

109TH CONGRESS
1ST SESSION

S. 393

To require enhanced disclosure to consumers regarding the consequences of making only minimum required payments in the repayment of credit card debt, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2005

Mr. AKAKA (for himself, Mr. DURBIN, Mr. LEAHY, Mr. SARBANES, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To require enhanced disclosure to consumers regarding the consequences of making only minimum required payments in the repayment of credit card debt, 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 Card Minimum
5 Payment Warning Act of 2005”.

1 **SEC. 2. ENHANCED CONSUMER DISCLOSURES REGARDING**
2 **MINIMUM PAYMENTS.**

3 Section 127(b) of the Truth in Lending Act (15
4 U.S.C. 1637(b)) is amended by adding at the end the fol-
5 lowing:

6 “(11)(A) Information regarding repayment of
7 the outstanding balance of the consumer under the
8 account, appearing in conspicuous type on the front
9 of the first page of each such billing statement, and
10 accompanied by an appropriate explanation, con-
11 taining—

12 “(i) the words ‘Minimum Payment Warn-
13 ing: Making only the minimum payment will in-
14 crease the amount of interest that you pay and
15 the time it will take to repay your outstanding
16 balance.’;

17 “(ii) the number of years and months
18 (rounded to the nearest month) that it would
19 take for the consumer to pay the entire amount
20 of that balance, if the consumer pays only the
21 required minimum monthly payments;

22 “(iii) the total cost to the consumer, shown
23 as the sum of all principal and interest pay-
24 ments, and a breakdown of the total costs in in-
25 terest and principal, of paying that balance in
26 full if the consumer pays only the required min-

1 imum monthly payments, and if no further ad-
2 vances are made;

3 “(iv) the monthly payment amount that
4 would be required for the consumer to eliminate
5 the outstanding balance in 36 months if no fur-
6 ther advances are made; and

7 “(v) a toll-free telephone number at which
8 the consumer may receive information about ac-
9 cessing credit counseling and debt management
10 services.

11 “(B)(i) Subject to clause (ii), in making the dis-
12 closures under subparagraph (A) the creditor shall
13 apply the interest rate in effect on the date on which
14 the disclosure is made.

15 “(ii) If the interest rate in effect on the date on
16 which the disclosure is made is a temporary rate
17 that will change under a contractual provision speci-
18 fying a subsequent interest rate or applying an index
19 or formula for subsequent interest rate adjustment,
20 the creditor shall apply the interest rate in effect on
21 the date on which the disclosure is made for as long
22 as that interest rate will apply under that contrac-
23 tual provision, and then shall apply the adjusted in-
24 terest rate, as specified in the contract. If the con-
25 tract applies a formula that uses an index that var-

1 ies over time, the value of such index on the date on
 2 which the disclosure is made shall be used in the ap-
 3 plication of the formula.”.

4 **SEC. 3. ACCESS TO CREDIT COUNSELING AND DEBT MAN-**
 5 **AGEMENT INFORMATION.**

6 (a) **GUIDELINES REQUIRED.**—

7 (1) **IN GENERAL.**—Not later than 1 year after
 8 the date of enactment of this Act, the Board of Gov-
 9 ernors of the Federal Reserve System and the Fed-
 10 eral Trade Commission (in this section referred to
 11 as the “Board” and the “Commission”, respectively)
 12 shall jointly, by rule, regulation, or order, issue
 13 guidelines for the establishment and maintenance by
 14 creditors of a toll-free telephone number for pur-
 15 poses of the disclosures required under section
 16 127(b)(11) of the Truth in Lending Act, as added
 17 by this Act.

18 (2) **APPROVED AGENCIES.**—Guidelines issued
 19 under this subsection shall ensure that referrals pro-
 20 vided by the toll-free number include only those
 21 agencies approved by the Board and the Commission
 22 as meeting the criteria under this section.

23 (b) **CRITERIA.**—The Board and the Commission shall
 24 only approve a nonprofit budget and credit counseling
 25 agency for purposes of this section that—

1 (1) demonstrates that it will provide qualified
2 counselors, maintain adequate provision for safe-
3 keeping and payment of client funds, provide ade-
4 quate counseling with respect to client credit prob-
5 lems, and deal responsibly and effectively with other
6 matters relating to the quality, effectiveness, and fi-
7 nancial security of the services it provides;

8 (2) at a minimum—

9 (A) is registered as a nonprofit entity
10 under section 501(c) of the Internal Revenue
11 Code of 1986;

12 (B) has a board of directors, the majority
13 of the members of which—

14 (i) are not employed by such agency;

15 and

16 (ii) will not directly or indirectly ben-
17 efit financially from the outcome of the
18 counseling services provided by such agen-
19 cy;

20 (C) if a fee is charged for counseling serv-
21 ices, charges a reasonable and fair fee, and pro-
22 vides services without regard to ability to pay
23 the fee;

24 (D) provides for safekeeping and payment
25 of client funds, including an annual audit of the

1 trust accounts and appropriate employee bond-
2 ing;

3 (E) provides full disclosures to clients, in-
4 cluding funding sources, counselor qualifica-
5 tions, possible impact on credit reports, any
6 costs of such program that will be paid by the
7 client, and how such costs will be paid;

8 (F) provides adequate counseling with re-
9 spect to the credit problems of the client, in-
10 cluding an analysis of the current financial con-
11 dition of the client, factors that caused such fi-
12 nancial condition, and how such client can de-
13 velop a plan to respond to the problems without
14 incurring negative amortization of debt;

15 (G) provides trained counselors who—

16 (i) receive no commissions or bonuses
17 based on the outcome of the counseling
18 services provided;

19 (ii) have adequate experience; and

20 (iii) have been adequately trained to
21 provide counseling services to individuals
22 in financial difficulty, including the mat-
23 ters described in subparagraph (F);

24 (H) demonstrates adequate experience and
25 background in providing credit counseling;

1 (I) has adequate financial resources to pro-
2 vide continuing support services for budgeting
3 plans over the life of any repayment plan; and

4 (J) is accredited by an independent, na-
5 tionally recognized accrediting organization.

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