit Card Account-
5 ability Responsibility and Disclosure Act of 2007” or the
6 “Credit CARD Act of 2007”.

7 **SEC. 2. REGULATORY AUTHORITY.**

8 The Board of Governors of the Federal Reserve Sys-
9 tem may issue such rules or publish such model forms as

1 it considers necessary to carry out this Act and the
2 amendments made by this Act, in accordance with sections
3 105 and 122 of the Truth in Lending Act.

4 **TITLE I—REGULATIONS RE-**
5 **GARDING CERTAIN RATES**
6 **AND FEES**

7 **SEC. 101. PRIOR NOTICE OF RATE INCREASES REQUIRED.**

8 Section 127 of the Truth in Lending Act (15 U.S.C.
9 1637) is amended by adding at the end the following:

10 “(i) **ADVANCE NOTICE OF INCREASE IN INTEREST**
11 **RATE REQUIRED.**—

12 “(1) **IN GENERAL.**—In the case of any credit
13 card account under an open end consumer credit
14 plan, no increase in any annual percentage rate of
15 interest (other than an increase due to the expira-
16 tion of any introductory percentage rate of interest,
17 or due solely to a change in another rate of interest
18 to which such rate is indexed)—

19 “(A) may take effect before the beginning
20 of the billing cycle which begins not less than
21 15 days after the obligor receives notice of such
22 increase; or

23 “(B) may apply to any outstanding balance
24 of credit under such plan as of the date of the

1 notice of the increase required under paragraph
2 (1).

3 “(2) NOTICE OF RIGHT TO CANCEL.—The no-
4 tice referred to in paragraph (1) with respect to an
5 increase in any annual percentage rate of interest
6 shall be made in a clear and conspicuous manner
7 and shall contain a brief statement of the right of
8 the obligor to cancel the account before the effective
9 date of the increase.”.

10 **SEC. 102. FREEZE ON INTEREST RATE TERMS AND FEES ON**
11 **CANCELED CARDS.**

12 Section 127 of the Truth in Lending Act (15 U.S.C.
13 1637) is amended by inserting after subsection (i) (as
14 added by section 101 of this title) the following new sub-
15 section:

16 “(j) FREEZE ON INTEREST RATE TERMS AND FEES
17 ON CANCELED CARDS.—If an obligor referred to in sub-
18 section (i) closes or cancels a credit card account before
19 the beginning of the billing cycle referred to in subsection
20 (h)(1)—

21 “(1) an annual percentage rate of interest ap-
22 plicable after the cancellation with respect to the
23 outstanding balance on the account as of the date of
24 cancellation may not exceed any annual percentage
25 rate of interest applicable with respect to such bal-

1 ance under the terms and conditions in effect before
2 the date of the notice of any increase referred to in
3 subsection (i)(1); and

4 “(2) the repayment of the outstanding balance
5 after the cancellation shall be subject to all other
6 terms and conditions applicable with respect to such
7 account before the date of the notice of the increase
8 referred to in subsection (i).”.

9 **SEC. 103. LIMITS ON CHARGES OR FEES FOR TIMELY PAY-**
10 **MENTS OR NON-USE.**

11 Section 127 of the Truth in Lending Act (15 U.S.C.
12 1637) is amended by inserting after subsection (j) (as
13 added by section 102 of this title) the following new sub-
14 section:

15 “(k) **LIMITS ON CHARGES OR FEES FOR TIMELY**
16 **PAYMENTS OR NON-USE.—**

17 “(1) **PROHIBITION ON CHARGES FOR ON-TIME**
18 **PAYMENTS.—**In the case of any credit card account
19 under an open end credit plan, where no other bal-
20 ance is owing on the account, no finance or interest
21 charge or other charge may be imposed with regard
22 to any amount of a new extension of credit that was
23 paid on or before the date on which it was due.

24 “(2) **PROHIBITION ON CANCELLATION OR ADDI-**
25 **TIONAL FEES FOR ON-TIME PAYMENTS OR PAYMENT**

1 IN FULL.—In the case of any credit card account
2 under an open end consumer credit plan, no fee or
3 other penalty may be imposed on the consumer in
4 connection with the payment in full of an existing
5 account balance, or payment of more than the min-
6 imum required payment of an existing account bal-
7 ance.

8 “(3) PROHIBITION ON FEES FOR NON-USE OF
9 CREDIT CARDS.—In the case of any credit card ac-
10 count under an open end consumer credit plan, no
11 fee or other penalty may be imposed on the con-
12 sumer solely by reason of the consumer’s non-use of
13 the card for a purchase or advance during any pe-
14 riod.”.

15 **SEC. 104. PROHIBITION ON OVER-THE-LIMIT FEES FOR**
16 **CREDITOR-APPROVED TRANSACTIONS.**

17 Section 127 of the Truth in Lending Act (15 U.S.C.
18 1637) is amended by inserting after subsection (k) (as
19 added by section 103 of this title) the following new sub-
20 section:

21 “(l) LIMITATION ON IMPOSITION OF OVER-THE-
22 LIMIT FEES.—In the case of any credit card account
23 under an open end consumer credit plan, a creditor may
24 not impose any fees on the obligor for any extension of
25 credit in excess of the amount of credit authorized to be

1 extended with respect to such account, if the extension of
2 credit is made in connection with a credit transaction
3 which the creditor approves in advance or at the time of
4 the transaction.”.

5 **SEC. 105. PROHIBITION ON UNIVERSAL DEFAULTS.**

6 Chapter 4 of the Truth in Lending Act (15 U.S.C.
7 1666 et seq.) is amended—

8 (1) by redesignating section 171 as section 173;

9 and

10 (2) by adding at the end the following:

11 **“§ 171. Universal defaults prohibited**

12 “(a) IN GENERAL.—No credit card issuer may use
13 any adverse information unrelated to a cardholder’s ac-
14 count with that issuer, including any information con-
15 tained in any consumer report (as defined in section 603)
16 or any change in the credit score of the cardholder, as
17 the basis for increasing any annual percentage rate of in-
18 terest applicable to a credit card account of the cardholder
19 under an open end consumer credit plan, or to remove or
20 increase any introductory annual percentage rate of inter-
21 est applicable to such account.

22 “(b) EXCEPTION.—The limitation under subsection
23 (a) shall not apply to—

24 “(1) a credit card issuer that increases an an-
25 nual percentage rate of interest in accordance with

1 a credit card agreement that provides for rate
2 changes according to changes in an index or for-
3 mula; or

4 “(2) the removal or increase in an introductory
5 annual percentage rate of interest applicable to the
6 usage or payment of such account because of actions
7 or omissions of a consumer that are directly related
8 to such account.

9 “(c) NOTICE TO CONSUMER.—The limitation under
10 subsection (a) on the use of adverse information by a cred-
11 it card issuer shall be clearly and conspicuously described
12 to the consumer by the credit card issuer in any disclosure
13 or statement required under subsection (a) or (b) of sec-
14 tion 127.”.

15 **TITLE II—ENHANCED** 16 **CONSUMER DISCLOSURES**

17 **SEC. 201. PAYOFF TIMING DISCLOSURES.**

18 (a) IN GENERAL.—Section 127(b) of the Truth in
19 Lending Act (15 U.S.C. 1637(b)) is amended by adding
20 at the end the following new paragraph:

21 “(13) REPAYMENT INFORMATION.—

22 “(A) IN GENERAL.—Repayment informa-
23 tion that would apply to the outstanding bal-
24 ance of the consumer under the credit plan, in-
25 cluding—

1 “(i) the outstanding balance in the ac-
2 count at the beginning of the statement
3 period, as required by paragraph (1) of
4 this subsection;

5 “(ii) the required minimum monthly
6 payment on that balance, represented as
7 both a dollar figure and as a percentage of
8 that balance, as well as the portion of such
9 payment that represents repayment of a
10 balance and what if any portions represent
11 interest charges and other charges or fees;

12 “(iii) the grace period within which
13 payment must be made to avoid additional
14 charges, as required by paragraph (9) of
15 this subsection; and

16 “(iv) the monthly payments amount
17 that would be required for the consumer to
18 eliminate the outstanding balance in 36
19 months if no further purchases or ad-
20 vances are made.

21 “(B) APPLICABLE ANNUAL PERCENTAGE
22 RATE.—

23 “(i) IN GENERAL.—Subject to clause
24 (ii), in making the disclosures under sub-
25 paragraph (A), the creditor shall apply the

1 annual percentage rate in effect on the
2 date on which the disclosure is made until
3 the date on which the balance would be
4 paid in full.

5 “(ii) EXCEPTION.—If the annual per-
6 centage rate in effect on the date on which
7 the disclosure is made is a temporary rate
8 that will change under a contractual provi-
9 sion applying an index or formula for sub-
10 sequent interest rate adjustment, the cred-
11 itor shall apply the rate in effect on the
12 date on which the disclosure is made for as
13 long as that rate will apply under that con-
14 tractual provision, and then apply an an-
15 nual percentage rate based on the index or
16 formula in effect on the applicable billing
17 date.”.

18 (b) TABULAR FORMAT REQUIRED FOR DISCLO-
19 SURES.—Section 122 of the Truth in Lending Act (15
20 U.S.C. 1632) by adding at the end the following new sub-
21 section:

22 “(d) FORMAT REQUIRED FOR CERTAIN DISCLO-
23 SURES UNDER SECTION 127(b)(13).—

1 “(1) FORM OF DISCLOSURE.—All of the infor-
2 mation disclosed pursuant to section 127(b)(13)(A)
3 shall—

4 “(A) be disclosed in the form and manner
5 which the Board shall prescribe by regulations
6 under this section and in accordance with sec-
7 tion 105; and

8 “(B) be placed in a conspicuous and
9 prominent location on the billing statement in
10 typeface that is at least as large as the largest
11 type on the statement, but in no instance less
12 than 12-point in size.

13 “(2) TABULAR FORMAT.—In the regulations
14 prescribed under paragraph (1), the Board shall re-
15 quire that the disclosure of such information shall be
16 in the form of a table that—

17 “(A) contains clear and concise headings
18 for each item of such information; and

19 “(B) provides a clear and concise form
20 stating each item of information required to be
21 disclosed under each such heading.

22 “(3) REQUIREMENTS REGARDING LOCATION
23 AND ORDER OF TABLE.—In prescribing the form of
24 the table under paragraph (2), the Board shall re-
25 quire that—

1 “(A) all of the information in the table,
2 and not just a reference to the table, be placed
3 on the billing statement, as required by this
4 subparagraph; and

5 “(B) the items required to be included in
6 the table shall be listed in the order in which
7 such items are set forth in section
8 127(b)(13)(A).

9 “(4) BOARD DISCRETION IN PRESCRIBING
10 ORDER AND WORDING OF TABLE.—In prescribing
11 the form of the table under subparagraph (C), the
12 Board may employ terminology which is different
13 than the terminology which is employed in subpara-
14 graph (A), if such terminology is easily understood
15 and conveys substantially the same meaning.”.

16 (c) CIVIL LIABILITY.—Section 130(a) of the Truth
17 in Lending Act (15 U.S.C. 1640(a)) is amended, in the
18 undesignated paragraph following paragraph (4), by strik-
19 ing the second sentence and inserting the following: “In
20 connection with the disclosures referred to in subsections
21 (a) and (b) of section 127, a creditor shall have a liability
22 determined under paragraph (2) only for failing to comply
23 with the requirements of section 125, 127(a), or para-
24 graph (4), (5), (6), (7), (8), (9), (10), or (11) of section
25 127(b), or for failing to comply with disclosure require-

1 ments under State law for any term or item that the
2 Board has determined to be substantially the same in
3 meaning under section 111(a)(2) as any of the terms or
4 items referred to in section 127(a), or paragraph (4), (5),
5 (6), (7), (8), (9), (10), (11), or (13) of section 127(b).

6 **SEC. 202. REQUIREMENTS RELATING TO LATE PAYMENT**
7 **DEADLINES AND PENALTIES.**

8 Section 127 of the Truth in Lending Act (15 U.S.C.
9 1637) is amended by inserting after subsection (l) (as
10 added by section 104 of this Act) the following new sub-
11 section:

12 “(m) **REQUIREMENTS RELATING TO LATE PAYMENT**
13 **DEADLINES AND PENALTIES.**—

14 “(1) **LATE PAYMENT DEADLINE AND POSTMARK**
15 **DATE REQUIRED TO BE DISCLOSED.**—In the case of
16 a credit card account under an open end consumer
17 credit plan under which a late fee or charge may be
18 imposed due to the failure of the obligor to make
19 payment on or before the due date for such pay-
20 ment, the periodic statement required under sub-
21 section (b) with respect to the account shall include,
22 in a conspicuous location on the billing statement—

23 “(A) the date by which the payment must
24 be postmarked, if paid by mail, in order to

1 avoid the imposition of a late payment fee with
2 respect to the payment; and

3 “(B) a statement that no late fee may be
4 imposed in connection with a payment made by
5 mail which was postmarked on or before the
6 postmark date.

7 “(2) DISCLOSURE OF INCREASE IN INTEREST
8 RATES FOR LATE PAYMENTS.—If 1 or more late
9 payments under an open end consumer credit plan
10 may result in an increase in the annual percentage
11 rate the account, the statement required under sub-
12 section (b) with respect to the account shall include
13 conspicuous notice of such fact, together with the
14 applicable penalty annual percentage rate, in close
15 proximity to the disclosure required in paragraph (1)
16 of the date on which payment is due under the
17 terms of the account.

18 “(3) REQUIREMENTS RELATING TO POSTMARK
19 DATE.—

20 “(A) IN GENERAL.—The date included in
21 a periodic statement pursuant to paragraph
22 (1)(B) with regard to the postmark on a pay-
23 ment shall allow, in accordance with regulations
24 prescribed by the Board under subparagraph
25 (B), a reasonable time for the consumer to

1 make the payment and a reasonable time for
2 the delivery of the payment by the due date.

3 “(B) BOARD REGULATIONS.—The Board
4 shall prescribe guidelines for determining a rea-
5 sonable period of time for making a payment
6 and delivery of a payment for purposes of sub-
7 paragraph (A), after consultation with the Post-
8 master General and representatives of consumer
9 and trade organizations.

10 “(4) PAYMENT AT LOCAL BRANCHES.—If the
11 creditor, in the case of a credit card account referred
12 to in paragraph (1), is a financial institution which
13 maintains branches or offices at which payments on
14 any such account are accepted from the obligor in
15 person, the date on which the obligor makes a pay-
16 ment on the account at such branch or office shall
17 be considered as the date on which the payment is
18 made for purposes of determining whether a late fee
19 or charge may be imposed due to the failure of the
20 obligor to make payment on or before the due date
21 for such payment, to the extent that such payment
22 is made before the close of business of the branch
23 or office on the business day immediately preceding
24 the due date for such payment.”.

1 **TITLE III—PROTECTION OF**
2 **YOUNG CONSUMERS**

3 **SEC. 301. EXTENSIONS OF CREDIT TO UNDERAGE CON-**
4 **SUMERS.**

5 Section 127(c) of the Truth in Lending Act (15
6 U.S.C. 1637(c)) is amended by adding at the end the fol-
7 lowing new paragraph:

8 “(8) APPLICATIONS FROM UNDERAGE CON-
9 SUMERS.—

10 “(A) PROHIBITION ON ISSUANCE.—No
11 credit card may be issued to, or open end credit
12 plan established on behalf of, a consumer who
13 has not attained the age of 18, unless the con-
14 sumer has submitted a written application to
15 the card issuer that meets the requirements of
16 subparagraph (B).

17 “(B) APPLICATION REQUIREMENTS.—An
18 application to open a credit card account by an
19 individual who has not attained the age of 18
20 as of the date of submission of the application
21 shall require—

22 “(i) the signature of the parent, legal
23 guardian, or spouse of the consumer, or
24 any other individual having a means to
25 repay debts incurred by the consumer in

1 connection with the account, indicating
2 joint liability for debts incurred by the con-
3 sumer in connection with the account be-
4 fore the consumer has attained the age of
5 18;

6 “(ii) submission by the consumer of
7 financial information indicating an inde-
8 pendent means of repaying any obligation
9 arising from the proposed extension of
10 credit in connection with the account; or

11 “(iii) proof by the consumer that the
12 consumer has completed a credit coun-
13 seling course of instruction by a nonprofit
14 budget and credit counseling agency ap-
15 proved by the Board for such purpose.

16 “(C) MINIMUM REQUIREMENTS FOR COUN-
17 SELING AGENCIES.—To be approved by the
18 Board under subparagraph (B)(iii), a credit
19 counseling agency shall, at a minimum—

20 “(i) be a nonprofit budget and credit
21 counseling agency, the majority of the
22 board of directors of which—

23 “(I) is not employed by the agen-
24 cy; and

1 “(II) will not directly or indi-
2 rectly benefit financially from the out-
3 come of a credit counseling session;

4 “(ii) if a fee is charged for counseling
5 services, charge a reasonable fee, and pro-
6 vide services without regard to ability to
7 pay the fee; and

8 “(iii) provide trained counselors who
9 receive no commissions or bonuses based
10 on referrals, and demonstrate adequate ex-
11 perience and background in providing cred-
12 it counseling.”.

13 **SEC. 302. ENHANCED PENALTIES.**

14 Section 130(a)(2)(A) of the Truth in Lending Act
15 (15 U.S.C. 1640 (a)(2)(A)(iii)) is amended—

16 (1) by striking “or (iii) in the” and inserting
17 the following:

18 “(iii) in the case of an individual action relating
19 to an open end credit plan that is not secured by
20 real property or a dwelling, twice the amount of any
21 finance charge in connection with the transaction,
22 with a minimum of \$500 and a maximum of \$5,000
23 or such higher amount as may be appropriate in the
24 case of an established pattern or practice of such
25 failures; or

1 “(iv) in the”; and
2 (2) in clause (ii), by striking “this subpara-
3 graph” and inserting “this clause”.

4 **SEC. 303. RESTRICTIONS ON CERTAIN AFFINITY CARDS.**

5 Section 127 of the Truth in Lending Act (15 U.S.C.
6 1637) is amended by inserting after subsection (m) (as
7 added by section 202 of this Act) the following new sub-
8 section:

9 “(n) **RESTRICTIONS ON ISSUANCE OF AFFINITY**
10 **CARDS TO STUDENTS.**—No credit card account under an
11 open end credit plan may be established by an individual
12 who has not attained the age of 18 as of the date of sub-
13 mission of the application pursuant to any agreement re-
14 lating to affinity cards, as defined by the Board, between
15 the creditor and an institution of higher education (as de-
16 fined in section 101(a) of the Higher Education Act of
17 1965), unless the requirements of section 127(c)(8) are
18 met with respect to the obligor.”.

○