

109TH CONGRESS
1ST SESSION

S. 499

To amend the Consumer Credit Protection Act to ban abusive credit practices, enhance consumer disclosures, protect underage consumers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 2, 2005

Mr. DODD introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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 2005” or the
6 “Credit CARD Act of 2005”.

7 **SEC. 2. REGULATORY AUTHORITY.**

8 The Board of Governors of the Federal Reserve Sys-
9 tem may issue such rules or publish such model forms as

1 it considers necessary to carry out this Act and the
2 amendments made by this Act.

3 **TITLE I—ABUSIVE PRACTICES**
4 **Subtitle A—Use of Default Clauses**

5 **SEC. 111. PRIOR NOTICE OF RATE INCREASES REQUIRED.**

6 Section 127 of the Truth in Lending Act (15 U.S.C.
7 1637) is amended by adding at the end the following:

8 “(h) ADVANCE NOTICE OF INCREASE IN INTEREST
9 RATE REQUIRED.—

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

17 “(A) may take effect before the beginning
18 of the billing cycle which begins not less than
19 15 days after the obligor receives notice of such
20 increase; or

21 “(B) may apply to any outstanding balance
22 of credit under such plan as of the date of the
23 notice of the increase required under paragraph
24 (1).

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

8 **SEC. 112. FREEZE ON INTEREST RATE TERMS AND FEES ON**
9 **CANCELED CARDS.**

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

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

18 “(1) an annual percentage rate of interest ap-
19 plicable after the cancellation with respect to the
20 outstanding balance on the account as of the date of
21 cancellation may not exceed any annual percentage
22 rate of interest applicable with respect to such bal-
23 ance under the terms and conditions in effect before
24 the date of the notice of any increase referred to in
25 subsection (h)(1); and

1 “(2) the repayment of the outstanding balance
 2 after the cancellation shall be subject to all other
 3 terms and conditions applicable with respect to such
 4 account before the date of the notice of the increase
 5 referred to in subsection (h).”.

6 **SEC. 113. LIMITS ON FINANCE AND INTEREST CHARGES**
 7 **FOR ON-TIME PAYMENTS.**

8 Section 127 of the Truth in Lending Act (15 U.S.C.
 9 1637), as amended by this Act, is amended by adding at
 10 the end the following:

11 “(j) PROHIBITION ON PENALTIES FOR ON-TIME
 12 PAYMENTS.—

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

20 “(2) PROHIBITION ON CANCELLATION OR ADDI-
 21 TIONAL FEES FOR ON-TIME PAYMENTS OR PAYMENT
 22 IN FULL.—In the case of any credit card account
 23 under an open end consumer credit plan, no fee or
 24 other penalty may be imposed on the consumer in
 25 connection with the payment in full of an existing

1 account balance, or payment of more than the min-
2 imum required payment of an existing account bal-
3 ance.”.

4 **SEC. 114. PROHIBITION ON OVER-THE-LIMIT FEES FOR**
5 **CREDITOR-APPROVED TRANSACTIONS.**

6 Section 127 of the Truth in Lending Act (15 U.S.C.
7 1637), as amended by this Act, is amended by adding at
8 the end the following:

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

18 **TITLE II—ENHANCED**
19 **CONSUMER DISCLOSURES**

20 **SEC. 211. DISCLOSURES RELATED TO “TEASER RATES”.**

21 Section 127(c) of the Truth in Lending Act (15
22 U.S.C. 1637(c)) is amended—

23 (1) by redesignating paragraph (5) as para-
24 graph (7); and

1 (2) by inserting after paragraph (4) the fol-
2 lowing:

3 “(5) ADDITIONAL NOTICE CONCERNING ‘TEAS-
4 ER RATES’.—

5 “(A) IN GENERAL.—An application or so-
6 licitation for a credit card for which a diselo-
7 sure is required under this subsection shall con-
8 tain the disclosures referred to in subparagraph
9 (B) or (C), as applicable, if the application or
10 solicitation offers, for an introductory period of
11 less than 1 year, an annual percentage rate of
12 interest that—

13 “(i) is less than the annual percentage
14 rate of interest which will apply after the
15 end of the introductory period; or

16 “(ii) in the case of an annual percent-
17 age rate which varies in accordance with
18 an index, is less than the current annual
19 percentage rate under the index which will
20 apply after the end of the introductory pe-
21 riod.

22 “(B) FIXED ANNUAL PERCENTAGE
23 RATE.—If the annual percentage rate which will
24 apply after the end of the introductory period
25 will be a fixed rate, the application or sollicita-

1 tion shall include the following disclosure: ‘The
2 annual percentage rate of interest applicable
3 during the introductory period is not the annual
4 percentage rate which will apply after the end
5 of the introductory period. The non-introduc-
6 tory annual percentage rate will apply after [in-
7 sert applicable date] and will be [insert applica-
8 ble percentage rate].’.

9 “(C) VARIABLE ANNUAL PERCENTAGE
10 RATE.—If the annual percentage rate which will
11 apply after the end of the introductory period
12 will vary in accordance with an index, the appli-
13 cation or solicitation shall include the following
14 disclosure: ‘The annual percentage rate of inter-
15 est applicable during the introductory period is
16 not the annual percentage rate which will apply
17 after the end of the introductory period. The
18 permanent annual percentage rate will be deter-
19 mined by an index and will apply after [insert
20 applicable date]. If the index which will apply
21 after such date were applied to your account
22 today, the annual percentage rate would be [in-
23 sert applicable percentage rate].’.

24 “(D) CONDITIONS FOR INTRODUCTORY
25 RATES.—If the annual percentage rate of inter-

1 est which will apply during the introductory pe-
2 riod described in subparagraph (A) is revocable
3 or otherwise conditioned upon any action by the
4 obligor, including any failure by the obligor to
5 pay the minimum payment amount or finance
6 charge or to make any payment by the stated
7 monthly payment due date, the application or
8 solicitation shall include a disclosure of—

9 “(i) the conditions that the obligor
10 must meet in order to retain the annual
11 percentage rate of interest during the in-
12 troductory period; and

13 “(ii) the annual percentage rate of in-
14 terest that will apply as a result of the fail-
15 ure of the obligor to meet such conditions.

16 “(E) FORM OF DISCLOSURES.—The disclo-
17 sures required under this paragraph shall be
18 made in a clear and conspicuous manner, in a
19 format that is at least as prominent as the dis-
20 closure of the annual percentage rate of interest
21 which will apply during the introductory pe-
22 riod.”.

1 **SEC. 212. PAYOFF TIMING DISCLOSURES.**

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

5 “(11)(A) Repayment information that would
6 apply to the outstanding balance of the consumer
7 under the credit plan, including—

8 “(i) the outstanding balance in the account
9 at the beginning of the statement period, as re-
10 quired by paragraph (1) of this subsection;

11 “(ii) the required minimum monthly pay-
12 ment on that balance, represented as both a
13 dollar figure and as a percentage of that bal-
14 ance;

15 “(iii) the due date, within which, payment
16 must be made to avoid addition charges, as re-
17 quired by paragraph (9) of this subsection;

18 “(iv) the number of months (rounded to
19 the nearest month) that it would take to pay
20 the entire amount of that balance, if the con-
21 sumer pays only the required minimum monthly
22 payments and if no further advances are made;

23 “(v) the total cost to the consumer, includ-
24 ing interest and principal payments, of paying
25 that balance in full, if the consumer pays only

1 the required minimum monthly payments and if
2 no further advances are made; and

3 “(vi) the monthly payments 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.

7 “(B)(i) Subject to clause (ii), in making the dis-
8 closures under subparagraph (A) the creditor shall
9 apply the interest rate in effect on the date on which
10 the disclosure is made until the date on which the
11 balance would be paid in full.

12 “(ii) If the interest rate in effect on the date on
13 which the disclosure is made is a temporary rate
14 that will change under a contractual provision apply-
15 ing an index or formula for subsequent interest rate
16 adjustment, the creditor shall apply the interest rate
17 in effect on the date on which the disclosure is made
18 for as long as that interest rate will apply under
19 that contractual provision, and then apply an inter-
20 est rate based on the index or formula in effect on
21 the applicable billing date.

22 “(C) FORM OF DISCLOSURE.—

23 “(i) IN GENERAL.—All of the information
24 described in subparagraph (A) shall—

1 “(I) be disclosed in the form and
2 manner which the Board shall prescribe by
3 regulations; and

4 “(II) be placed in a conspicuous and
5 prominent location on the billing statement
6 in typeface that is at least as large as the
7 largest type on the statement, but in no in-
8 stance less than 12-point in size.

9 “(D) TABULAR FORMAT.—

10 “(i) FORM OF TABLE TO BE PRE-
11 SCRIBED.—In the regulations prescribed under
12 subparagraph (C), the Board shall require that
13 the disclosure of such information shall be in
14 the form of a table that—

15 “(I) contains clear and concise head-
16 ings for each item of such information; and

17 “(II) provides a clear and concise
18 form stating each item of information re-
19 quired to be disclosed under each such
20 heading.

21 “(E) REQUIREMENTS REGARDING LOCATION
22 AND ORDER OF TABLE.—In prescribing the form of
23 the table under subparagraph (D), the Board shall
24 require that—

1 “(i) all of the information in the table, and
2 not just a reference to the table, be placed on
3 the billing statement, as required by this sub-
4 paragraph; and

5 “(ii) the items required to be included in
6 the table shall be listed in the order in which
7 such items are set forth in subparagraph (A).

8 “(F) BOARD DISCRETION IN PRESCRIBING
9 ORDER AND WORDING OF TABLE.—In prescribing
10 the form of the table under subparagraph (C), the
11 Board shall—

12 “(i) employ terminology which is different
13 than the terminology which is employed in sub-
14 paragraph (A), if such terminology is easily un-
15 derstood and conveys substantially the same
16 meaning.”.

17 (b) CIVIL LIABILITY.—Section 130(a) of the Truth
18 in Lending Act (15 U.S.C. 1640(a)) is amended, in the
19 undesignated paragraph following paragraph (4), by strik-
20 ing the second sentence and inserting the following: “In
21 connection with the disclosures referred to in subsections
22 (a) and (b) of section 127, a creditor shall have a liability
23 determined under paragraph (2) only for failing to comply
24 with the requirements of section 125, 127(a), or para-
25 graph (4), (5), (6), (7), (8), (9), (10), or (11) of section

1 127(b), or for failing to comply with disclosure require-
 2 ments under State law for any term or item that the
 3 Board has determined to be substantially the same in
 4 meaning under section 111(a)(2) as any of the terms or
 5 items referred to in section 127(a), or paragraph (4), (5),
 6 (6), (7), (8), (9), (10), or (11) of section 127(b).

7 **SEC. 213. REQUIREMENTS RELATING TO LATE PAYMENT**
 8 **DEADLINES AND PENALTIES.**

9 Section 127 of the Truth in Lending Act (15 U.S.C.
 10 1637), as amended by this Act, is amended by adding at
 11 the end the following:

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

14 “(1) LATE PAYMENT DEADLINE AND POSTMARK
 15 DATE REQUIRED TO BE DISCLOSED.—In the case of
 16 a credit card account under an open end consumer
 17 credit plan under which a late fee or charge may be
 18 imposed due to the failure of the obligor to make
 19 payment on or before the due date for such pay-
 20 ment, the periodic statement required under sub-
 21 section (b) with respect to the account shall include,
 22 in a conspicuous location on the billing statement—

23 “(A) the date on which the payment is due
 24 or, if different, the date on which a late pay-
 25 ment fee will be charged, together with the

1 amount of the fee or charge to be imposed if
2 payment is made after that date;

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

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

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

22 “(3) REQUIREMENTS RELATING TO POSTMARK
23 DATE.—

24 “(A) IN GENERAL.—The date included in
25 a periodic statement pursuant to paragraph

1 (1)(B) with regard to the postmark on a pay-
2 ment shall allow, in accordance with regulations
3 prescribed by the Board under subparagraph
4 (B), a reasonable time for the consumer to
5 make the payment and a reasonable time for
6 the delivery of the payment by the due date.

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

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

1 is made before the close of business of the branch
 2 or office on the business day immediately preceding
 3 the due date for such payment.”.

4 **TITLE III—RESPONSIBILITIES IN** 5 **BANKRUPTCY**

6 **SEC. 311. AMENDMENTS TO THE BANKRUPTCY CODE.**

7 Section 523(a)(2)(C) of title 11, United States Code,
 8 is amended by adding at the end the following: “However,
 9 this subparagraph shall not apply for any portion of debt
 10 incurred under an open end credit plan, as defined in sec-
 11 tion 103 of the Truth in Lending Act, if the annual rate
 12 of interest charged with respect to the account was more
 13 than 20 percentage points above the Federal prime lend-
 14 ing rate on the last day of the month during which the
 15 interest was charged.”.

16 **TITLE IV—PROTECTION OF** 17 **YOUNG CONSUMERS**

18 **SEC. 411. EXTENSIONS OF CREDIT TO UNDERAGE CON-** 19 **SUMERS.**

20 Section 127(c) of the Truth in Lending Act (15
 21 U.S.C. 1637(c)) is amended by inserting after paragraph
 22 (5), as added by this Act, the following:

23 “(6) APPLICATIONS FROM UNDERAGE CON-
 24 SUMERS.—

1 “(A) PROHIBITION ON ISSUANCE.—No
2 credit card may be issued to, or open end credit
3 plan established on behalf of, a consumer who
4 has not attained the age of 21, unless the con-
5 sumer has submitted a written application to
6 the card issuer that meets the requirements of
7 subparagraph (B).

8 “(B) APPLICATION REQUIREMENTS.—An
9 application to open a credit card account by an
10 individual who has not attained the age of 21
11 as of the date of submission of the application
12 shall require—

13 “(i) the signature of the parent, legal
14 guardian, or spouse of the consumer, or
15 any other individual having a means to
16 repay debts incurred by the consumer in
17 connection with the account, indicating
18 joint liability for debts incurred by the con-
19 sumer in connection with the account be-
20 fore the consumer has attained the age of
21 21;

22 “(ii) submission by the consumer of
23 financial information indicating an inde-
24 pendent means of repaying any obligation

1 arising from the proposed extension of
2 credit in connection with the account; or

3 “(iii) proof by the consumer that the
4 consumer has completed a credit coun-
5 seling course of instruction by a nonprofit
6 budget and credit counseling agency ap-
7 proved by the Board for such purpose.

8 “(C) MINIMUM REQUIREMENTS FOR COUN-
9 SELING AGENCIES.—To be approved by the
10 Board under subparagraph (B)(iii), a credit
11 counseling agency shall, at a minimum—

12 “(i) be a nonprofit budget and credit
13 counseling agency, the majority of the
14 board of directors of which—

15 “(I) is not employed by the agen-
16 cy; and

17 “(II) will not directly or indi-
18 rectly benefit financially from the out-
19 come of a credit counseling session;

20 “(ii) if a fee is charged for counseling
21 services, charge a reasonable fee, and pro-
22 vide services without regard to ability to
23 pay the fee; and

24 “(iii) provide trained counselors who
25 receive no commissions or bonuses based

1 on referrals, and demonstrate adequate ex-
2 perience and background in providing cred-
3 it counseling.”.

4 **SEC. 412. ENHANCED PENALTIES.**

5 Section 130(a)(2)(A) of the Truth in Lending Act
6 (15 U.S.C. 1640 (a)(2)(A)(iii)) is amended by striking “or
7 (iii) in the” and inserting the following:

8 “(iii) in the case of an individual action relating
9 to an open end credit plan that is not secured by
10 real property or a dwelling, twice the amount of any
11 finance charge in connection with the transaction,
12 with a minimum of \$500 and a maximum of \$5,000
13 or such higher amount as may be appropriate in the
14 case of an established pattern or practice of such
15 failures; or

16 “(iv) in the”.

17 **SEC. 413. RESTRICTIONS ON CERTAIN AFFINITY CARDS.**

18 Section 127 of the Truth in Lending Act (15 U.S.C.
19 1637), as amended by this Act, is amended by adding at
20 the end the following:

21 “(m) **RESTRICTIONS ON ISSUANCE OF AFFINITY**
22 **CARDS TO STUDENTS.**—No credit card account under an
23 open end credit plan may be established by an individual
24 who has not attained the age of 21 as of the date of sub-
25 mission of the application pursuant to any agreement re-

1 lating to affinity cards, as defined by the Board, between
2 the creditor and an institution of higher education, as de-
3 fined in section 101(a) of the Higher Education Act of
4 1965 (20 U.S.C. 1001(a)), unless the requirements of sec-
5 tion 127(c)(6) are met with respect to the obliger.”.

○