

Union Calendar No. 41

111TH CONGRESS
1ST SESSION

H. R. 627

[Report No. 111–88]

To amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 22, 2009

Mrs. MALONEY (for herself, Mr. FRANK of Massachusetts, Mr. JONES, Mr. KANJORSKI, Ms. WATERS, Mr. GUTIERREZ, Mr. ACKERMAN, Mr. CAPUANO, Mr. ELLISON, Mr. DAVIS of Tennessee, Mr. CLEAVER, Mr. GEORGE MILLER of California, Mr. OBEY, Mr. DEFazio, Mr. HINOJOSA, Mr. MCGOVERN, Mr. YARMUTH, Mr. OLVER, Ms. EDWARDS of Maryland, Mr. COURTNEY, Ms. DELAURO, Mr. KENNEDY, Mrs. LOWEY, Mr. BRADY of Pennsylvania, Mr. CHANDLER, Mr. LOEBSACK, Mr. PASCRELL, Mr. BISHOP of New York, Mr. FILNER, Mr. CARNAHAN, Mr. WEINER, Mr. MARKEY of Massachusetts, Mr. GRIJALVA, Mr. CUMMINGS, Ms. SCHAKOWSKY, Mr. GENE GREEN of Texas, Mr. MORAN of Virginia, Ms. SUTTON, Mr. HINCHEY, Ms. BORDALLO, Ms. LEE of California, Mr. WELCH, and Mr. HIGGINS) introduced the following bill; which was referred to the Committee on Financial Services

APRIL 27, 2009

Additional sponsors: Mr. LYNCH, Ms. WOOLSEY, Mr. SHERMAN, Ms. MATSUI, Mr. RAHALL, Mr. DOGGETT, Mr. NYE, Ms. ZOE LOFGREN of California, Mr. STUPAK, Mr. BERMAN, Mr. INSLEE, Mr. GONZALEZ, Ms. ESHOO, Ms. SHEA-PORTER, Ms. TSONGAS, Mr. VISCLOSKEY, Mr. WU, Ms. CLARKE, Ms. HIRONO, Mr. COHEN, Mr. SCHAUER, Ms. NORTON, Mr. LIPINSKI, Mr. MAFFEI, Mr. KRATOVIL, Ms. PINGREE of Maine, Mr. DELAHUNT, Mr. BLUMENAUER, Mr. ARCURI, Mr. LANGEVIN, Mr. HALL of New York, Mr. DAVIS of Illinois, Mr. ABERCROMBIE, Mr. JACKSON of Illinois, Mr. SCHIFF, Mr. MILLER of North Carolina, Mr. TAYLOR, Mr. BRALEY of Iowa, Mr. BISHOP of Georgia, Mr. WAXMAN, Mr. BACA, Mr. HONDA, Mr. SERRANO, Mrs. DAVIS of California, Mr. WATT, Mr. LEVIN, Mr. STARK, Mr. VAN HOLLEN, Mr. LEWIS of Georgia, Ms. HARMAN, Mr.

HASTINGS of Florida, Mr. AL GREEN of Texas, Mr. JOHNSON of Georgia, Ms. CASTOR of Florida, Ms. KILROY, Mr. MASSA, Mr. LUJÁN, Mr. KISSELL, Mr. BOSWELL, Mrs. DAHLKEMPER, Mr. PATRICK J. MURPHY of Pennsylvania, Ms. MARKEY of Colorado, Mr. WALZ, Ms. GIFFORDS, Mr. PIERLUISI, Mr. TONKO, Mr. QUIGLEY, Mr. LARSON of Connecticut, Mr. NADLER of New York, Mr. BARROW, Mr. CONNOLLY of Virginia, Ms. FUDGE, and Mr. TEAGUE

APRIL 27, 2009

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on January 22, 2009]

A BILL

To amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, 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.**

4 *This Act may be cited as the “Credit Cardholders’ Bill*
 5 *of Rights Act of 2009”.*

6 **SEC. 2. CREDIT CARDS ON TERMS CONSUMERS CAN REPAY.**

7 *(a) RETROACTIVE RATE INCREASES AND UNIVERSAL*
 8 *DEFAULT LIMITED.—Chapter 2 of the Truth in Lending*
 9 *Act (15 U.S.C. 1631 et seq.) is amended by inserting after*
 10 *section 127A the following new section:*

1 **“§ 127B. Additional requirements for credit card ac-**
2 **counts under an open end consumer cred-**
3 **it plan**

4 “(a) *RETROACTIVE RATE INCREASES AND UNIVERSAL*
5 *DEFAULT LIMITED.*—

6 “(1) *IN GENERAL.*—*Except as provided in sub-*
7 *section (b), no creditor may increase any annual per-*
8 *centage rate of interest applicable to the existing bal-*
9 *ance on a credit card account of the consumer under*
10 *an open end consumer credit plan.*

11 “(2) *EXISTING BALANCE DEFINED.*—*For pur-*
12 *poses of this subsection and subsections (b) and (c),*
13 *the term ‘existing balance’ means the amount owed on*
14 *a consumer credit card account as of the end of the*
15 *14th day after the creditor provides notice of an in-*
16 *crease in the annual percentage rate in accordance*
17 *with subsection (c).*

18 “(3) *TREATMENT OF EXISTING BALANCES FOL-*
19 *LOWING RATE INCREASE.*—*If a creditor increases any*
20 *annual percentage rate of interest applicable to the*
21 *credit card account of a consumer under an open end*
22 *consumer credit plan and there is an existing balance*
23 *in the account to which such increase may not apply,*
24 *the creditor shall allow the consumer to repay the ex-*
25 *isting balance using a method provided by the cred-*

1 itor which is at least as beneficial to the consumer as
2 1 of the following methods:

3 “(A) An amortization period for the exist-
4 ing balance of at least 5 years starting from the
5 date on which the increased annual percentage
6 rate went into effect.

7 “(B) The percentage of the existing balance
8 that was included in the required minimum
9 periodic payment before the rate increase cannot
10 be more than doubled.

11 “(4) *LIMITATION ON CERTAIN FEES.—If—*

12 “(A) a creditor increases any annual per-
13 centage rate of interest applicable on a credit
14 card account of the consumer under an open end
15 consumer credit plan; and

16 “(B) the creditor is prohibited by this sec-
17 tion from applying the increased rate to an ex-
18 isting balance,

19 the creditor may not assess any fee or charge based
20 solely on the existing balance.”.

21 (b) *EXCEPTIONS TO THE AMENDMENT MADE BY SUB-*
22 *SECTION (a).—Section 127B of the Truth in Lending Act*
23 *is amended by inserting after subsection (a) (as added by*
24 *subsection (a)) the following new subsection:*

25 “(b) *EXCEPTIONS.—*

1 “(1) *IN GENERAL.*—A creditor may increase any
2 annual percentage rate of interest applicable to the
3 existing balance on a credit card account of the con-
4 sumer under an open end consumer credit plan only
5 under the following circumstances:

6 “(A) *CHANGE IN INDEX.*—The increase is
7 due solely to the operation of an index that is
8 not under the creditor’s control and is available
9 to the general public.

10 “(B) *EXPIRATION OF PROMOTIONAL*
11 *RATE.*—The increase is due solely to the expira-
12 tion of a promotional rate.

13 “(C) *FAILURE TO COMPLY WITH WORKOUT*
14 *PLAN.*—The increase is due solely to the fact the
15 consumer failed to comply with a negotiated
16 workout plan with the creditor.

17 “(D) *PAYMENT NOT RECEIVED DURING 30-*
18 *DAY GRACE PERIOD AFTER DUE DATE.*—The in-
19 crease is due solely to the fact that any con-
20 sumer’s minimum payment has not been received
21 within 30 days after the due date for such min-
22 imum payment.

23 “(2) *LIMITATION ON INCREASES DUE TO FAIL-*
24 *URE TO COMPLY WITH WORKOUT PLAN.*—Notwith-
25 standing paragraph (1)(C), the annual percentage

1 *rate in effect with respect to each category of trans-*
2 *actions for a credit card account under an open end*
3 *consumer credit plan after the increase permitted*
4 *under such subsection due to the failure of a consumer*
5 *to comply with a workout plan may not exceed the*
6 *annual percentage applicable to such category of*
7 *transactions on the day before the effective date of the*
8 *workout plan.*

9 “(3) *STANDARDS REQUIRED.—The Board shall*
10 *prescribe, by regulation, standards—*

11 “(A) *for entering into any workout plan ap-*
12 *plicable to any credit card account under an*
13 *open end consumer credit plan; and*

14 “(B) *governing any such workout plan.*”.

15 (c) *ADVANCE NOTICE OF RATE INCREASES AND SIG-*
16 *NIFICANT CONTRACT CHANGES.—Section 127B of the Truth*
17 *in Lending Act is amended by inserting after subsection*
18 *(b) (as added by subsection (b)) the following new sub-*
19 *sections:*

20 “(c) *ADVANCE NOTICE OF RATE INCREASES.—*

21 “(1) *IN GENERAL.—In the case of any credit*
22 *card account under an open end consumer credit*
23 *plan, no increase in any annual percentage rate of*
24 *interest (other than an increase described in sub-*
25 *section (b)(1)(A)) may take effect unless the creditor*

1 *provides a written notice to the consumer at least 45*
2 *days before the increase takes effect which fully de-*
3 *scribes the changes in the annual percentage rate, in*
4 *a complete and conspicuous manner, and the extent*
5 *to which such increase would apply to an existing*
6 *balance.*

7 *“(2) LIMITATION ON RATE INCREASE NOTICES*
8 *WITHIN FIRST YEAR.—Except in the case of an in-*
9 *crease described in subparagraph (B), (C), or (D) of*
10 *subsection (b)(1), no written notice under paragraph*
11 *(1) of an increase in any annual percentage rate of*
12 *interest on any credit card account under an open*
13 *end consumer credit plan (for which notice is re-*
14 *quired under such paragraph) shall be effective before*
15 *the end of the 1-year period beginning when the ac-*
16 *count is opened.*

17 *“(d) ADVANCE NOTICE OF SIGNIFICANT CONTRACT*
18 *CHANGES.—In the case of any credit card account under*
19 *an open end consumer credit plan, no significant change*
20 *to the contract (such as any fee) may take effect unless the*
21 *creditor provides a written notice of at least 45 days before*
22 *the change takes effect which fully describes the changes in*
23 *the contract, in a complete and conspicuous manner.”.*

24 *(d) CLERICAL AMENDMENT.—The table of sections for*
25 *chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et*

1 *seq.) is amended by inserting after the item relating to sec-*
 2 *tion 127A the following new item:*

“127B. Additional requirements for credit card accounts under an open end consumer credit plan.”.

3 **SEC. 3. ADDITIONAL PROVISIONS REGARDING ACCOUNT**
 4 **FEATURES, TERMS, AND PRICING.**

5 (a) *DOUBLE CYCLE BILLING PROHIBITED.*—Section
 6 *127B of the Truth in Lending Act is amended by inserting*
 7 *after subsection (d) (as added by section 2(c)) the following*
 8 *new subsection:*

9 *“(e) DOUBLE CYCLE BILLING.—*

10 *“(1) IN GENERAL.—No finance charge may be*
 11 *imposed by a creditor with respect to any balance on*
 12 *a credit card account under an open end consumer*
 13 *credit plan that is based on balances for days in bill-*
 14 *ing cycles preceding the most recent billing cycle as*
 15 *a result of the loss of any grace period.*

16 *“(2) EXCEPTIONS.—Paragraph (1) shall not*
 17 *apply so as to prohibit a creditor from—*

18 *“(A) adjusting finance charges following the*
 19 *return of a payment for insufficient funds; or*

20 *“(B) adjusting finance charges following*
 21 *resolution of a billing error dispute.*

22 *“(3) GRACE PERIOD.—For purposes of this sub-*
 23 *section, the term ‘grace period’ means, with respect to*
 24 *any credit card account under an open end consumer*

1 *credit plan, the time period, if any, provided by the*
 2 *creditor within which any credit extended under such*
 3 *credit plan for purchases of goods or services may be*
 4 *repaid by the consumer without incurring a finance*
 5 *charge.”.*

6 ***(b) LIMITATIONS RELATING TO ACCOUNT BALANCES***
 7 ***ATTRIBUTABLE ONLY TO ACCRUED INTEREST.—Section***
 8 ***127B is amended by inserting after subsection (e) (as added***
 9 ***by subsection (a)) the following new subsection:***

10 ***“(f) LIMITATIONS RELATING TO ACCOUNT BALANCES***
 11 ***ATTRIBUTABLE ONLY TO ACCRUED INTEREST.—***

12 ***“(1) IN GENERAL.—If the outstanding balance***
 13 ***on a credit card account under an open end consumer***
 14 ***credit plan at the end of a billing period represents***
 15 ***an amount attributable only to interest accrued dur-***
 16 ***ing the preceding billing period on an outstanding***
 17 ***balance that was fully repaid during the preceding***
 18 ***billing period—***

19 ***“(A) no fee may be imposed or collected in***
 20 ***connection with such balance attributable only to***
 21 ***interest before such end of the billing period; and***

22 ***“(B) any failure to make timely repay-***
 23 ***ments of the balance attributable only to interest***
 24 ***before such end of the billing period shall not***
 25 ***constitute a default on the account.***

1 *Such balance remains a legally binding debt obliga-*
2 *tion.*

3 “(2) *RULE OF CONSTRUCTION.*—*Paragraph (1)*
4 *shall not be construed as affecting—*

5 “(A) *the consumer’s obligation to pay any*
6 *accrued interest on a credit card account under*
7 *an open end consumer credit plan; or*

8 “(B) *the accrual of interest on the out-*
9 *standing balance on any such account in accord-*
10 *ance with the terms of the account and this*
11 *title.”.*

12 (c) *ACCESS TO PAYOFF BALANCE INFORMATION.*—*Sec-*
13 *tion 127B of the Truth in Lending Act is amended by in-*
14 *serting after subsection (f) (as added by subsection (b)) the*
15 *following new subsection:*

16 “(g) *PAYOFF BALANCE INFORMATION.*—

17 “(1) *IN GENERAL.*—*Each periodic statement pro-*
18 *vided by a creditor to a consumer with respect to a*
19 *credit card account under an open end consumer*
20 *credit plan shall contain the toll-free telephone num-*
21 *ber, Internet address, and website at which the con-*
22 *sumer may request the payoff balance on the account.*

23 “(2) *SMALL ISSUERS.*—*Notwithstanding para-*
24 *graph (1), in the case of any credit card issuer which*
25 *issues fewer than 50,000 credit cards in conjunction*

1 *with credit card accounts under open end consumer*
2 *credit plans, each periodic statement provided by such*
3 *a creditor to a consumer with respect to any such*
4 *credit card account shall contain the toll-free tele-*
5 *phone number, Internet address, or website at which*
6 *the consumer may request the payoff balance on the*
7 *account.”.*

8 *(d) CONSUMER RIGHT TO REJECT CARD BEFORE NO-*
9 *TICE IS PROVIDED OF OPEN ACCOUNT.—Section 127B of*
10 *the Truth in Lending Act is amended by inserting after*
11 *subsection (g) (as added by subsection (c)) the following new*
12 *subsection:*

13 *“(h) CONSUMER RIGHT TO REJECT CARD BEFORE*
14 *NOTICE OF NEW ACCOUNT IS PROVIDED TO CONSUMER RE-*
15 *PORTING AGENCY.—*

16 *“(1) IN GENERAL.—A creditor may not furnish*
17 *any information to a consumer reporting agency (as*
18 *defined in section 603) concerning the establishment*
19 *of a newly opened credit card account under an open*
20 *end consumer credit plan until the credit card has*
21 *been used or activated by the consumer.*

22 *“(2) RULE OF CONSTRUCTION.—Paragraph (1)*
23 *shall not be construed as prohibiting a creditor from*
24 *furnishing information about any application for a*
25 *credit card account under an open end consumer*

1 *credit plan or any inquiry about any such account*
2 *to a consumer reporting agency (as so defined).”.*

3 *(e) USE OF TERMS CLARIFIED.—Section 127B of the*
4 *Truth in Lending Act is amended by inserting after sub-*
5 *section (h) (as added by subsection (d)) the following new*
6 *subsection:*

7 “*(i) USE OF TERMS.—The following requirements*
8 *shall apply with respect to the terms of any credit card*
9 *account under any open end consumer credit plan:*

10 “*(1) ‘FIXED’ RATE.—The term ‘fixed’, when ap-*
11 *pearing in conjunction with a reference to the annual*
12 *percentage rate or interest rate applicable with re-*
13 *spect to such account, may only be used to refer to an*
14 *annual percentage rate or interest rate that will not*
15 *change or vary for any reason over the period clearly*
16 *and conspicuously specified in the terms of the ac-*
17 *count.*

18 “*(2) PRIME RATE.—The term ‘prime rate’, when*
19 *appearing in any agreement or contract for any such*
20 *account, may only be used to refer to the bank prime*
21 *rate published in the Federal Reserve Statistical Re-*
22 *lease on selected interest rates (daily or weekly), and*
23 *commonly referred to as the H.15 release (or any suc-*
24 *cessor publication).*

25 “*(3) DUE DATE.—*

1 “(A) *IN GENERAL.*—*Each periodic state-*
2 *ment for any such account shall contain a date*
3 *by which the next periodic payment on the ac-*
4 *count must be made to avoid a late fee or be con-*
5 *sidered a late payment, and any payment re-*
6 *ceived by 5 p.m., local time at the location speci-*
7 *fied by the creditor for the receipt of payment,*
8 *on such date shall be treated as a timely pay-*
9 *ment for all purposes.*

10 “(B) *CERTAIN ELECTRONIC FUND TRANS-*
11 *FERS.*—*Any payment with respect to any such*
12 *account made by a consumer online to the*
13 *website of the credit card issuer or by telephone*
14 *directly to the credit card issuer before 5 p.m.,*
15 *local time at the location specified by the cred-*
16 *itor for the receipt of payment, on any business*
17 *day shall be credited to the consumer’s account*
18 *that business day.*

19 “(C) *PRESUMPTION OF TIMELY PAYMENT.*—
20 *Any evidence provided by a consumer in the*
21 *form of a receipt from the United States Postal*
22 *Service or other common carrier indicating that*
23 *a payment on a credit card account was sent to*
24 *the issuer not less than 7 days before the due*
25 *date contained in the periodic statement under*

1 *subparagraph (A) for such payment shall create*
2 *a presumption that such payment was made by*
3 *the due date, which may be rebutted by the cred-*
4 *itor for fraud or dishonesty on the part of the*
5 *consumer with respect to the mailing date.”.*

6 *(f) PAYMENT ALLOCATIONS.—Section 127B of the*
7 *Truth in Lending Act is amended by inserting after sub-*
8 *section (i) (as added by subsection (e)) the following new*
9 *subsection:*

10 *“(j) PAYMENT ALLOCATIONS.—*

11 *“(1) IN GENERAL.—If 2 or more different annual*
12 *percentage rates apply to different portions of an out-*
13 *standing balance on a credit card account under an*
14 *open end consumer credit plan, the amount of any*
15 *periodic payment in excess of the required minimum*
16 *payment shall be applied using 1 of the following*
17 *methods:*

18 *“(A) HIGH-TO-LOW METHOD.—The excess*
19 *amount is allocated first to the balance with the*
20 *highest annual percentage rate and any remain-*
21 *ing portion is allocated to any other balance in*
22 *descending order, based on the applicable annual*
23 *percentage rate each portion of such balance*
24 *bears, from the highest such rate to the lowest.*

1 “(B) *PRO RATA METHOD.*—*The excess*
2 *amount is allocated among each of the portions*
3 *of such balance which bear different rates of in-*
4 *terest in the same proportion as each such por-*
5 *tion of the outstanding balance bears to the total*
6 *outstanding balance.*

7 “(2) *CLARIFICATION RELATING TO CERTAIN DE-*
8 *FERRED INTEREST ARRANGEMENTS.*—*A creditor may*
9 *allocate the entire amount paid by the consumer in*
10 *excess of the required minimum periodic payment to*
11 *a balance on which interest is deferred during the 2*
12 *billing cycles immediately preceding the expiration of*
13 *the period during which interest is deferred.*

14 “(3) *PROHIBITION ON RESTRICTED GRACE PERI-*
15 *ODS UNDER CERTAIN CIRCUMSTANCES.*—*If, with re-*
16 *spect to any credit card account under an open end*
17 *consumer credit plan, a creditor offers a time period*
18 *in which to repay credit extended without incurring*
19 *finance charges to cardholders who pay the balance in*
20 *full, the creditor may not deny a consumer who takes*
21 *advantage of a promotional rate balance or deferred*
22 *interest rate balance offer with respect to such an ac-*
23 *count any such time period for repaying credit with-*
24 *out incurring finance charges.”.*

1 (g) *TIMELY PROVISION OF PERIODIC STATEMENTS.*—
2 *Section 127B of the Truth in Lending Act is amended by*
3 *inserting after subsection (j) (as added by subsection (f))*
4 *the following new subsection:*

5 “(k) *TIMELY PROVISION OF PERIODIC STATEMENTS.*—
6 *Each periodic statement with respect to a credit card ac-*
7 *count under an open end consumer credit plan shall be sent*
8 *by the creditor to the consumer not less than 21 calendar*
9 *days before the due date identified in such statement for*
10 *the next payment on the outstanding balance on such ac-*
11 *count, and section 163(a) shall be applied with respect to*
12 *any such account by substituting ‘21’ for ‘fourteen’.*”.

13 (h) *DUE DATES.*—*Section 127B of the Truth in Lend-*
14 *ing Act is amended by inserting after subsection (k) (as*
15 *added by subsection (g)) the following new subsection:*

16 “(l) *DUE DATES.*—*If the date established by a creditor*
17 *as the date on which a periodic payment on a credit card*
18 *account under an open end consumer credit plan is due*
19 *is a day on which mail is either not delivered to such cred-*
20 *itor or is not accepted by the creditor for processing on such*
21 *day, the creditor may not treat the receipt by the creditor*
22 *of any such periodic payment by mail as of the next busi-*
23 *ness day of the creditor as late for any purpose.*”.

1 **SEC. 4. CONSUMER CHOICE WITH RESPECT TO OVER-THE-**
2 **LIMIT TRANSACTIONS.**

3 *Section 127B of the Truth in Lending Act is amended*
4 *by inserting after subsection (l) (as added by section 3(h))*
5 *the following new subsections:*

6 *“(m) OPT-OUT OF CREDITOR AUTHORIZATION OF*
7 *OVER-THE-LIMIT TRANSACTIONS IF FEES ARE IMPOSED.—*

8 *“(1) IN GENERAL.—In the case of any credit*
9 *card account under an open end consumer credit plan*
10 *under which an over-the-limit-fee may be imposed by*
11 *the creditor for any extension of credit in excess of the*
12 *amount of credit authorized to be extended under such*
13 *account, the consumer may elect to prohibit the cred-*
14 *itor, with respect to such account, from completing*
15 *any transaction involving the extension of credit,*
16 *with respect to such account, in excess of the amount*
17 *of credit authorized by notifying the creditor of such*
18 *election in accordance with paragraph (2).*

19 *“(2) NOTIFICATION BY CONSUMER.—A consumer*
20 *shall notify a creditor under paragraph (1)—*

21 *“(A) through the notification system main-*
22 *tained by the creditor under paragraph (4); or*

23 *“(B) by submitting to the creditor a signed*
24 *notice of election, by mail or electronic commu-*
25 *nication, on a form issued by the creditor for*
26 *purposes of this subparagraph.*

1 “(3) *EFFECTIVENESS OF ELECTION.*—*An election*
2 *by a consumer under paragraph (1) shall be effective*
3 *beginning 3 business days after the creditor receives*
4 *notice from the consumer in accordance with para-*
5 *graph (2) and shall remain effective until the con-*
6 *sumer revokes the election.*

7 “(4) *NOTIFICATION SYSTEM.*—

8 “(A) *IN GENERAL.*—*Each creditor that*
9 *maintains credit card accounts under an open*
10 *end consumer credit plan shall establish and*
11 *maintain a notification system, including a toll-*
12 *free telephone number, Internet address, and*
13 *website, which permits any consumer whose cred-*
14 *it card account is maintained by the creditor to*
15 *notify the creditor of an election under this sub-*
16 *section in accordance with paragraph (2).*

17 “(B) *SMALL ISSUERS.*—*Notwithstanding*
18 *subparagraph (A), any credit card issuer which*
19 *issues fewer than 50,000 credit cards in conjunc-*
20 *tion with credit card accounts under open end*
21 *consumer credit plans shall establish and main-*
22 *tain a notification system, which shall include a*
23 *toll-free telephone number, Internet address, or*
24 *website, which permits any consumer whose cred-*
25 *it card account is maintained by the creditor to*

1 *notify the creditor of an election under this sub-*
2 *section in accordance with paragraph (2).*

3 “(5) *ANNUAL NOTICE TO CONSUMERS OF AVAIL-*
4 *ABILITY OF ELECTION.—In the case of any credit card*
5 *account under an open end consumer credit plan, the*
6 *creditor shall include a notice, in clear and con-*
7 *spicuous language, of the availability of an election*
8 *by the consumer under this paragraph as a means of*
9 *avoiding over-the limit fees and a higher amount of*
10 *indebtedness, and the method for providing such no-*
11 *tice—*

12 “(A) *on the periodic statement required*
13 *under section 127(b) with respect to such account*
14 *at least once each calendar year; and*

15 “(B) *on any such periodic statement which*
16 *includes a notice of the imposition of an over-*
17 *the-limit fee during the period covered by the*
18 *statement.*

19 “(6) *NO FEES IF CONSUMER HAS MADE AN ELEC-*
20 *TION.—If a consumer has made an election under*
21 *paragraph (1), no over-the-limit fee may be imposed*
22 *on the account for any reason that has caused the out-*
23 *standing balance in the account to exceed the credit*
24 *limit.*

25 “(7) *REGULATIONS.—*

1 “(A) *IN GENERAL.*—*The Board shall issue*
2 *regulations allowing for the completion of over-*
3 *the-limit transactions that for operational rea-*
4 *sons exceed the credit limit by a de minimis*
5 *amount, even where the cardholder has made an*
6 *election under paragraph (1).*

7 “(B) *SUBJECT TO NO FEE LIMITATION.*—
8 *The regulations prescribed under subparagraph*
9 *(A) shall not allow for the imposition of any fee*
10 *or any rate increase based on the permitted over-*
11 *the-limit transactions.*

12 “(n) *OVER-THE-LIMIT FEE RESTRICTIONS.*—*With re-*
13 *spect to a credit card account under an open end consumer*
14 *credit plan, an over-the-limit fee may be imposed only once*
15 *during a billing cycle if, on the last day of such billing*
16 *cycle, the credit limit on the account is exceeded, and an*
17 *over-the-limit fee, with respect to such excess credit, may*
18 *be imposed only once in each of the 2 subsequent billing*
19 *cycles, unless the consumer has obtained an additional ex-*
20 *tension of credit in excess of such credit limit during any*
21 *such subsequent cycle or the consumer reduces the out-*
22 *standing balance below the credit limit as of the end of such*
23 *billing cycle.*

24 “(o) *OVER-THE-LIMIT FEES PROHIBITED IN CON-*
25 *JUNCTION WITH CERTAIN CREDIT HOLDS.*—*Notwith-*

1 *standing subsection (n), an over-the-limit fee may not be*
2 *imposed if the credit limit was exceeded due to a hold unless*
3 *the actual amount of the transaction for which the hold was*
4 *placed would have resulted in the consumer exceeding the*
5 *credit limit.”.*

6 **SEC. 5. STRENGTHEN CREDIT CARD INFORMATION COLLEC-**
7 **TION.**

8 *Section 136(b) of the Truth in Lending Act (15 U.S.C.*
9 *1646(b)) is amended—*

10 *(1) in paragraph (1)—*

11 *(A) by striking “COLLECTION REQUIRED.—*
12 *The Board shall” and inserting “COLLECTION*
13 *REQUIRED.—*

14 *“(A) IN GENERAL.—The Board shall”.*

15 *(B) by adding at the end the following new*
16 *subparagraph:*

17 *“(B) INFORMATION TO BE INCLUDED.—The*
18 *information under subparagraph (A) shall in-*
19 *clude, for the relevant semiannual period, the fol-*
20 *lowing information with respect each creditor in*
21 *connection with any consumer credit card ac-*
22 *count:*

23 *“(i) A list of each type of transaction*
24 *or event during the semiannual period for*
25 *which 1 or more creditors has imposed a*

1 *separate interest rate upon a consumer*
2 *credit card accountholder, including pur-*
3 *chases, cash advances, and balance trans-*
4 *fers.*

5 “(ii) *For each type of transaction or*
6 *event identified under clause (i)—*

7 “(I) *each distinct interest rate*
8 *charged by the card issuer to a con-*
9 *sumer credit card accountholder during*
10 *the semiannual period; and*

11 “(II) *the number of cardholders to*
12 *whom each such interest rate was ap-*
13 *plied during the last calendar month of*
14 *the semiannual period, and the total*
15 *amount of interest charged to such*
16 *accountholders at each such rate dur-*
17 *ing such month.*

18 “(iii) *A list of each type of fee that 1*
19 *or more of the creditors has imposed upon*
20 *a consumer credit card accountholder dur-*
21 *ing the semiannual period, including any*
22 *fee imposed for obtaining a cash advance,*
23 *making a late payment, exceeding the credit*
24 *limit on an account, making a balance*

1 *transfer, or exchanging United States dol-*
2 *lars for foreign currency.*

3 “(iv) *For each type of fee identified*
4 *under clause (iii), the number of account-*
5 *holders upon whom the fee was imposed*
6 *during each calendar month of the semi-*
7 *annual period, and the total amount of fees*
8 *imposed upon cardholders during such*
9 *month.*

10 “(v) *The total number of consumer*
11 *credit card accountholders that incurred*
12 *any finance charge or any other fee during*
13 *the semiannual period.*

14 “(vi) *The total number of consumer*
15 *credit card accounts maintained by each*
16 *creditor as of the end of the semiannual pe-*
17 *riod.*

18 “(vii) *The total number and value of*
19 *cash advances made during the semiannual*
20 *period under a consumer credit card ac-*
21 *count.*

22 “(viii) *The total number and value of*
23 *purchases involving or constituting con-*
24 *sumer credit card transactions during the*
25 *semiannual period.*

1 “(ix) *The total number and amount of*
2 *repayments on outstanding balances on con-*
3 *sumer credit card accounts in each month of*
4 *the semiannual period.*

5 “(x) *The percentage of all consumer*
6 *credit card accountholders (with respect to*
7 *any creditor) who—*

8 “(I) *incurred a finance charge in*
9 *each month of the semiannual period*
10 *on any portion of an outstanding bal-*
11 *ance on which a finance charge had*
12 *not previously been incurred; and*

13 “(II) *incurred any such finance*
14 *charge at any time during the semi-*
15 *annual period.*

16 “(xi) *The total number and amount of*
17 *balances accruing finance charges during*
18 *the semiannual period.*

19 “(xii) *The total number and amount of*
20 *the outstanding balances on consumer credit*
21 *card accounts as of the end of such semi-*
22 *annual period.*

23 “(xiii) *Total credit limits in effect on*
24 *consumer credit card accounts as of the end*
25 *of such semiannual period and the amount*

1 *by which such credit limits exceed the credit*
2 *limits in effect as of the beginning of such*
3 *period.*

4 *“(xiv) Any other information related to*
5 *interest rates, fees, or other charges that the*
6 *Board deems of interest.”; and*

7 (2) *by adding at the end the following new para-*
8 *graph:*

9 *“(5) REPORT TO CONGRESS.—The Board shall,*
10 *on an annual basis, transmit to Congress and make*
11 *public a report containing estimates by the Board of*
12 *the approximate, relative percentage of income de-*
13 *ived by the credit card operations of depository insti-*
14 *tutions from—*

15 *“(A) the imposition of interest rates on*
16 *cardholders, including separate estimates for—*

17 *“(i) interest with an annual percent-*
18 *age rate of less than 25 percent; and*

19 *“(ii) interest with an annual percent-*
20 *age rate equal to or greater than 25 percent;*

21 *“(B) the imposition of fees on cardholders;*

22 *“(C) the imposition of fees on merchants;*

23 *and*

24 *“(D) any other material source of income,*
25 *while specifying the nature of that income.”.*

1 **SEC. 6. STANDARDS APPLICABLE TO INITIAL ISSUANCE OF**
2 **SUBPRIME OR “FEE HARVESTER” CARDS.**

3 *Section 127B of the Truth in Lending Act is amended*
4 *by inserting after subsection (o) (as added by section 4) the*
5 *following new subsection:*

6 *“(p) STANDARDS APPLICABLE TO INITIAL ISSUANCE*
7 *OF SUBPRIME OR ‘FEE HARVESTER’ CARDS.—*

8 *“(1) IN GENERAL.—In the case of any credit*
9 *card account under an open end consumer credit plan*
10 *the terms of which require the payment of any fee*
11 *(other than any late fee, any over-the-limit fee, or any*
12 *fee for a payment returned for insufficient funds) by*
13 *the consumer in the first year the account is opened*
14 *in an amount in excess of 25 percent of the total*
15 *amount of credit authorized under the account when*
16 *the account is opened, no payment of any fee (other*
17 *than any late fee, any over-the-limit fee, or any fee*
18 *for a payment returned for insufficient funds) may be*
19 *made from the credit made available by the card.*

20 *“(2) RULE OF CONSTRUCTION.—No provision of*
21 *this subsection may be construed as authorizing any*
22 *imposition or payment of advance fees otherwise pro-*
23 *hibited by any provision of law.”.*

1 **SEC. 7. EXTENSIONS OF CREDIT TO UNDERAGE CON-**
2 **SUMERS.**

3 *Section 127(c) of the Truth in Lending Act (15 U.S.C.*
4 *1637(c)) is amended by adding at the end the following new*
5 *paragraph:*

6 “(8) *EXTENSIONS OF CREDIT TO UNDERAGE CON-*
7 *SUMERS.—*

8 “(A) *IN GENERAL.—No credit card may be*
9 *knowingly issued to, or open end credit plan es-*
10 *tablished on behalf of, a consumer who has not*
11 *attained the age of 18, unless the consumer is*
12 *emancipated under applicable State law.*

13 “(B) *RULE OF CONSTRUCTION.—For the*
14 *purposes of determining the age of an applicant,*
15 *the submission of a signed application by a con-*
16 *sumer stating that the consumer is over 18 shall*
17 *be considered sufficient proof of age.”.*

18 **SEC. 8. PROHIBIT FEES FOR PAYMENT ON CREDIT CARD AC-**
19 **COUNTS BY ELECTRONIC FUND TRANSFERS.**

20 (a) *IN GENERAL.—Section 127 of the Truth in Lend-*
21 *ing Act (15 U.S.C. 1637) is amended by adding at the end*
22 *the following new subsection:*

23 “(i) *PAYMENTS BY EFT.—In the case of a credit card*
24 *account under an open end consumer credit plan, a creditor*
25 *may not impose a fee based on the manner in which pay-*
26 *ment on the account is made, including a fee for making*

1 *any such payment by electronic fund transfer (as defined*
2 *in section 903).”.*

3 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
4 *section (a) shall apply to all payments made after the date*
5 *of the enactment of this Act and any fee imposed after such*
6 *date in contravention of the amendment shall be promptly*
7 *credited to the consumer’s account.*

8 **SEC. 9. REPORT TO CONGRESS ON REDUCTIONS OF CON-**
9 **SUMER CREDIT CARD LIMITS BASED ON CER-**
10 **TAIN INFORMATION AS TO EXPERIENCE OR**
11 **TRANSACTIONS OF THE CONSUMER.**

12 (a) *REPORT ON CREDITOR PRACTICES REQUIRED.*—
13 *Before the end of the 6-month period beginning on the date*
14 *of the enactment of this Act, the Board of Governors of the*
15 *Federal Reserve System, in consultation with the Comp-*
16 *troller of the Currency, the Director of the Office of Thrift*
17 *Supervision, the Federal Deposit Insurance Corporation,*
18 *the National Credit Union Administration Board, and the*
19 *Federal Trade Commission, shall report to the Committee*
20 *on Financial Services of the House of Representatives and*
21 *the Committee on Banking, Housing, and Urban Affairs*
22 *of the Senate on the extent to which, during the 3-year pe-*
23 *riod ending on such date of enactment, creditors have re-*
24 *duced credit limits or raised interest rates applicable to*

1 *credit card accounts under open end consumer credit plans*
2 *based on—*

3 (1) *the geographical location where a credit*
4 *transaction with the consumer takes place or the iden-*
5 *tity of the merchant involved in the transaction;*

6 (2) *the consumer's credit transactions, including*
7 *the type of credit transaction, the type of items pur-*
8 *chased in such transaction, the price of items pur-*
9 *chased in such transaction, any change in the type or*
10 *price of items purchased in such transactions, and*
11 *other data pertaining to the consumer's use of such*
12 *credit card account; and*

13 (3) *the identity of the mortgage creditor which*
14 *extended or holds the mortgage loan secured by the*
15 *consumer's primary residence.*

16 (b) *OTHER INFORMATION.—The report required under*
17 *subsection (a) shall also include—*

18 (1) *the number and identity of creditors that*
19 *have engaged in the practices described in subsection*
20 *(a);*

21 (2) *the extent to which the practices described in*
22 *subsection (a) have an adverse impact on minority or*
23 *low-income consumers;*

24 (3) *any other relevant information regarding*
25 *such practices; and*

1 (4) *recommendations to the Congress on regu-*
2 *latory or statutory changes that may be needed to re-*
3 *strict or prevent such practices.*

4 **SEC. 10. EFFECTIVE DATE.**

5 (a) *IN GENERAL.*—*Except as provided in subsection*
6 *(c) for the period described in such subsection, the amend-*
7 *ments made by this Act shall apply to all credit card ac-*
8 *counts under open end consumer credit plans after the ear-*
9 *lier of—*

10 (1) *the end of the 12-month period beginning on*
11 *the date of the enactment of this Act; or*

12 (2) *June 30, 2010.*

13 (b) *REGULATIONS.*—*Except as provided in subsection*
14 *(c) for the period described in such subsection, the Board*
15 *of Governors of the Federal Reserve System, in consultation*
16 *with the Comptroller of the Currency, the Director of the*
17 *Office of Thrift Supervision, the Federal Deposit Insurance*
18 *Corporation, the National Credit Union Administration*
19 *Board, and the Federal Trade Commission, shall prescribe*
20 *regulations, in final form, implementing the amendments*
21 *made by this Act before the earlier of—*

22 (1) *the end of the 5-month period beginning on*
23 *the date of the enactment of this Act; or*

24 (2) *June 1, 2010.*

1 (c) *INTERIM EFFECTIVE PERIOD FOR ADVANCE NO-*
2 *TICES OF RATE INCREASES.*—

3 (1) *IN GENERAL.*—*During the period beginning*
4 *90 days after the date of the enactment of this Act*
5 *and ending on the effective date of all the amend-*
6 *ments under this Act as determined pursuant to sub-*
7 *section (a), no increase in any annual percentage rate*
8 *of interest on any credit card account under an open*
9 *end consumer credit plan (as such terms are defined*
10 *in the Truth in Lending Act) may take effect unless*
11 *the creditor provides a written notice to the consumer*
12 *at least 45 days before the increase would otherwise*
13 *take effect which fully describes the changes in the an-*
14 *ual percentage rate, in a complete and conspicuous*
15 *manner, and the extent to which such increase would*
16 *apply to an existing balance.*

17 (2) *EXCEPTIONS.*—*A notice shall not be required*
18 *under paragraph (1) for an increase in an annual*
19 *percentage rate described in subparagraph (A), (B),*
20 *or (C) of section 127B(b)(1) (as added by section 2).*

21 (3) *REGULATIONS.*—*The Board of Governors of*
22 *the Federal Reserve System shall prescribe regulations*
23 *implementing the amendment referred to in para-*
24 *graph (1), for purposes of this subsection, before the*

- 1 *end of the 60-day period beginning on the date of the*
- 2 *enactment of this Act.*

Union Calendar No. 41

111TH CONGRESS
1ST Session

H. R. 627

[Report No. 111-88]

A BILL

To amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

APRIL 27, 2009

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed