

109TH CONGRESS
2D SESSION

H. R. 5383

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

MAY 11, 2006

Mr. UDALL of Colorado (for himself, Mr. STUPAK, Mr. RYAN of Ohio, Ms. CARSON, Mr. GRIJALVA, Mrs. CHRISTENSEN, and Mr. CASE) 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 2006” or the
6 “Credit CARD Act of 2006”.

1 **SEC. 2. REGULATORY AUTHORITY.**

2 The Board of Governors of the Federal Reserve Sys-
3 tem may issue such rules or publish such model forms as
4 it considers necessary to carry out this Act and the
5 amendments made by this Act, in accordance with sections
6 105 and 122 of the Truth in Lending Act.

7 **TITLE I—REGULATIONS RE-**
8 **GARDING CERTAIN RATES**
9 **AND FEES**

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

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

13 “(h) ADVANCE NOTICE OF INCREASE IN INTEREST
14 RATE REQUIRED.—

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

22 “(A) may take effect before the beginning
23 of the billing cycle which begins not less than
24 15 days after the obligor receives notice of such
25 increase; or

1 “(B) may apply to any outstanding balance
2 of credit under such plan as of the date of the
3 notice of the increase required under paragraph
4 (1).

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

12 **SEC. 102. FREEZE ON INTEREST RATE TERMS AND FEES ON**
13 **CANCELED CARDS.**

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

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

23 “(1) an annual percentage rate of interest ap-
24 plicable after the cancellation with respect to the
25 outstanding balance on the account as of the date of

1 cancellation may not exceed any annual percentage
2 rate of interest applicable with respect to such bal-
3 ance under the terms and conditions in effect before
4 the date of the notice of any increase referred to in
5 subsection (h)(1); and

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

11 **SEC. 103. LIMITS ON FINANCE AND INTEREST CHARGES**
12 **FOR ON-TIME PAYMENTS.**

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

17 “(j) PROHIBITION ON PENALTIES FOR ON-TIME
18 PAYMENTS.—

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

1 “(2) PROHIBITION ON CANCELLATION OR ADDI-
 2 TIONAL FEES FOR ON-TIME PAYMENTS OR PAYMENT
 3 IN FULL.—In the case of any credit card account
 4 under an open end consumer credit plan, no fee or
 5 other penalty may be imposed on the consumer in
 6 connection with the payment in full of an existing
 7 account balance, or payment of more than the min-
 8 imum required payment of an existing account bal-
 9 ance.”.

10 **SEC. 104. PROHIBITION ON OVER-THE-LIMIT FEES FOR**
 11 **CREDITOR-APPROVED TRANSACTIONS.**

12 Section 127 of the Truth in Lending Act (15 U.S.C.
 13 1637) is amended by inserting after subsection (j) (as
 14 added by section 103 of this title) the following new sub-
 15 section:

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

TITLE II—ENHANCED CONSUMER DISCLOSURES

SEC. 201. PAYOFF TIMING DISCLOSURES.

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

“(12) REPAYMENT INFORMATION.—

“(A) IN GENERAL.—Repayment information that would apply to the outstanding balance of the consumer under the credit plan, including—

“(i) the outstanding balance in the account at the beginning of the statement period, as required by paragraph (1) of this subsection;

“(ii) the required minimum monthly payment on that balance, represented as both a dollar figure and as a percentage of that balance;

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

“(iv) the monthly payments amount that would be required for the consumer to

1 eliminate the outstanding balance in 36
2 months if no further advances are made.

3 “(B) APPLICABLE ANNUAL PERCENTAGE
4 RATE.—

5 “(i) IN GENERAL.—Subject to clause
6 (ii), in making the disclosures under sub-
7 paragraph (A), the creditor shall apply the
8 annual percentage rate in effect on the
9 date on which the disclosure is made until
10 the date on which the balance would be
11 paid in full.

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

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

5 “(d) FORMAT REQUIRED FOR CERTAIN DISCLO-
6 SURES UNDER SECTION 127(b)(12).—

7 “(1) FORM OF DISCLOSURE.—All of the infor-
8 mation disclosed pursuant to section 127(b)(12)(A)
9 shall—

10 “(A) be disclosed in the form and manner
11 which the Board shall prescribe by regulations
12 under this section and in accordance with sec-
13 tion 105; and

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

19 “(2) TABULAR FORMAT.—In the regulations
20 prescribed under paragraph (1), the Board shall re-
21 quire that the disclosure of such information shall be
22 in the form of a table that—

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

1 “(B) provides a clear and concise form
2 stating each item of information required to be
3 disclosed under each such heading.

4 “(3) REQUIREMENTS REGARDING LOCATION
5 AND ORDER OF TABLE.—In prescribing the form of
6 the table under paragraph (2), the Board shall re-
7 quire that—

8 “(A) all of the information in the table,
9 and not just a reference to the table, be placed
10 on the billing statement, as required by this
11 subparagraph; and

12 “(B) the items required to be included in
13 the table shall be listed in the order in which
14 such items are set forth in section
15 127(b)(12)(A).

16 “(4) BOARD DISCRETION IN PRESCRIBING
17 ORDER AND WORDING OF TABLE.—In prescribing
18 the form of the table under subparagraph (C), the
19 Board may employ terminology which is different
20 than the terminology which is employed in subpara-
21 graph (A), if such terminology is easily understood
22 and conveys substantially the same meaning.”.

23 (c) CIVIL LIABILITY.—Section 130(a) of the Truth
24 in Lending Act (15 U.S.C. 1640(a)) is amended, in the
25 undesignated paragraph following paragraph (4), by strik-

ing the second sentence and inserting the following: “In connection with the disclosures referred to in subsections (a) and (b) of section 127, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125, 127(a), or paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 127(b), or for failing to comply with disclosure requirements under State law for any term or item that the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms or items referred to in section 127(a), or paragraph (4), (5), (6), (7), (8), (9), (10), (11), or (12) of section 127(b).

SEC. 202. REQUIREMENTS RELATING TO LATE PAYMENT DEADLINES AND PENALTIES.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by inserting after subsection (k) (as added by section 104 of this Act) the following new subsection:

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

“(1) LATE PAYMENT DEADLINE AND POSTMARK DATE REQUIRED TO BE DISCLOSED.—In the case of a credit card account under an open end consumer credit plan under which a late fee or charge may be imposed due to the failure of the obligor to make

1 payment on or before the due date for such pay-
2 ment, the periodic statement required under sub-
3 section (b) with respect to the account shall include,
4 in a conspicuous location on the billing statement—

5 “(A) the date by which the payment must
6 be postmarked, if paid by mail, in order to
7 avoid the imposition of a late payment fee with
8 respect to the payment; and

9 “(B) a statement that no late fee may be
10 imposed in connection with a payment made by
11 mail which was postmarked on or before the
12 postmark date.

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

24 “(3) REQUIREMENTS RELATING TO POSTMARK
25 DATE.—

1 “(A) IN GENERAL.—The date included in
2 a periodic statement pursuant to paragraph
3 (1)(B) with regard to the postmark on a pay-
4 ment shall allow, in accordance with regulations
5 prescribed by the Board under subparagraph
6 (B), a reasonable time for the consumer to
7 make the payment and a reasonable time for
8 the delivery of the payment by the due date.

9 “(B) BOARD REGULATIONS.—The Board
10 shall prescribe guidelines for determining a rea-
11 sonable period of time for making a payment
12 and delivery of a payment for purposes of sub-
13 paragraph (A), after consultation with the Post-
14 master General and representatives of consumer
15 and trade organizations.

16 “(4) PAYMENT AT LOCAL BRANCHES.—If the
17 creditor, in the case of a credit card account referred
18 to in paragraph (1), is a financial institution which
19 maintains branches or offices at which payments on
20 any such account are accepted from the obliger in
21 person, the date on which the obliger makes a pay-
22 ment on the account at such branch or office shall
23 be considered as the date on which the payment is
24 made for purposes of determining whether a late fee
25 or charge may be imposed due to the failure of the

obligor to make payment on or before the due date for such payment, to the extent that such payment is made before the close of business of the branch or office on the business day immediately preceding the due date for such payment.”.

TITLE III—PROTECTION OF YOUNG CONSUMERS

SEC. 301. EXTENSIONS OF CREDIT TO UNDERAGE CONSUMERS.

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

“(8) APPLICATIONS FROM UNDERAGE CONSUMERS.—

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

1 as of the date of submission of the application
2 shall require—

3 “(i) the signature of the parent, legal
4 guardian, or spouse of the consumer, or
5 any other individual having a means to
6 repay debts incurred by the consumer in
7 connection with the account, indicating
8 joint liability for debts incurred by the con-
9 sumer in connection with the account be-
10 fore the consumer has attained the age of
11 18;

12 “(ii) submission by the consumer of
13 financial information indicating an inde-
14 pendent means of repaying any obligation
15 arising from the proposed extension of
16 credit in connection with the account; or

17 “(iii) proof by the consumer that the
18 consumer has completed a credit coun-
19 seling course of instruction by a nonprofit
20 budget and credit counseling agency ap-
21 proved by the Board for such purpose.

22 “(C) MINIMUM REQUIREMENTS FOR COUN-
23 SELING AGENCIES.—To be approved by the
24 Board under subparagraph (B)(iii), a credit
25 counseling agency shall, at a minimum—

1 “(i) be a nonprofit budget and credit
2 counseling agency, the majority of the
3 board of directors of which—

4 “(I) is not employed by the agen-
5 cy; and

6 “(II) will not directly or indi-
7 rectly benefit financially from the out-
8 come of a credit counseling session;

9 “(ii) if a fee is charged for counseling
10 services, charge a reasonable fee, and pro-
11 vide services without regard to ability to
12 pay the fee; and

13 “(iii) provide trained counselors who
14 receive no commissions or bonuses based
15 on referrals, and demonstrate adequate ex-
16 perience and background in providing cred-
17 it counseling.”.

18 **SEC. 302. ENHANCED PENALTIES.**

19 Section 130(a)(2)(A) of the Truth in Lending Act
20 (15 U.S.C. 1640 (a)(2)(A)(iii)) is amended—

21 (1) by striking “or (iii) in the” and inserting
22 the following:

23 “(iii) in the case of an individual action relating
24 to an open end credit plan that is not secured by
25 real property or a dwelling, twice the amount of any

1 finance charge in connection with the transaction,
 2 with a minimum of \$500 and a maximum of \$5,000
 3 or such higher amount as may be appropriate in the
 4 case of an established pattern or practice of such
 5 failures; or

6 “(iv) in the”; and.

7 (2) in clause (ii), by striking “this subpara-
 8 graph” and inserting “this clause”.

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

10 Section 127 of the Truth in Lending Act (15 U.S.C.
 11 1637) is amended by inserting after subsection (l) (as
 12 added by section 202 of this Act) the following new sub-
 13 section:

14 “(m) RESTRICTIONS ON ISSUANCE OF AFFINITY
 15 CARDS TO STUDENTS.—No credit card account under an
 16 open end credit plan may be established by an individual
 17 who has not attained the age of 18 as of the date of sub-
 18 mission of the application pursuant to any agreement re-
 19 lating to affinity cards, as defined by the Board, between
 20 the creditor and an institution of higher education (as de-
 21 fined in section 101(a) of the Higher Education Act of
 22 1965), unless the requirements of section 127(c)(8) are
 23 met with respect to the obliger.”.

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