

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 3639) TO AMEND THE CREDIT CARD ACCOUNTABILITY RESPONSIBILITY AND DISCLOSURE ACT OF 2009 TO ESTABLISH AN EARLIER EFFECTIVE DATE FOR VARIOUS CONSUMER PROTECTIONS, AND FOR OTHER PURPOSES

NOVEMBER 3, 2009.—Referred to the House Calendar and ordered to be printed

Mr. PERLMUTTER, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 884]

The Committee on Rules, having had under consideration House Resolution 884, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 3639, the Expedited CARD Reform for Consumers Act of 2009, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services. The resolution waives all points of order against consideration of the bill except clauses 9 and 10 of rule XXI. The resolution provides that the amendment in the nature of a substitute recommended by the Committee on Financial Services now printed in the bill, modified by the amendment printed in part A of this report, shall be considered as adopted and provides that the bill, as amended, shall be considered as the original bill for the purpose of further amendment under the five-minute rule and shall be considered as read. The resolution waives all points of order against the bill, as amended. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).

The resolution makes in order only those further amendments printed in part B of this report. The amendments made in order may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a

demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments in part B except for clauses 9 and 10 of rule XXI are waived. The resolution provides that for those amendments reported from the Committee of the Whole, the question of their adoption shall be put to the House en gros and without demand for division of the question. The resolution provides one motion to recommit with or without instructions.

The resolution provides that the Chair may entertain a motion that the Committee rise only if offered by the chair of the Committee on Financial Services or his designee and that the Chair may not entertain a motion to strike out the enacting words of the bill (as described in clause 9 of rule XVIII).

EXPLANATION OF WAIVERS

Although the rule waives all points of order against consideration of the bill (except for clauses 9 and 10 of rule XXI) and all points of order against the bill, as amended, the Committee is not aware of any points of order. The waivers of all points of order are prophylactic.

SUMMARY OF AMENDMENT IN PART A TO BE CONSIDERED AS ADOPTED

The amendment clarifies that the accelerated effective date of December 1, 2009 will apply only to those provisions in Titles I–III of the Credit CARD Act that now have an effective date on or after February 22, 2009. These are the titles of the Credit CARD Act that deal directly with credit cards. The amendment also provides that the accelerated effective dates are not applicable to any credit card issuer which is a depository institution with fewer than 2,000,000 credit cards in circulation as of the date of enactment of this bill.

SUMMARY OF AMENDMENTS IN PART B TO BE MADE IN ORDER

(Summaries derived from information provided by sponsors.)

1. Hensarling (TX): Would clarify that changes to a credit card agreement that reduce a customer's interest rate or other fees can be implemented immediately, instead of being subject to the 45-day waiting period required under the CARD Act of 2009. (10 minutes)

2. McCarthy, Carolyn (NY), Markey, Betsy (CO): Would provide that any card issuer that imposes a moratorium on increases in rates, fees and terms and conditions of a contract would be exempt from the accelerated date for the provision requiring an issuer to apply a customer's payment in excess of the minimum amount due, to the highest rate balance. (10 minutes)

3. Maffei (NY): Would set the effective date of certain provisions of the CARD Act of 2009 to the enactment date of this Act. (10 minutes)

4. Sutton (OH): Would prevent the closure of a credit card account in response to the imposition of a new fee from negatively impacting a consumer's credit report or credit score. (10 minutes)

5. Stupak (MI): Would impose a moratorium on increasing annual percentage rates, fees and finance charges, as well as a moratorium on changing the terms for repayment of outstanding bal-

ances on credit card accounts, for nine months after enactment of this Act. (10 minutes)

PART A—TEXT OF AMENDMENT TO BE CONSIDERED AS ADOPTED

Page 5, strike line 6 and all that follows through line 17 and insert the following new section:

SEC. 2. EARLIER EFFECTIVE DATE FOR CREDIT CARD PROVISIONS OF THE CREDIT CARD ACT OF 2009.

Section 3 of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (15 U.S.C. 1602 nt.) is amended—

(1) by striking “This Act” and inserting “(a) IN GENERAL.—This Act”; and

(2) by adding at the end the following new subsections:

“(b) CERTAIN CREDIT CARD PROVISIONS.—Except as otherwise specifically provided in this Act, titles I, II, and III, and the amendments made by such titles, shall take effect on December 1, 2009.

“(c) CERTAIN CREDIT CARD ISSUERS.—Except as otherwise specifically provided in this Act and notwithstanding subsection (b), the effective date established under subsection (a) shall apply with respect to the application of titles I, II, and III, and the amendments made by such titles, to any credit card issuer which is a depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act) with fewer than 2,000,000 credit cards in circulation as of the date of the enactment of this Act.”.

PART B—TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HENSARLING, JEB OF TEXAS, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 7, after line 18, insert the following new section:

SEC. 4. CLARIFICATION THAT 45-DAY DELAY DOES NOT APPLY TO REDUCTIONS IN INTEREST RATES AND FEES.

Subsection (i) of section 127 of the Truth in Lending Act (15 U.S.C. 1637) (as added by section 101(a)(1) of the Credit CARD Act of 2009) is amended by adding at the end the following new paragraph:

“(5) CLARIFICATION.—No provision of this subsection shall be construed as preventing any creditor from putting any reduction in an annual percentage rate, any decrease or elimination of any fee imposed on any consumer, or any significant change in terms solely or primarily for the benefit of the consumer into effect immediately.”.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MCCARTHY, CAROLYN OF NEW YORK, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 7, after line 18, insert the following new section:

SEC. 4. MORATORIUM ON INCREASES IN RATES AND FEES AND CHANGES IN TERMS TO THE DETRIMENT OF THE CONSUMER.

Notwithstanding any other provision of this Act or any amendment made by this Act, subsection (b) of section 164 of the Truth

in Lending Act (as added by section 104(4) of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (Public Law 111–24)) shall not take effect until February 22, 2010 for any creditor with respect to an existing credit card account under an open end credit plan, or such a plan issued on or after the date of enactment, as long as the creditor does not—

(1) increase any annual percentage rate, fee, or finance charge applicable to any existing or future balance, except as permitted under subsection 171(b) of the Truth in Lending Act (as added by Public Law 111–24); or

(2) change the terms to the detriment of a consumer, including terms governing the repayment of any outstanding balance, except as provided in section 171(c) of the Truth in Lending Act (as added by Public Law 111–24).

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MAFFEI, DANIEL OF NEW YORK, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 2 of the bill, strike “December 1, 2009” and insert “the date of the enactment of the Expedited CARD Reform for Consumers Act of 2009”.

Page 6, beginning on line 2, strike “December 1, 2009” and insert “the date of the enactment of the Expedited CARD Reform for Consumers Act of 2009”.

Page 6, line 12, strike “December 1, 2009” and insert “the date of the enactment of the Expedited CARD Reform for Consumers Act of 2009”.

Page 7, beginning on line 2, strike “December 1, 2009” and insert “the date of the enactment of the Expedited CARD Reform for Consumers Act of 2009”.

Page 7, line 12, strike “December 1, 2009” and insert “the date of the enactment of the Expedited CARD Reform for Consumers Act of 2009”.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SUTTON, BETTY OF OHIO, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 7, after line 18, insert the following new section:

SEC. 4. ADDITIONAL LIMITATIONS ESTABLISHED.

Section 127 of the Truth in Lending Act (U.S.C. 1637) is amended by inserting after subsection (r) (as added by the Credit CARD Act of 2009) the following new subsection:

“(s) CANCELLATION OF ACCOUNT WITHOUT DETRIMENTAL EFFECT.—If, in the case of a credit card account under an open end consumer credit plan, the consumer receives notice of the imposition of a new fee, and within the 45-day period beginning on receipt of such notice, pays off any outstanding balance on the account, no creditor and no consumer reporting agency (as defined in section 603) may use such pay off or closure of the consumer credit account to negatively impact the consumer’s credit score or consumer report (as such terms are defined in section 609 and 603, respectively).”.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE STUPAK,
BART OF MICHIGAN, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 7, after line 18, insert the following new section:

SEC. 4. MORATORIUM ON RATE INCREASES.

(a) **IN GENERAL.**—During the period beginning on the date of the enactment of this Act and ending 9 months after the date of the enactment of the Credit Card Accountability Responsibility and Disclosure Act of 2009, in the case of any credit card account under an open end consumer credit plan—

(1) no creditor may increase any annual percentage rate, fee, or finance charge applicable to any outstanding balance, except as permitted under subsection 171(b) of the Truth in Lending Act (as added by Public Law 111–24); and

(2) no creditor may change the terms governing the repayment of any outstanding balance, except as set forth in section 171(c) of the Truth in Lending Act (as added by Public Law 111–24).

(b) **DEFINITIONS.**—For purposes of this section, the following definitions shall apply:

(1) **ANNUAL PERCENTAGE RATE.**—The term “annual percentage rate” means an annual percentage rate, as determined under section 107 of the Truth in Lending Act (15 U.S.C. 1606).

(2) **FINANCE CHARGE.**—The term “finance charge” means a finance charge, as determined under section 106 of the Truth in Lending Act (15 U.S.C. 1605).

(3) **OUTSTANDING BALANCE.**—The term “outstanding balance” has the same meaning as in section 171(d) of the Truth in Lending Act (as added by Public Law 111–24).

(4) **OTHER TERMS.**—Any term used in this section that is defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602) and is not otherwise defined in this section shall have the same meanings as in section 103 of the Truth in Lending Act.

(c) **REGULATORY AUTHORITY.**—

(1) **IN GENERAL.**—The Board of Governors of the Federal Reserve System may prescribe such regulations as may be necessary to carry out this section.

(2) **EFFECTIVE DATE.**— The provisions of this section shall take effect upon the date of the enactment of this title, regardless of whether rules are issued under subsection (a).