

108TH CONGRESS
2D SESSION

S. 2755

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

IN THE SENATE OF THE UNITED STATES

JULY 22, 2004

Mr. DODD introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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 2004” or the
6 “Credit CARD Act of 2004”.

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.

3 **TITLE I—ABUSIVE PRACTICES**

4 **Subtitle A—Use of Default Clauses**

5 **SEC. 111. PRIOR NOTICE OF RATE INCREASES REQUIRED.**

6 Section 127 of the Truth in Lending Act (15 U.S.C.
7 1637) is amended by adding at the end the following:

8 “(h) ADVANCE NOTICE OF INCREASE IN INTEREST
9 RATE REQUIRED.—

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

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

21 “(B) may apply to any outstanding balance
22 of credit under such plan as of the date of the
23 notice of the increase required under paragraph
24 (1).

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

8 **SEC. 112. FREEZE ON INTEREST RATE TERMS AND FEES ON**
 9 **CANCELED CARDS.**

10 Section 127 of the Truth in Lending Act (15 U.S.C.
 11 1637), as amended by this Act, is amended by adding at
 12 the end the following:

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

18 “(1) an annual percentage rate of interest ap-
 19 plicable after the cancellation with respect to the
 20 outstanding balance on the account as of the date of
 21 cancellation may not exceed any annual percentage
 22 rate of interest applicable with respect to such bal-
 23 ance under the terms and conditions in effect before
 24 the date of the notice of any increase referred to in
 25 subsection (h)(1); and

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

6 **SEC. 113. LIMITS ON FINANCE AND INTEREST CHARGES**
 7 **FOR ON-TIME PAYMENTS.**

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

11 “(j) PROHIBITION ON PENALTIES FOR ON-TIME
 12 PAYMENTS.—

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

20 “(2) PROHIBITION ON CANCELLATION OR ADDI-
 21 TIONAL FEES FOR ON-TIME PAYMENTS OR PAYMENT
 22 IN FULL.—In the case of any credit card account
 23 under an open end consumer credit plan, no fee or
 24 other penalty may be imposed on the consumer in
 25 connection with the payment in full of an existing

1 account balance, or payment of more than the min-
 2 imum required payment of an existing account bal-
 3 ance.”.

4 **SEC. 114. PROHIBITION ON OVER-THE-LIMIT FEES FOR**
 5 **CREDITOR-APPROVED TRANSACTIONS.**

6 Section 127 of the Truth in Lending Act (15 U.S.C.
 7 1637), as amended by this Act, is amended by adding at
 8 the end the following:

9 “(k) LIMITATION ON IMPOSITION OF OVER-THE-
 10 LIMIT FEES.—In the case of any credit card account
 11 under an open end consumer credit plan, a creditor may
 12 not impose any fees on the obligor for any extension of
 13 credit in excess of the amount of credit authorized to be
 14 extended with respect to such account, if the extension of
 15 credit is made in connection with a credit transaction
 16 which the creditor approves in advance or at the time of
 17 the transaction.”.

18 **TITLE II—ENHANCED**
 19 **CONSUMER DISCLOSURES**

20 **SEC. 211. DISCLOSURES RELATED TO “TEASER RATES”.**

21 Section 127(c) of the Truth in Lending Act (15
 22 U.S.C. 1637(c)) is amended—

23 (1) by redesignating paragraph (5) as para-
 24 graph (7); and

1 (2) by inserting after paragraph (4) the fol-
 2 lowing:

3 “(5) ADDITIONAL NOTICE CONCERNING ‘TEAS-
 4 ER RATES’.—

5 “(A) IN GENERAL.—An application or so-
 6 licitation for a credit card for which a disclo-
 7 sure is required under this subsection shall con-
 8 tain the disclosures referred to in subparagraph
 9 (B) or (C), as applicable, if the application or
 10 solicitation offers, for an introductory period of
 11 less than 1 year, an annual percentage rate of
 12 interest that—

13 “(i) is less than the annual percentage
 14 rate of interest which will apply after the
 15 end of the introductory period; or

16 “(ii) in the case of an annual percent-
 17 age rate which varies in accordance with
 18 an index, is less than the current annual
 19 percentage rate under the index which will
 20 apply after the end of the introductory pe-
 21 riod.

22 “(B) FIXED ANNUAL PERCENTAGE
 23 RATE.—If the annual percentage rate which will
 24 apply after the end of the introductory period
 25 will be a fixed rate, the application or sollicita-

tion shall include the following disclosure: ‘The annual percentage rate of interest applicable during the introductory period is not the annual percentage rate which will apply after the end of the introductory period. The non-introductory annual percentage rate will apply after [insert applicable date] and will be [insert applicable percentage rate].’.

“(C) VARIABLE ANNUAL PERCENTAGE RATE.—If the annual percentage rate which will apply after the end of the introductory period will vary in accordance with an index, the application or solicitation shall include the following disclosure: ‘The annual percentage rate of interest applicable during the introductory period is not the annual percentage rate which will apply after the end of the introductory period. The permanent annual percentage rate will be determined by an index and will apply after [insert applicable date]. If the index which will apply after such date were applied to your account today, the annual percentage rate would be [insert applicable percentage rate].’.

“(D) CONDITIONS FOR INTRODUCTORY RATES.—If the annual percentage rate of inter-

1 est which will apply during the introductory pe-
2 riod described in subparagraph (A) is revocable
3 or otherwise conditioned upon any action by the
4 obligor, including any failure by the obligor to
5 pay the minimum payment amount or finance
6 charge or to make any payment by the stated
7 monthly payment due date, the application or
8 solicitation shall include a disclosure of—

9 “(i) the conditions that the obligor
10 must meet in order to retain the annual
11 percentage rate of interest during the in-
12 troductory period; and

13 “(ii) the annual percentage rate of in-
14 terest that will apply as a result of the fail-
15 ure of the obligor to meet such conditions.

16 “(E) FORM OF DISCLOSURES.—The disclo-
17 sures required under this paragraph shall be
18 made in a clear and conspicuous manner, in a
19 format that is at least as prominent as the dis-
20 closure of the annual percentage rate of interest
21 which will apply during the introductory pe-
22 riod.”.

1 **SEC. 212. PAYOFF TIMING DISCLOSURES.**

2 (a) IN GENERAL.—Section 127(b) of the Truth in
3 Lending Act (15 U.S.C. 1637(b)) is amended by adding
4 at the end the following:

5 “(11)(A) Repayment information that would
6 apply to the outstanding balance of the consumer
7 under the credit plan, including—

8 “(i) the required minimum monthly pay-
9 ment on that balance, represented as both a
10 dollar figure and as a percentage of that bal-
11 ance;

12 “(ii) the number of months (rounded to
13 the nearest month) that it would take to pay
14 the entire amount of that balance, if the con-
15 sumer pays only the required minimum monthly
16 payments and if no further advances are made;

17 “(iii) the total cost to the consumer, in-
18 cluding interest and principal payments, of pay-
19 ing that balance in full, if the consumer pays
20 only the required minimum monthly payments
21 and if no further advances are made; and

22 “(iv) the monthly payments amount that
23 would be required for the consumer to eliminate
24 the outstanding balance in 36 months if no fur-
25 ther advances are made.

1 “(B)(i) Subject to clause (ii), in making the dis-
 2 closures under subparagraph (A) the creditor shall
 3 apply the interest rate in effect on the date on which
 4 the disclosure is made until the date on which the
 5 balance would be paid in full.

6 “(ii) If the interest rate in effect on the date on
 7 which the disclosure is made is a temporary rate
 8 that will change under a contractual provision apply-
 9 ing an index or formula for subsequent interest rate
 10 adjustment, the creditor shall apply the interest rate
 11 in effect on the date on which the disclosure is made
 12 for as long as that interest rate will apply under
 13 that contractual provision, and then apply an inter-
 14 est rate based on the index or formula in effect on
 15 the applicable billing date.

16 “(C) FORM OF DISCLOSURE.—

17 “(i) IN GENERAL.—All of the information
 18 described in subparagraph (A) shall—

19 “(I) be disclosed in the form and
 20 manner which the Board shall prescribe by
 21 regulations; and

22 “(II) be placed in a conspicuous and
 23 prominent location on the billing statement
 24 in typeface that is at least as large as the

1 largest type on the statement, but in no in-
 2 stance less than 12-point in size.

3 “(D) TABULAR FORMAT.—

4 “(i) FORM OF TABLE TO BE PRE-
 5 SCRIBED.—In the regulations prescribed under
 6 subparagraph (C), the Board shall require that
 7 the disclosure of such information shall be in
 8 the form of a table that—

9 “(I) contains clear and concise head-
 10 ings for each item of such information; and

11 “(II) provides a clear and concise
 12 form stating each item of information re-
 13 quired to be disclosed under each such
 14 heading.

15 “(E) REQUIREMENTS REGARDING LOCATION
 16 AND ORDER OF TABLE.—In prescribing the form of
 17 the table under subparagraph (D), the Board shall
 18 require that—

19 “(i) all of the information in the table, and
 20 not just a reference to the table, be placed on
 21 the billing statement, as required by this sub-
 22 paragraph; and

23 “(ii) the items required to be included in
 24 the table shall be listed in the order in which
 25 such items are set forth in subparagraph (A).

1 “(F) BOARD DISCRETION IN PRESCRIBING
 2 ORDER AND WORDING OF TABLE.—In prescribing
 3 the form of the table under subparagraph (C), the
 4 Board shall—

5 “(i) employ terminology which is different
 6 than the terminology which is employed in sub-
 7 paragraph (A), if such terminology is easily un-
 8 derstood and conveys substantially the same
 9 meaning.”.

10 (b) CIVIL LIABILITY.—Section 130(a) of the Truth
 11 in Lending Act (15 U.S.C. 1640(a)) is amended, in the
 12 undesignated paragraph following paragraph (4), by strik-
 13 ing the second sentence and inserting the following: “In
 14 connection with the disclosures referred to in subsections
 15 (a) and (b) of section 127, a creditor shall have a liability
 16 determined under paragraph (2) only for failing to comply
 17 with the requirements of section 125, 127(a), or para-
 18 graph (4), (5), (6), (7), (8), (9), (10), or (11) of section
 19 127(b), or for failing to comply with disclosure require-
 20 ments under State law for any term or item that the
 21 Board has determined to be substantially the same in
 22 meaning under section 111(a)(2) as any of the terms or
 23 items referred to in section 127(a), or paragraph (4), (5),
 24 (6), (7), (8), (9), (10), or (11) of section 127(b).

1 **SEC. 213. REQUIREMENTS RELATING TO LATE PAYMENT**
2 **DEADLINES AND PENALTIES.**

3 Section 127 of the Truth in Lending Act (15 U.S.C.
4 1637), as amended by this Act, is amended by adding at
5 the end the following:

6 “(1) REQUIREMENTS RELATING TO LATE PAYMENT
7 DEADLINES AND PENALTIES.—

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

17 “(A) the date on which the payment is due
18 or, if different, the date on which a late pay-
19 ment fee will be charged, together with the
20 amount of the fee or charge to be imposed if
21 payment is made after that date;

22 “(B) the date by which the payment must
23 be postmarked, if paid by mail, in order to
24 avoid the imposition of a late payment fee with
25 respect to the payment; and

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

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

16 “(3) REQUIREMENTS RELATING TO POSTMARK
17 DATE.—

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

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

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

1 **TITLE III—RESPONSIBILITIES IN** 2 **BANKRUPTCY**

3 **SEC. 311. AMENDMENTS TO THE BANKRUPTCY CODE.**

4 Section 523(a)(2)(C) of title 11, United States Code,
5 is amended by adding at the end the following: “However,
6 this subparagraph shall not apply for any portion of debt
7 incurred under an open end credit plan, as defined in sec-
8 tion 103 of the Truth in Lending Act, if the annual rate
9 of interest charged with respect to the account was more
10 than 20 percentage points above the Federal prime lend-
11 ing rate on the last day of month during which the interest
12 was charged.”.

13 **TITLE IV—PROTECTION OF** 14 **YOUNG CONSUMERS**

15 **SEC. 411. EXTENSIONS OF CREDIT TO UNDERAGE CON-** 16 **SUMERS.**

17 Section 127(c) of the Truth in Lending Act (15
18 U.S.C. 1637(c)) is amended by inserting after paragraph
19 (5), as added by this Act, the following:

20 “(6) APPLICATIONS FROM UNDERAGE CON-
21 SUMERS.—

22 “(A) PROHIBITION ON ISSUANCE.—No
23 credit card may be issued to, or open end credit
24 plan established on behalf of, a consumer who
25 has not attained the age of 21, unless the con-

sumer has submitted a written application to the card issuer that meets the requirements of subparagraph (B).

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

“(i) the signature of the parent, legal guardian, or spouse of the consumer, or any other individual having a means to repay debts incurred by the consumer in connection with the account, indicating joint liability for debts incurred by the consumer in connection with the account before the consumer has attained the age of 21;

“(ii) submission by the consumer of financial information indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account; or

“(iii) proof by the consumer that the consumer has completed a credit counseling course of instruction by a nonprofit

1 budget and credit counseling agency ap-
2 proved by the Board for such purpose.

3 “(C) MINIMUM REQUIREMENTS FOR COUN-
4 SELING AGENCIES.—To be approved by the
5 Board under subparagraph (B)(iii), a credit
6 counseling agency shall, at a minimum—

7 “(i) be a nonprofit budget and credit
8 counseling agency, the majority of the
9 board of directors of which—

10 “(I) is not employed by the agen-

11 cy; and

12 “(II) will not directly or indi-
13 rectly benefit financially from the out-
14 come of a credit counseling session;

15 “(ii) if a fee is charged for counseling
16 services, charge a reasonable fee, and pro-
17 vide services without regard to ability to
18 pay the fee; and

19 “(iii) provide trained counselors who
20 receive no commissions or bonuses based
21 on referrals, and demonstrate adequate ex-
22 perience and background in providing cred-
23 it counseling.”.

1 **SEC. 412. ENHANCED PENALTIES.**

2 Section 130(a)(2)(A) of the Truth in Lending Act
3 (15 U.S.C. 1640 (a)(2)(A)(iii)) is amended by striking “or
4 (iii) in the” and inserting the following:

5 “(iii) in the case of an individual action relating
6 to an open end credit plan that is not secured by
7 real property or a dwelling, twice the amount of any
8 finance charge in connection with the transaction,
9 with a minimum of \$500 and a maximum of \$5,000
10 or such higher amount as may be appropriate in the
11 case of an established pattern or practice of such
12 failures; or

13 “(iv) in the”.

14 **SEC. 413. RESTRICTIONS ON CERTAIN AFFINITY CARDS.**

15 Section 127 of the Truth in Lending Act (15 U.S.C.
16 1637), as amended by this Act, is amended by adding at
17 the end the following:

18 “(m) RESTRICTIONS ON ISSUANCE OF AFFINITY
19 CARDS TO STUDENTS.—No credit card account under an
20 open end credit plan may be established by an individual
21 who has not attained the age of 21 as of the date of sub-
22 mission of the application pursuant to any agreement re-
23 lating to affinity cards, as defined by the Board, between
24 the creditor and an institution of higher education, as de-
25 fined in section 101(a) of the Higher Education Act of

1 1965 (20 U.S.C. 1001(a)), unless the requirements of sec-
2 tion 127(c)(6) are met with respect to the obliger.”.

○