

110TH CONGRESS
2D SESSION

H. R. 5280

To prevent unfair practices in credit card accounts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2008

Mr. LINCOLN DAVIS of Tennessee introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To prevent unfair practices in credit card accounts, 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 “Stop Unfair Practices
5 in Credit Cards Act of 2007”.

6 **SEC. 2. STOP UNFAIR INTEREST RATES AND FEES.**

7 Section 163 of the Truth in Lending Act (15 U.S.C.
8 1666b) is amended—

9 (1) by striking the section title and all that fol-
10 lows through “If an open” and inserting the fol-
11 lowing:

1 **“§ 163. Billing period and finance charges**

2 “(a) BILLING PERIOD.—

3 “(1) FOURTEEN-DAY MINIMUM.—If an open”;

4 (2) by striking “(B) Subsection (a)” and insert-

5 ing the following:

6 “(2) EXCUSABLE CAUSE.—Subsection (a)”;

7 (3) by adding at the end the following:

8 “(b) NO INTEREST CHARGE ON DEBT THAT IS PAID

9 ON TIME.—If an open end consumer credit plan provides

10 a time period within which an obligor may repay any por-

11 tion of the credit extended without incurring an interest

12 charge, and the obligor repays all or a portion of such

13 credit within the specified time period, the creditor may

14 not impose or collect an interest charge on the portion of

15 the credit that was repaid within the specified time period.

16 “(c) NO INTEREST ON DEBT THAT IS PAID ON TIME

17 AND IN FULL.—In an open end consumer credit plan, if

18 a billing statement requests an obligor to repay within a

19 specified time period all of the credit extended under the

20 plan and related finance charges, and the obligor pays all

21 of the specified amount within the specified time period,

22 the creditor may not impose or collect an additional inter-

23 est charge on the amount that was paid in full and within

24 the specified time period.

25 “(d) LIMITS ON INTEREST RATE INCREASES.—

1 “(1) IN GENERAL.—With respect to a credit
2 card account under an open end consumer credit
3 plan, the creditor shall not increase the periodic rate
4 of interest applicable to extensions of credit while
5 such account remains open, unless—

6 “(A) such increase is pursuant to the expi-
7 ration of an introductory rate which was dis-
8 closed under section 127(c)(6);

9 “(B) such increase is pursuant to the ap-
10 plication of a variable rate which was disclosed
11 under section 127(c)(1)(A)(i)(II);

12 “(C) such increase is pursuant to the ap-
13 plication of a penalty rate which was disclosed
14 under subsections (a)(4) and (c)(1)(A)(i) of sec-
15 tion 127; or

16 “(D) the obligor has provided specific writ-
17 ten consent to such increase at the time such
18 increase was proposed.

19 “(2) LIMIT ON PENALTY INTEREST RATE.—If
20 an obligor fails to repay an extension of credit in ac-
21 cordance with the terms of a credit card account
22 under an open end consumer credit plan, and the
23 creditor determines to apply a penalty rate, as de-
24 scribed in paragraph (1)(C), notwithstanding para-
25 graph (1)(D), such penalty rate may not, while such

1 account is open, exceed 7 percentage points above
2 the interest rate that was in effect with respect to
3 such account on the date immediately preceding the
4 first such penalty increase for such account.

5 “(e) INTEREST RATE INCREASES LIMITED TO FU-
6 TURE CREDIT EXTENSIONS.—With respect to a credit
7 card account under an open end consumer credit plan, if
8 the creditor increases the periodic interest rate applicable
9 to an extension of credit under the account, such increased
10 rate shall apply only to extensions of credit made on and
11 after the date of such increase under the account, and any
12 extension of credit under such account made before the
13 date of such increase shall continue to incur interest at
14 the rate that was in effect on the date prior to the date
15 of the increase.

16 “(f) NO INTEREST CHARGES ON FEES.—With re-
17 spect to a credit card account under an open end consumer
18 credit plan, if the creditor imposes a transaction fee on
19 the obligor, including a cash advance fee, late fee, over-
20 the-limit fee, or balance transfer fee, the creditor may not
21 impose or collect interest with respect to such fee amount.

22 “(g) FIXED CREDIT LIMIT.—With respect to each
23 credit card account under an open end consumer credit
24 plan, the creditor shall offer to the obligor the option of
25 obtaining a fixed credit limit that cannot be exceeded, and

1 with respect to which any request for credit in excess of
2 such fixed limit must be refused, without exception and
3 without imposing an over-the-limit fee or other penalty on
4 such obligor.

5 “(h) OVER-THE-LIMIT FEE RESTRICTIONS.—With
6 respect to a credit card account under an open end con-
7 sumer credit plan, an over-the-limit fee, as described in
8 section 127(c)(1)(B)(iii)—

9 “(1) may be imposed on the account only when
10 an extension of credit obtained by the obligor causes
11 the credit limit on such account to be exceeded, and
12 may not be imposed when such credit limit is ex-
13 ceeded due to a penalty fee, such as a late fee or
14 over-the-limit fee, that was added to the account bal-
15 ance by the creditor; and

16 “(2) may be imposed only once during a billing
17 cycle if, on the last day of such billing cycle, the
18 credit limit on the account is exceeded, and no addi-
19 tional over-the-limit fee shall be imposed in a subse-
20 quent billing cycle with respect to such excess credit,
21 unless the obligor has obtained an additional exten-
22 sion of credit in excess of such credit limit during
23 such subsequent cycle.

24 “(i) OTHER FEES.—

1 “(1) NO FEE TO PAY A BILLING STATEMENT.—

2 With respect to a credit card account under an open
3 end consumer credit plan, the creditor may not im-
4 pose a separate fee to allow the obligor to repay an
5 extension of credit or finance charge, whether such
6 repayment is made by mail, electronic transfer, tele-
7 phone authorization, or other means.

8 “(2) REASONABLE CURRENCY EXCHANGE
9 FEE.—With respect to a credit card account under
10 an open end consumer credit plan, the creditor may
11 impose a fee for exchanging United States currency
12 with foreign currency in an account transaction, only
13 if—

14 “(A) such fee reasonably reflects the actual
15 costs incurred by the creditor to perform such
16 currency exchange;

17 “(B) the creditor discloses publicly its
18 method for calculating such fee; and

19 “(C) the primary Federal regulator of such
20 creditor determines that the method for calcu-
21 lating such fee complies with this paragraph.

22 “(j) ANNUAL AUDIT.—The primary Federal regu-
23 lator of a card issuer shall audit, on at least an annual
24 basis, the credit card operations and procedures used by
25 such issuer to ensure compliance with this section and sec-

1 tion 164, including by reviewing a sample of billing state-
2 ments to determine when they were mailed and received,
3 and by reviewing a sample of credit card accounts to deter-
4 mine when and how payments and finance charges were
5 applied. Such regulator shall promptly require the card
6 issuer to take any corrective action needed to comply with
7 this section.”.

8 **SEC. 3. STOP UNFAIR APPLICATION OF CARD PAYMENTS.**

9 Section 164 of the Truth in Lending Act (15 U.S.C.
10 1666c) is amended—

11 (1) by striking the section heading and all that
12 follows through “Payments” and inserting the fol-
13 lowing:

14 **“§ 164. Prompt and fair crediting of payments**

15 “(a) IN GENERAL.—Payments”; and

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

17 “(b) APPLICATION OF PAYMENT.—Upon receipt of a
18 payment from a cardholder, the card issuer shall—

19 “(1) apply the payment first to the card bal-
20 ance bearing the highest rate of interest, and then
21 to each successive balance bearing the next highest
22 rate of interest, until the payment is exhausted; and

23 “(2) after complying with paragraph (1), apply
24 the payment in the most effective way to minimize
25 the imposition of any finance charge to the account.

1 “(c) CHANGES BY CARD ISSUER.—If a card issuer
2 makes a material change in the mailing address, office,
3 or procedures for handling cardholder payments, and such
4 change causes a material delay in the crediting of a card-
5 holder payment made during the 60-day period following
6 the date on which such change took effect, the card issuer
7 may not impose any late fee or finance charge for a late
8 payment on the credit card account to which such payment
9 was credited.”.

10 **SEC. 4. STOP DECEPTIVE DISCLOSURE.**

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

14 “(3) INTEREST RATE LINKED TO PRIME
15 RATE.—If a credit card solicitation, application,
16 agreement, or plan specifies use of a variable inter-
17 est rate established by reference to a ‘prime rate’,
18 ‘prime interest rate’, or similar rate or index, the
19 referenced rate shall be disclosed and defined as the
20 bank prime loan rate posted by a majority of the top
21 25 (by assets in domestic offices) United States
22 chartered commercial banks, as published by the
23 Board of Governors of the Federal Reserve System.
24 To avoid an unfair or deceptive act or practice, a

1 card issuer may not use the term ‘prime rate’ to
2 refer to any other type of interest rate.”.

3 **SEC. 5. DEFINITIONS.**

4 Section 103 of the Truth in Lending Act (15 U.S.C.
5 1602) is amended by adding at the end the following:

6 “(cc) PRIMARY FEDERAL REGULATOR.—

7 “(1) IN GENERAL.—The term ‘primary Federal
8 regulator’, when used with respect to a card issuer
9 that is a depository institution, has the same mean-
10 ing as the term ‘appropriate Federal banking agen-
11 cy’, under section 3 of the Federal Deposit Insur-
12 ance Act.

13 “(2) AREAS OF RESPONSIBILITY.—For each
14 card issuer within its regulatory jurisdiction, the pri-
15 mary Federal regulator shall be responsible for over-
16 seeing the credit card operations of the card issuer,
17 ensuring compliance with the requirements of this
18 title, and enforcing the prohibition against unfair or
19 deceptive acts or practices.”.

20 **SEC. 6. STRENGTHEN CREDIT CARD INFORMATION COL-**
21 **LECTION.**

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

24 (1) in paragraph (1)—

1 (A) by striking “The Board shall” and in-
2 serting the following:

3 “(A) IN GENERAL.—The Board shall”; and

4 (B) by adding at the end the following:

5 “(B) INFORMATION TO BE INCLUDED.—

6 The information under subparagraph (A) shall
7 include, as of a date designated by the Board—

8 “(i) a list of each type of transaction
9 or event for which one or more of the card
10 issuers has imposed a separate interest
11 rate upon a cardholder, including pur-
12 chases, cash advances, and balance trans-
13 fers;

14 “(ii) for each type of transaction or
15 event identified under clause (i)—

16 “(I) each distinct interest rate
17 charged by the card issuer to a card-
18 holder, as of the designated date; and

19 “(II) the number of cardholders
20 to whom each such interest rate was
21 applied during the calendar month im-
22 mediately preceding the designated
23 date, and the total amount of interest
24 charged to such cardholders at each
25 such rate during such month;

1 “(iii) a list of each type of fee that
2 one or more of the card issuers has im-
3 posed upon a cardholder as of the des-
4 ignated date, including any fee imposed for
5 obtaining a cash advance, making a late
6 payment, exceeding the credit limit on an
7 account, making a balance transfer, or ex-
8 changing United States dollars for foreign
9 currency;

10 “(iv) for each type of fee identified
11 under clause (iii), the number of card-
12 holders upon whom the fee was imposed
13 during the calendar month immediately
14 preceding the designated date, and the
15 total amount of fees imposed upon card-
16 holders during such month;

17 “(v) the total number of cardholders
18 that incurred any interest charge or any
19 fee during the calendar month immediately
20 preceding the designated date; and

21 “(vi) any other information related to
22 interest rates, fees, or other charges that
23 the Board deems of interest.”; and

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

1 “(5) REPORT TO THE CONGRESS.—The Board
2 shall, on an annual basis, transmit to the Congress
3 and make public a report containing an assessment
4 by the Board of the profitability of credit card oper-
5 ations of depository institutions. Such report shall
6 include estimates by the Board of the approximate,
7 relative percentage of income derived by such oper-
8 ations from—

9 “(A) the imposition of interest rates on
10 cardholders, including separate estimates for—

11 “(i) interest with an annual percent-
12 age rate of less than 25 percent; and

13 “(ii) interest with an annual percent-
14 age rate equal to or greater than 25 per-
15 cent;

16 “(B) the imposition of fees on cardholders;

17 “(C) the imposition of fees on merchants;

18 and

19 “(D) any other material source of income,
20 while specifying the nature of that income.”.

21 **SEC. 7. CONFORMING AMENDMENT.**

22 Section 8 of the Fair Credit and Charge Card Disclo-
23 sure Act of 1988 (15 U.S.C. 1637 note) is repealed.

1 **SEC. 8. EFFECTIVE DATE.**

2 This Act and the amendments made by this Act shall
3 take effect 180 days after the date of the enactment of
4 this Act.

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