

115TH CONGRESS
1ST SESSION

H. R. 3760

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

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 2017

Mr. CARTWRIGHT (for himself, Mr. COHEN, Mr. LYNCH, Mr. CAPUANO, Ms. JACKSON LEE, Ms. KELLY of Illinois, Mr. CUMMINGS, Mr. LANGEVIN, Ms. TSONGAS, Ms. NORTON, Mr. ELLISON, Mr. POCAN, Ms. CLARK of Massachusetts, Ms. SCHAKOWSKY, Mr. TAKANO, Mr. PRICE of North Carolina, and Ms. ESHOO) introduced the following bill; which was referred to the Committee on Financial Services

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 2017”.

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 \$14,000,000,000 on high-cost overdraft loans, as
18 much as approximately \$7,000,000,000 on store-
19 front and online payday loans, \$3,800,000,000 on
20 car title loans, and additional amounts in unreported
21 revenues on high-cost online installment loans;

22 (5) cash-strapped consumers pay on average
23 approximately 400 percent annual interest for pay-
24 day loans, 300 percent annual interest for car title
25 loans, up to 17,000 percent or higher for bank over-

1 draft loans, and triple-digit rates for online install-
2 ment 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, a creditor may not make an extension of
17 credit to a consumer with respect to which the fee and
18 interest rate, as defined in subsection (b), exceeds 36 per-
19 cent.

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

21 “(1) IN GENERAL.—For purposes of this sec-
22 tion, the term ‘fee and interest rate’ includes all
23 charges payable (directly or indirectly) that are inci-
24 dent to, ancillary to, or as a condition of an exten-
25 sion of credit, including—

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 (including 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 fees charged when a borrower
13 tenders payment on a debt with a check
14 drawn on insufficient funds, overdraft fees,
15 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 a period of
4 90 days or more, the term ‘fee and interest
5 rate’ does not include—

6 “(i) an application or participation fee
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 determined
13 under section 106;

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

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

20 “(ii) a late fee that does not exceed ei-
21 ther \$20 per late payment or \$20 per
22 month, charged as authorized by State law
23 or by an agreement between the creditor
24 and the borrower; or

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

5 “(B) ADJUSTMENTS FOR INFLATION.—
6 The Bureau may adjust the amounts of the tol-
7 erances established under this paragraph for in-
8 flation over time, consistent with the primary
9 goals of protecting consumers and preventing
10 circumvention of the 36-percent fee and interest
11 rate limitation established under subsection (a).

12 “(c) CALCULATIONS.—

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

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

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

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

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

13 “(3) ADJUSTMENTS AUTHORIZED.—The Bu-
14 reau may make adjustments to the calculations in
15 paragraphs (1) and (2), if the primary goal of such
16 adjustment is to protect consumers and to prevent
17 circumvention of the 36-percent fee and interest rate
18 limitation established under subsection (a).

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

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

1 to this section or to the disclosure requirements under sec-
2 tion 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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