

Union Calendar No. 554

110TH CONGRESS
2D SESSION

H. R. 5244

[Report No. 110-857]

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

FEBRUARY 7, 2008

Mrs. MALONEY of New York (for herself, Mr. FRANK of Massachusetts, Ms. WATERS, Mr. GUTIERREZ, Mr. LYNCH, Mr. ELLISON, Mr. COHEN, Mr. FATTAH, Mr. HINCHEY, Mr. LANGEVIN, Mr. NADLER, Ms. SHEA-PORTER, Ms. SOLIS, Mr. WELCH of Vermont, Mr. WYNN, Mr. GONZALEZ, Mr. DEFazio, Mr. TAYLOR, Mr. OBEY, Ms. HIRONO, Mrs. BOYDA of Kansas, Ms. WASSERMAN SCHULTZ, Mr. UDALL of Colorado, Mr. DINGELL, Ms. CORRINE BROWN of Florida, Mr. THOMPSON of Mississippi, Mr. HASTINGS of Florida, Ms. CLARKE, Mr. JACKSON of Illinois, Mr. DAVIS of Illinois, Mrs. GILLIBRAND, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. WATSON, Mr. ARCURI, Mr. ENGEL, Mr. TIERNEY, Mr. VAN HOLLEN, Mr. GEORGE MILLER of California, Mr. MORAN of Virginia, Mr. WEINER, Mr. ABERCROMBIE, Ms. SCHAKOWSKY, Mr. SHAYS, Mr. SERRANO, Mr. DOGGETT, and Mr. LINCOLN DAVIS of Tennessee) introduced the following bill; which was referred to the Committee on Financial Services

SEPTEMBER 16, 2008

Additional sponsors: Mr. DELAHUNT, Ms. DELAURO, Mr. RAHALL, Mr. BLUMENAUER, Mr. ACKERMAN, Mr. MCGOVERN, Mr. HALL of New York, Mr. FILNER, Mr. MCNULTY, Mr. GRIJALVA, Mr. PAYNE, Mr. MCDERMOTT, Mr. REYES, Mr. WALZ of Minnesota, Mr. BECERRA, Mr. CHANDLER, Mr. CONYERS, Ms. MCCOLLUM of Minnesota, Mr. WU, Mr. RODRIGUEZ, Mr. KENNEDY, Mr. CLAY, Ms. WOOLSEY, Mr. BAIRD, Mr. CUMMINGS, Mr. SIRES, Mr. BERMAN, Mr. STARK, Mr. HARE, Ms. SLAUGHTER, Mr. CAPUANO, Mr. MILLER of North Carolina, Ms. ZOE LOFGREN of California, Mr. FARR, Ms. JACKSON-LEE of Texas, Mr. RYAN of Ohio, Mr. LEWIS of Georgia, Mr. HONDA, Ms. SUTTON, Mr.

SARBANES, Ms. ROYBAL-ALLARD, Ms. BALDWIN, Ms. ESHOO, Mr. ROTHMAN, Mr. KILDEE, Ms. LORETTA SANCHEZ of California, Mr. ISRAEL, Mr. KAGEN, Mr. BRALEY of Iowa, Mr. MEEK of Florida, Mr. ORTIZ, Mrs. LOWEY, Mr. JEFFERSON, Mr. BISHOP of Georgia, Mr. GENE GREEN of Texas, Mr. YARMUTH, Mr. WAXMAN, Mr. CARNAHAN, Mr. JOHNSON of Georgia, Mr. STUPAK, Ms. TSONGAS, Mr. COURTNEY, Mr. ALLEN, Mr. LEVIN, Mr. ANDREWS, Ms. GIFFORDS, Mr. WATT, Mr. BACA, Mr. KANJORSKI, Mr. HINOJOSA, Mr. CLEAVER, Mr. MCNERNEY, Mr. AL GREEN of Texas, Mr. BARROW, Mr. MARSHALL, Mr. MARKEY, Mr. SHERMAN, Mr. LIPINSKI, Mr. BUTTERFIELD, Ms. KILPATRICK, Mrs. CAPPS, Mrs. NAPOLITANO, Ms. NORTON, Mr. BOSWELL, Ms. LEE, Ms. KAPTUR, Mr. HIGGINS, Mr. OLVER, Mr. JONES of North Carolina, Ms. MATSUI, Mr. PASCARELL, Mr. PALLONE, Mr. MURTHA, Mr. INSLEE, Mr. BRADY of Pennsylvania, Mr. CARSON, Mr. SPEIER, Mr. HOLT, Mr. TOWNS, Ms. LINDA T. SÁNCHEZ of California, Mr. CUELLAR, Mr. RANGEL, Mrs. JONES of Ohio, Mr. FALEOMAVAEGA, Ms. BERKLEY, Mr. LOEBSACK, Mr. COOPER, Ms. BORDALLO, Mr. KUCINICH, and Mr. NEAL of Massachusetts

SEPTEMBER 16, 2008

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 February 7, 2008]

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 2008”.*

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

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

6 **“§ 127B. Additional requirements for credit card ac-**
7 **counts under an open end consumer cred-**
8 **it plan**

9 “(a) *RETROACTIVE RATE INCREASES AND UNIVERSAL*
10 *DEFAULT LIMITED.*—

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

16 “(2) *EXISTING BALANCE DEFINED.*—For pur-
17 poses of this subsection and subsections (b) and (c),
18 the term ‘existing balance’ means the amount owed on
19 a consumer credit card account as of the end of the
20 fourteenth day after the creditor provides notice of an
21 increase in the annual percentage rate in accordance
22 with subsection (c).

23 “(3) *TREATMENT OF EXISTING BALANCES FOL-*
24 *LOWING RATE INCREASE.*—If a creditor increases any
25 annual percentage rate of interest applicable to credit
26 card account of a consumer under an open end con-

1 *sumer credit plan and there is an existing balance in*
2 *the account to which such increase may not apply, the*
3 *creditor shall allow the consumer to repay the existing*
4 *balance using a method provided by the creditor*
5 *which is at least as beneficial to the consumer as 1*
6 *of the following methods:*

7 *“(A) An amortization period for the exist-*
8 *ing balance of at least 5 years starting from the*
9 *date on which the increased annual percentage*
10 *rate went into effect.*

11 *“(B) The percentage of the existing balance*
12 *that was included in the required minimum*
13 *periodic payment before the rate increase cannot*
14 *be more than doubled.*

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

16 *“(A) a creditor increases any annual per-*
17 *centage rate of interest applicable on a credit*
18 *card account of the consumer under an open end*
19 *consumer credit plan; and*

20 *“(B) the creditor is prohibited by this sec-*
21 *tion from applying the increased rate to an ex-*
22 *isting balance,*

23 *the creditor may not assess any fee or charge based*
24 *solely on the existing balance.”.*

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

5 “(b) *EXCEPTIONS.*—

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

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

15 “(B) *EXPIRATION OR LOSS OF PRO-*
16 *MOTIONAL RATE.*—*The increase is due solely*
17 *to—*

18 “(i) *the expiration of a promotional*
19 *rate; or*

20 “(ii) *the loss of a promotional rate for*
21 *a reason specified in the account agreement*
22 *(e.g., late payment).*

23 “(C) *PAYMENT NOT RECEIVED DURING 30-*
24 *DAY GRACE PERIOD AFTER DUE DATE.*—*The in-*
25 *crease is due solely to the fact that the con-*

1 *sumer’s minimum payment has not been received*
2 *within 30 days after the due date for such min-*
3 *imum payment.*

4 *“(2) LIMITATION ON INCREASES DUE TO LOSS OF*
5 *PROMOTIONAL RATE.—Notwithstanding paragraph*
6 *(1)(B)(ii), the annual percentage rate in effect after*
7 *the increase permitted under such subsection due to*
8 *the loss of a promotional rate may not exceed the an-*
9 *nuual percentage rate that would have applied under*
10 *the terms of the agreement after the expiration of the*
11 *promotional rate.”.*

12 *(c) ADVANCE NOTICE OF RATE INCREASES.—Section*
13 *127B of the Truth in Lending Act is amended by inserting*
14 *after subsection (b) (as added by subsection (b)) the fol-*
15 *lowing new subsection:*

16 *“(c) ADVANCE NOTICE OF RATE INCREASES.—In the*
17 *case of any credit card account under an open end con-*
18 *sumer credit plan, no increase in any annual percentage*
19 *rate of interest may take effect unless the creditor provides*
20 *a written notice to the consumer at least 45 days before*
21 *the increase takes effect which fully describes the changes*
22 *in the annual percentage rate, in a complete and con-*
23 *spicuous manner, and the extent to which such increase*
24 *would apply to an existing balance.”.*

1 (d) *CLERICAL AMENDMENT.*—*The table of sections for*
 2 *chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et*
 3 *seq.) is amended by inserting after the item relating to sec-*
 4 *tion 127A the following new item:*

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

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

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

11 “*(d) DOUBLE CYCLE BILLING.*—

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

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

19 “*(A) charging a consumer for deferred in-*
 20 *terest even though that interest may have ac-*
 21 *crued over multiple billing cycles; or*

22 “*(B) adjusting finance charges following*
 23 *resolution of a billing error dispute.”.*

1 **(b) LIMITATIONS RELATING TO ACCOUNT BALANCES**
2 **ATTRIBUTABLE ONLY TO ACCRUED INTEREST.**—Section
3 *127B* is amended by inserting after subsection (d) (as added
4 by subsection (a)) the following new subsection:

5 **“(e) LIMITATIONS RELATING TO ACCOUNT BALANCES**
6 **ATTRIBUTABLE ONLY TO ACCRUED INTEREST.**—

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

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

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

21 Such balance remains a legally binding debt obliga-
22 tion.

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

1 “(A) the consumer’s obligation to pay any
2 accrued interest on a credit card account under
3 an open end consumer credit plan; or

4 “(B) the accrual of interest on the out-
5 standing balance on any such account in accord-
6 ance with the terms of the account and this
7 title.”.

8 (c) *ACCESS TO PAYOFF BALANCE INFORMATION.*—Sec-
9 tion 127B of the Truth in Lending Act is amended by in-
10 serting after subsection (e) (as added by subsection (b)) the
11 following new subsection:

12 “(f) *PAYOFF BALANCE INFORMATION.*—Each periodic
13 statement provided by a creditor to a consumer with respect
14 to a credit card account under an open end consumer credit
15 plan shall contain the telephone number, Internet address,
16 and Worldwide Web site at which the consumer may request
17 the payoff balance on the account.”.

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

23 “(g) *CONSUMER RIGHT TO REJECT CARD BEFORE*
24 *NOTICE OF NEW ACCOUNT IS PROVIDED TO CONSUMER RE-*
25 *PORTING AGENCY.*—

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

7 “(2) *RULE OF CONSTRUCTION.*—Paragraph (1)
8 shall not be construed as prohibiting a creditor from
9 furnishing information about any application for
10 credit card account under an open end consumer
11 credit plan or any inquiry about any such account
12 to a consumer reporting agency (as so defined).”.

13 (e) *USE OF TERMS CLARIFIED.*—Section 127B of the
14 Truth in Lending Act is amended by inserting after sub-
15 section (g) (as added by subsection (d)) the following new
16 subsection:

17 “(h) *USE OF TERMS.*—The following requirements
18 shall apply with respect to the terms of any credit card
19 account under any open end consumer credit plan:

20 “(1) *‘FIXED’ RATE.*—The term ‘fixed’, when ap-
21 pearing in conjunction with a reference to the annual
22 percentage rate or interest rate applicable with re-
23 spect to such account, may only be used to refer to an
24 annual percentage rate or interest rate that will not
25 change or vary for any reason over the period clearly

1 *and conspicuously specified in the terms of the ac-*
2 *count.*

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

10 “(3) *DUE DATE.*—

11 “(A) *IN GENERAL.*—*Each periodic state-*
12 *ment for any such account shall contain a date*
13 *by which the next periodic payment on the ac-*
14 *count must be made to avoid a late fee or be con-*
15 *sidered a late payment, and any payment re-*
16 *ceived by 5 p.m., local time at the location speci-*
17 *fied by the creditor for the receipt of payment,*
18 *on such date shall be treated as a timely pay-*
19 *ment for all purposes.*

20 “(B) *CERTAIN ELECTRONIC FUND TRANS-*
21 *FERS.*—*Any payment with respect to any such*
22 *account made by a consumer on-line to the Web*
23 *site of the credit card issuer or by telephone di-*
24 *rectly to the credit card issuer before 5 p.m.,*
25 *local time at the location specified by the cred-*

1 itor for the receipt of payment, on any business
2 day shall be credited to the consumer's account
3 that business day.

4 “(C) *PRESUMPTION OF TIMELY PAYMENT.*—
5 Any evidence provided by a consumer in the
6 form of a receipt from the United States Postal
7 Service or other common carrier indicating that
8 a payment on a credit card account was sent to
9 the issuer not less than 7 days before the due
10 date contained in the periodic statement under
11 subparagraph (A) for such payment shall create
12 a presumption that such payment was made by
13 the due date, which may be rebutted by the cred-
14 itor for fraud or dishonesty on the part of the
15 consumer with respect to the mailing date.”.

16 (f) *PRO RATA PAYMENT ALLOCATIONS.*—Section 127B
17 of the Truth in Lending Act is amended by inserting after
18 subsection (h) (as added by subsection (e)) the following new
19 subsection:

20 “(i) *PRO RATA PAYMENT ALLOCATIONS.*—

21 “(1) *IN GENERAL.*—Except as permitted under
22 paragraph (2), if the outstanding balance on a credit
23 card account under an open end consumer credit plan
24 accrues interest at 2 or more different annual per-
25 centage rates, the total amount of each periodic pay-

1 *ment made on such account shall be allocated by the*
2 *creditor between or among the outstanding balances*
3 *at each such annual percentage rate in the same pro-*
4 *portion as each such balance bears to the total out-*
5 *standing balance on the account.*

6 *“(2) ALLOCATION TO HIGHER RATE.—Notwith-*
7 *standing paragraph (1), a creditor may elect, in any*
8 *case described in such paragraph, to allocate more*
9 *than a pro rata share of any payment to a portion*
10 *of the outstanding balance that bears a higher annual*
11 *percentage rate than another portion of such out-*
12 *standing balance.*

13 *“(3) SPECIAL RULES FOR ACCOUNTS WITH PRO-*
14 *MOTIONAL RATE BALANCES OR DEFERRED INTEREST*
15 *BALANCES.—*

16 *“(A) IN GENERAL.—Notwithstanding para-*
17 *graph (1) or (2), in the case of a credit card ac-*
18 *count under an open end consumer credit plan*
19 *the current terms of which allow the consumer to*
20 *receive the benefit of a promotional rate or de-*
21 *ferred interest plan, amounts paid in excess of*
22 *the required minimum payment shall be allo-*
23 *cated to the promotional rate balance or the de-*
24 *ferred interest balance only if other balances*
25 *have been fully paid.*

1 “(B) *EXCEPTION FOR DEFERRED INTEREST*
2 *BALANCES.*—*Notwithstanding subparagraph (A),*
3 *a creditor may allocate the entire amount paid*
4 *by the consumer in excess of the required min-*
5 *imum periodic payment to a balance on which*
6 *interest is deferred during the 2 billing cycles*
7 *immediately preceding the expiration of the pe-*
8 *riod during which interest is deferred.*

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

20 “(g) *TIMELY PROVISION OF PERIODIC STATEMENTS.*—
21 *Section 127B of the Truth in Lending Act is amended by*
22 *inserting after subsection (i) (as added by subsection (f))*
23 *the following new subsection:*

24 “(j) *TIMELY PROVISION OF PERIODIC STATEMENTS.*—
25 *Each periodic statement with respect to a credit card ac-*

1 *count under an open end consumer credit plan shall be sent*
 2 *by the creditor to the consumer not less than 25 calendar*
 3 *days before the due date identified in such statement for*
 4 *the next payment on the outstanding balance on such ac-*
 5 *count, and section 163(a) shall be applied with respect to*
 6 *any such account by substituting ‘25’ for ‘fourteen’.”.*

7 **SEC. 4. CONSUMER CHOICE WITH RESPECT TO OVER-THE-**
 8 **LIMIT TRANSACTIONS.**

9 *Section 127B of the Truth in Lending Act is amended*
 10 *by inserting after subsection (j) (as added by section 3(g))*
 11 *the following new subsections:*

12 *“(k) OPT-OUT OF CREDITOR AUTHORIZATION OF*
 13 *OVER-THE-LIMIT TRANSACTIONS IF FEES ARE IMPOSED.—*

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

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

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

5 “(B) by submitting to the creditor a signed
6 notice of election, by mail or electronic commu-
7 nication, on a form issued by the creditor for
8 purposes of this subparagraph.

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

15 “(4) *NOTIFICATION SYSTEM.*—Each creditor that
16 maintains credit card accounts under an open end
17 consumer credit plan shall establish and maintain a
18 notification system, including a toll-free telephone
19 number, Internet address, and Worldwide Web site,
20 which permits any consumer whose credit card ac-
21 count is maintained by the creditor to notify the cred-
22 itor of an election under this subsection in accordance
23 with paragraph (2).

24 “(5) *ANNUAL NOTICE TO CONSUMERS OF AVAIL-*
25 *ABILITY OF ELECTION.*—In the case of any credit card

1 *account under an open end consumer credit plan, the*
2 *creditor shall include a notice, in clear and con-*
3 *spicuous language, of the availability of an election*
4 *by the consumer under this paragraph as a means of*
5 *avoiding over-the limit fees and a higher amount of*
6 *indebtedness, and the method for providing such no-*
7 *tice—*

8 *“(A) in the periodic statement required*
9 *under subsection (b) with respect to such account*
10 *at least once each calendar year; and*

11 *“(B) in any such periodic statement which*
12 *includes a notice of the imposition of an over-*
13 *the-limit fee during the period covered by the*
14 *statement.*

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

21 *“(7) REGULATIONS.—*

22 *“(A) IN GENERAL.—The Board shall issue*
23 *regulations allowing for the completion of over-*
24 *the-limit transactions that for operational rea-*
25 *sons exceed the credit limit by a de minimis*

1 *amount, even where the cardholder has made an*
2 *election under paragraph (1).*

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

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

20 “(m) *OVER-THE-LIMIT FEES PROHIBITED IN CON-*
21 *JUNCTION WITH CERTAIN CREDIT HOLDS.—Notwith-*
22 *standing subsection (l), an over-the-limit fee may not be im-*
23 *posed if the credit limit was exceeded due to a hold unless*
24 *the actual amount of the transaction for which the hold was*

1 *placed would have resulted in the consumer exceeding the*
2 *credit limit.”.*

3 **SEC. 5. STRENGTHEN CREDIT CARD INFORMATION COLLEC-**
4 **TION.**

5 *Section 136(b) of the Truth in Lending Act (15 U.S.C.*
6 *1646(b)) is amended—*

7 *(1) in paragraph (1)—*

8 *(A) by striking “COLLECTION REQUIRED.—*
9 *The Board shall” and inserting “COLLECTION*
10 *REQUIRED.—*

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

12 *(B) by adding at the end the following new*
13 *subparagraph:*

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

20 *“(i) A list of each type of transaction*
21 *or event during the semiannual period for*
22 *which 1 or more creditors has imposed a*
23 *separate interest rate upon a consumer*
24 *credit card accountholder, including pur-*

1 *chases, cash advances, and balance trans-*
2 *fers.*

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

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

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

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

1 “(iv) For each type of fee identified
2 under clause (iii), the number of
3 accountholders upon whom the fee was im-
4 posed during each calendar month of the
5 semiannual period, and the total amount of
6 fees imposed upon cardholders during such
7 month.

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

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

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

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

24 “(ix) The total number and amount of
25 repayments on outstanding balances on con-

1 *sumer credit card accounts in each month of*
2 *the semiannual period.*

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

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

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

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

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

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

1 *limits in effect as of the beginning of such*
2 *period.*

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

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

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

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

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

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

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

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

22 *and*

23 “(D) *any other material source of income,*
24 *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 (m) (as added by section 4)*
5 *the following new subsection:*

6 *“(n) 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 fees (other*
11 *than late fees or over-the-limit fees) by the consumer*
12 *in the first year the account is opened in an amount*
13 *in excess of 25 percent of the total amount of credit*
14 *authorized under the account, no payment of any fees*
15 *(other than late fees or over-the-limit fees) may be*
16 *made from the credit made available by the card.*

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

21 **SEC. 7. EXTENSIONS OF CREDIT TO UNDERAGE CON-**
22 **SUMERS.**

23 *Section 127(c) of the Truth in Lending Act (15 U.S.C.*
24 *1637(c)) is amended by adding at the end the following new*
25 *paragraph:*

1 “(8) *EXTENSIONS OF CREDIT TO UNDERAGE CON-*
2 *SUMERS.—*

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

8 “(B) *RULE OF CONSTRUCTION.—For the*
9 *purposes of determining the age of an applicant,*
10 *the submission of a signed application by a con-*
11 *sumer stating that the consumer is over 18 shall*
12 *be considered sufficient proof of age.”.*

13 **SEC. 8. EFFECTIVE DATE.**

14 (a) *IN GENERAL.—The amendments made by this Act*
15 *shall apply to all credit card accounts under open end con-*
16 *sumer credit plans as of the end of the 1-year period begin-*
17 *ning on the date of the enactment of this Act.*

18 (b) *REGULATIONS.—The Board of Governors of the*
19 *Federal Reserve System, in consultation with the Comp-*
20 *troller of the Currency, the Director of the Office of Thrift*
21 *Supervision, the Federal Deposit Insurance Corporation,*
22 *the National Credit Union Administration Board, and the*
23 *Federal Trade Commission, shall prescribe regulations, in*
24 *final form, implementing the amendments made by this Act*
25 *before the end of the 6-month period beginning on the date*

1 *of the enactment of this Act, except that it is the sense of*
2 *the Congress that no provision of this Act should impede*
3 *the promulgation of regulations in final form under laws*
4 *in effect on the day before such date of enactment and that*
5 *such regulations should be prescribed in final form on or*
6 *before December 31, 2008, and should apply to credit card*
7 *transactions under any open end consumer credit plan after*
8 *the end of the 30-day period beginning on the date such*
9 *regulations are prescribed in final form.*

Union Calendar No. 554

110TH CONGRESS
2^D SESSION

H. R. 5244

[Report No. 110-857]

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.

SEPTEMBER 16, 2008

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