



September 19, 2024

## Overview of the Truth in Lending Act

The Truth in Lending Act (TILA; 15 U.S.C. §§1601 et seq.) requires creditors to disclose standardized information for various financing products and offers additional consumer protections. TILA applies to most forms of consumer lending, including mortgages, auto loans, credit cards, and payday lending. The Consumer Financial Protection Bureau (CFPB) has rulemaking authority over TILA and its implementing regulation, Regulation Z. The CFPB shares supervisory and enforcement authorities with the Federal Trade Commission (FTC).

In the 118<sup>th</sup> Congress, legislation has been introduced relevant to TILA that would clarify the types of products that should be covered, modify or impose new pricing caps, offer regulatory relief for financial institutions, and modify disclosure requirements.

### Overview of TILA

TILA was first enacted in 1968 as part of the Consumer Credit Protection Act (P.L. 90-321). TILA requires creditors to disclose terms and costs of consumer credit. It has been amended multiple times to revise these disclosures and provide additional consumer protections. Most prominently, TILA was modified around the Global Financial Crisis, including by the Dodd-Frank Act (P.L. 111-203)—which moved rulemaking authority from the Federal Reserve to the CFPB—and the Credit CARD Act of 2009 (P.L. 111-24), which, among other things, imposed new restrictions on credit cards.

### Products Covered by TILA

TILA applies to “open-end credit,” such as credit cards, with repeat transactions and unspecified end dates for repayment. It also applies to “closed-end credit,” such as auto loans, with set terms and payment structures if the closed-end product has a finance charge or more than four installments. TILA generally applies to consumer loans under \$69,500. However, loans made for housing, such as mortgages, are excluded from this size limit. TILA does not generally apply to business loans, with some exceptions. TILA protections vary by product type.

### Disclosures

TILA requires lenders to provide a number of different disclosures to borrowers, including disclosures at origination, periodic statements, and application disclosures for some products. The specific disclosure requirements vary for closed-end and open-end credit transactions and, in some instances, for specific product types, including mortgages and private student loans. Special origination disclosures are required for reverse mortgages, costlier-than-normal mortgages, and certain variable-rate mortgages.

TILA origination disclosures are offered to borrowers to compare lending options. These disclosures provide a standard set of data points (as seen in **Table 1**) to compare pricing options and potentially reduce information asymmetries, although their usefulness is debated. Model mortgage disclosures are codified in Appendices G and H of Regulation Z.

**Table 1. Selected Information Included in TILA Origination Disclosures**

| Data Point                   | Description                                                                                                                                                                                      |
|------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Finance charges              | The total cost of credit to a borrower, assuming on-time payments, calculated by adding interest and covered fees.                                                                               |
| Annual percentage rate (APR) | A yearly percentage rate that a consumer is charged for a loan, taking into account the finance charges. This calculation excludes some unavoidable fees such as application or membership fees. |
| Payment information          | This includes the payment schedule, term, and amount.                                                                                                                                            |
| Fees                         | Fees that a borrower could be charged, such as for late payments.                                                                                                                                |

Credit card and charge card issuers must also provide disclosures at application on the costs and terms of the product. For products such as open-end credit and mortgages, creditors must also provide periodic—generally monthly—statements associated with the product. The timing of the statement relative to due date depends on the product.

### Other Provisions in TILA

In addition to disclosures, TILA provides a number of substantive consumer protections that vary based on product type. A selection of these substantive consumer protections is discussed below:

- Creditors must assess consumers’ ability to repay for open-end credit and mortgages. For mortgages, this is referred to as the Qualified Mortgage (QM) rule, which has requirements for mortgage pricing that reflects the credit quality of borrowers. For more on the QM rule, see CRS In Focus IF11761, *The Qualified Mortgage (QM) Rule and Recent Revisions*, by Darryl E. Getter.
- Mortgage loan offerors are prohibited from steering consumers to higher-commission products without consumer benefit.

- TILA provides a borrower a right of rescission to cancel a loan secured on the borrower’s existing home within the first three days of origination.
- TILA has a cap of \$50 for the amount that a borrower can be liable for unauthorized use of the account if various conditions are met. Unlike most parts of TILA, this unauthorized use liability protection extends to certain commercial open-end credit as well.
- Credit cards require that an application or renewal be completed prior to issuance and thus cannot be issued on an “unsolicited basis.”
- TILA offers dispute protections if a product is not delivered as promised or from a merchant within 100 miles and the cost exceeds \$50.

Selected Legislation

What Types of Products Should TILA Cover?

Whether TILA applies to certain products is an active debate. In 2024, the CFPB proposed or implemented various interpretative rules or rules arguing that three specific products—overdraft protections, Earned Wage Access (EWA), and Buy Now, Pay Later loans (BNPL)—are consumer credit transactions that are subject to TILA. Some Members of Congress and industry participants have criticized these interpretations of TILA as contrary to the law and duplicative with existing industry-imposed protections.

Several pieces of legislation have been introduced in the 118<sup>th</sup> Congress aimed at repealing or superseding the CFPB’s interpretative rules and proposed rulemakings in this space. H.J.Res. 190 and H.J.Res. 195 would use the Congressional Review Act to disapprove the recent BNPL interpretative rule. H.R. 8628 would require the withdrawal of the BNPL rule and would prohibit new rules or guidance related to BNPL until the CFPB and the Comptroller General conduct further study. H.R. 7428 would supersede the CFPB’s EWA proposed interpretative rule and replace TILA disclosures with EWA-specific disclosures.

Other legislation aims to further clarify the products and institutions that TILA covers. H.R. 2481 would apply TILA to manufactured home or modular home retailers. S. 2021 would apply TILA to small business financing for credit offers less than \$2.5 million. At least eight states have passed legislation mandating TILA-like disclosures for small business financing, focused on nonbank lenders and specifically merchant cash advance providers.

Pricing Restrictions

In June 2024, the CFPB finalized a rule that would impose a new credit card late fee cap of \$8 and eliminated inflation adjustments for that amount. The prior cap was \$30 for the first violation and \$41 for subsequent violations. Before the rule change, credit card late fees averaged \$32.

The CFPB and supporters argued that this rule would decrease the financial burden of late fees, particularly for low-income households. Critics of the rule argue that this

new fee cap would constrain access to credit, reduce consumers’ incentive to pay on time, and ultimately harm the competitive credit card market. Currently this final rule is stayed by a federal court order as a result of ongoing litigation in *Chamber of Commerce vs. CFPB*. For more on this rulemaking, see CRS Insight IN12146, *CFPB Proposes New Credit Card Late Fee Regulation*, by Cheryl R. Cooper.

H.J.Res. 122/S.J.Res. 70 would use the Congressional Review Act to disapprove this credit card late fee rule. Section 501 of H.R. 8773, the FY2025 Financial Services and General Government appropriations bill in the House, would bring the CFPB under congressional appropriations. Additionally, Section 503 of the bill would prohibit the CFPB from using congressionally appropriated funds to implement this rule.

Currently, there is no provision in TILA that caps APRs for most consumer lending. Separately, the Military Lending Act caps APRs at 36% on many forms of consumer credit for active-duty servicemembers and their spouses and dependents (10 U.S.C. §987(b)). Proposals in the 118<sup>th</sup> Congress, outlined in **Table 2**, aim to create federal APR pricing caps for different consumer products, with two adopting the Military Lending Act standard of 36%. Alternatively, S. 1934 would modify TILA to empower states to set maximum APRs for consumer credit in the state where a consumer resides as opposed to the state where the financial institution’s headquarters are.

Table 2. Congressional Proposals for APR Caps: 118<sup>th</sup> Congress

| Bill    | Credit Type         | APR Cap |
|---------|---------------------|---------|
| S. 3549 | All Consumer Credit | 36%     |
| S. 2730 | Open-End Credit     | 36%     |
| S. 2760 | Credit Cards        | 18%     |

Additional Regulatory Flexibility

Several bills introduced in the 118<sup>th</sup> Congress would provide financial institutions regulatory flexibility from TILA. H.R. 8338 would provide banks with safe harbor from TILA violations from federal regulators or private litigation for small-dollar products. H.R. 6398 would increase, from \$10 billion to \$50 billion, the asset threshold for financial institutions to be subject to TILA’s QM requirements.

Modify Disclosure Requirements

S. 3404 would require that credit issuers provide additional disclosures for private student loan borrowers, including notices before their first payments and when a borrower is “at risk” or delinquent. H.R. 8252/S. 4265 would require the CFPB to translate TILA disclosures from English to the eight most-spoken foreign languages in the United States and would require servicing companies to provide translation services for consumers in those languages.

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