

114TH CONGRESS  
1ST SESSION

# H. R. 1565

To amend the Truth in Lending Act to establish a national usury rate  
for consumer credit transactions.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 2015

Mr. CARTWRIGHT (for himself, Mr. BUTTERFIELD, Mr. CAPUANO, Ms. CLARK of Massachusetts, Mr. CUMMINGS, Ms. EDWARDS, Mr. GUTIÉRREZ, Mr. JOHNSON of Georgia, Ms. KAPTUR, Mr. LANGEVIN, Ms. MICHELLE LUJAN GRISHAM of New Mexico, Mr. LYNCH, Ms. PINGREE, Mr. YARMUTH, Mr. COHEN, Mr. ELLISON, and Ms. ESHOO) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Truth in Lending Act to establish a national  
usury rate for consumer credit transactions.

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 “Protecting Consumers  
5 from Unreasonable Credit Rates Act of 2015”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1           (1) attempts have been made to prohibit usu-  
2 rious interest rates in America since colonial times;

3           (2) at the Federal level, in 2006, Congress en-  
4 acted a Federal 36 percent annualized usury cap for  
5 servicemembers and their families for covered credit  
6 products, as defined by the Department of Defense,  
7 which curbed payday, car title, and tax refund lend-  
8 ing around military bases;

9           (3) notwithstanding such attempts to curb  
10 predatory lending, high-cost lending persists in all  
11 50 States due to loopholes in State laws, safe harbor  
12 laws for specific forms of credit, and the exportation  
13 of unregulated interest rates permitted by preemp-  
14 tion;

15           (4) due to the lack of a comprehensive Federal  
16 usury cap, consumers annually pay approximately  
17 \$17,000,000,000 for high-cost overdraft loans, as  
18 much as \$7,000,000,000 for storefront and online  
19 payday loans, and additional amounts in unreported  
20 revenues from bank direct deposit advance loans and  
21 high-cost online installment loans;

22           (5) cash-strapped consumers pay on average  
23 400 percent annual interest for payday loans, 300  
24 percent annual interest for car title loans, up to

1 3,500 percent for bank overdraft loans, and triple-  
2 digit rates for online installment loans;

3 (6) a national maximum interest rate that in-  
4 cludes all forms of fees and closes all loopholes is  
5 necessary to eliminate such predatory lending; and

6 (7) alternatives to predatory lending that en-  
7 courage small dollar loans with minimal or no fees,  
8 installment payment schedules, and affordable re-  
9 payment periods should be encouraged.

10 **SEC. 3. NATIONAL MAXIMUM INTEREST RATE.**

11 Chapter 2 of the Truth in Lending Act (15 U.S.C.  
12 1631 et seq.) is amended by adding at the end the fol-  
13 lowing:

14 **“SEC. 140B. MAXIMUM RATES OF INTEREST.**

15 “(a) IN GENERAL.—Notwithstanding any other pro-  
16 vision of law, no creditor may make an extension of credit  
17 to a consumer with respect to which the fee and interest  
18 rate, as defined in subsection (b), exceeds 36 percent.

19 “(b) FEE AND INTEREST RATE DEFINED.—

20 “(1) IN GENERAL.—For purposes of this sec-  
21 tion, the fee and interest rate includes all charges  
22 payable, directly or indirectly, incident to, ancillary  
23 to, or as a condition of the extension of credit, in-  
24 cluding—

1           “(A) any payment compensating a creditor  
2 or prospective creditor for—

3           “(i) an extension of credit or making  
4 available a line of credit, such as fees con-  
5 nected with credit extension or availability  
6 such as numerical periodic rates, annual  
7 fees, cash advance fees, and membership  
8 fees; or

9           “(ii) any fees for default or breach by  
10 a borrower of a condition upon which cred-  
11 it was extended, such as late fees, creditor-  
12 imposed not sufficient funds fees charged  
13 when a borrower tenders payment on a  
14 debt with a check drawn on insufficient  
15 funds, overdraft fees, and over limit fees;

16           “(B) all fees which constitute a finance  
17 charge, as defined by rules of the Bureau in ac-  
18 cordance with this title;

19           “(C) credit insurance premiums, whether  
20 optional or required; and

21           “(D) all charges and costs for ancillary  
22 products sold in connection with or incidental to  
23 the credit transaction.

24           “(2) TOLERANCES.—

1           “(A) IN GENERAL.—With respect to a  
2 credit obligation that is payable in at least 3  
3 fully amortizing installments over at least 90  
4 days, the term ‘fee and interest rate’ does not  
5 include—

6           “(i) application or participation fees  
7 that in total do not exceed the greater of  
8 \$30 or, if there is a limit to the credit line,  
9 5 percent of the credit limit, up to \$120,  
10 if—

11           “(I) such fees are excludable  
12 from the finance charge pursuant to  
13 section 106 and regulations issued  
14 thereunder;

15           “(II) such fees cover all credit  
16 extended or renewed by the creditor  
17 for 12 months; and

18           “(III) the minimum amount of  
19 credit extended or available on a cred-  
20 it line is equal to \$300 or more;

21           “(ii) a late fee charged as authorized  
22 by State law and by the agreement that  
23 does not exceed either \$20 per late pay-  
24 ment or \$20 per month; or

1           “(iii) a creditor-imposed not sufficient  
2           funds fee charged when a borrower tenders  
3           payment on a debt with a check drawn on  
4           insufficient funds that does not exceed  
5           \$15.

6           “(B) ADJUSTMENTS FOR INFLATION.—  
7           The Bureau may adjust the amounts of the tol-  
8           erances established under this paragraph for in-  
9           flation over time, consistent with the primary  
10          goals of protecting consumers and ensuring  
11          that the 36 percent fee and interest rate limita-  
12          tion is not circumvented.

13          “(c) CALCULATIONS.—

14           “(1) OPEN END CREDIT PLANS.—For an open  
15          end credit plan—

16           “(A) the fee and interest rate shall be cal-  
17          culated each month, based upon the sum of all  
18          fees and finance charges described in subsection  
19          (b) charged by the creditor during the pre-  
20          ceding 1-year period, divided by the average  
21          daily balance; and

22           “(B) if the credit account has been open  
23          less than 1 year, the fee and interest rate shall  
24          be calculated based upon the total of all fees  
25          and finance charges described in subsection

1 (b)(1) charged by the creditor since the plan  
2 was opened, divided by the average daily bal-  
3 ance, and multiplied by the quotient of 12 di-  
4 vided by the number of full months that the  
5 credit plan has been in existence.

6 “(2) OTHER CREDIT PLANS.—For purposes of  
7 this section, in calculating the fee and interest rate,  
8 the Bureau shall require the method of calculation  
9 of annual percentage rate specified in section  
10 107(a)(1), except that the amount referred to in  
11 that section 107(a)(1) as the ‘finance charge’ shall  
12 include all fees, charges, and payments described in  
13 subsection (b)(1) of this section.

14 “(3) ADJUSTMENTS AUTHORIZED.—The Bu-  
15 reau may make adjustments to the calculations in  
16 paragraphs (1) and (2), but the primary goals of  
17 such adjustment shall be to protect consumers and  
18 to ensure that the 36 percent fee and interest rate  
19 limitation is not circumvented.

20 “(d) DEFINITION OF CREDITOR.—As used in this  
21 section, the term ‘creditor’ has the same meaning as in  
22 section 702(e) of the Equal Credit Opportunity Act (15  
23 U.S.C. 1691a(e)).

24 “(e) NO EXEMPTIONS PERMITTED.—The exemption  
25 authority of the Bureau under section 105 shall not apply

1 to the rates established under this section or the disclosure  
2 requirements under section 127(b)(6).

3 “(f) DISCLOSURE OF FEE AND INTEREST RATE FOR  
4 CREDIT OTHER THAN OPEN END CREDIT PLANS.—In  
5 addition to the disclosure requirements under section  
6 127(b)(6), the Bureau may prescribe regulations requiring  
7 disclosure of the fee and interest rate established under  
8 this section.

9 “(g) RELATION TO STATE LAW.—Nothing in this  
10 section may be construed to preempt any provision of  
11 State law that provides greater protection to consumers  
12 than is provided in this section.

13 “(h) CIVIL LIABILITY AND ENFORCEMENT.—In addi-  
14 tion to remedies available to the consumer under section  
15 130(a), any payment compensating a creditor or prospec-  
16 tive creditor, to the extent that such payment is a trans-  
17 action made in violation of this section, shall be null and  
18 void, and not enforceable by any party in any court or  
19 alternative dispute resolution forum, and the creditor or  
20 any subsequent holder of the obligation shall promptly re-  
21 turn to the consumer any principal, interest, charges, and  
22 fees, and any security interest associated with such trans-  
23 action. Notwithstanding any statute of limitations or  
24 repose, a violation of this section may be raised as a mat-

1 ter of defense by recoupment or setoff to an action to col-  
 2 lect such debt or repossess related security at any time.

3 “(i) VIOLATIONS.—Any person that violates this sec-  
 4 tion, or seeks to enforce an agreement made in violation  
 5 of this section, shall be subject to, for each such violation,  
 6 1 year in prison and a fine in an amount equal to the  
 7 greater of—

8 “(1) 3 times the amount of the total accrued  
 9 debt associated with the subject transaction; or

10 “(2) \$50,000.

11 “(j) STATE ATTORNEYS GENERAL.—An action to en-  
 12 force this section may be brought by the appropriate State  
 13 attorney general in any United States district court or any  
 14 other court of competent jurisdiction within 3 years from  
 15 the date of the violation, and such attorney general may  
 16 obtain injunctive relief.”.

17 **SEC. 4. DISCLOSURE OF FEE AND INTEREST RATE FOR**  
 18 **OPEN END CREDIT PLANS.**

19 Section 127(b)(6) of the Truth in Lending Act (15  
 20 U.S.C. 1637(b)(6)) is amended by striking “the total fi-  
 21 nance charge expressed” and all that follows through the  
 22 end of the paragraph and inserting “the fee and interest  
 23 rate, displayed as ‘FAIR’, established under section  
 24 140B.”.

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