

[DISCUSSION DRAFT]

116TH CONGRESS
1ST SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

M____. _____ introduced the following bill; which was referred to the
Committee on _____

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 2019”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

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

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

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

13 (4) due to the lack of a comprehensive Federal
14 usury cap, consumers annually pay approximately
15 \$14,000,000,000 on high-cost overdraft loans, as
16 much as approximately \$7,000,000,000 on store-
17 front and online payday loans, \$3,800,000,000 on
18 car title loans, and additional amounts in unreported
19 revenues on high-cost online installment loans;

20 (5) cash-strapped consumers pay on average
21 approximately 400 percent annual interest for pay-
22 day loans, 300 percent annual interest for car title
23 loans, up to 17,000 percent or higher for bank over-
24 draft loans, and triple-digit rates for online install-
25 ment loans;

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

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

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

9 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
10 ing Act (15 U.S.C. 1631 et seq.) is amended by adding
11 at the end the following:

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

13 “(a) IN GENERAL.—Notwithstanding any other pro-
14 vision of law, a creditor may not make an extension of
15 credit to a consumer with respect to which the fee and
16 interest rate, as defined in subsection (b), exceeds 36 per-
17 cent.

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

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

24 “(A) any payment compensating a creditor
25 or prospective creditor for—

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

7 “(ii) any fees for default or breach by
8 a borrower of a condition upon which cred-
9 it was extended, such as late fees, creditor-
10 imposed fees charged when a borrower
11 tenders payment on a debt with a check
12 drawn on insufficient funds, overdraft fees,
13 and over limit fees;

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

17 “(C) credit insurance premiums, whether
18 optional or required; and

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

22 “(2) TOLERANCES.—

23 “(A) IN GENERAL.—With respect to a
24 credit obligation that is payable in at least 3
25 fully amortizing installments over a period of

1 90 days or more, the term ‘fee and interest
2 rate’ does not include—

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

8 “(I) such fees are excludable
9 from the finance charge determined
10 under section 106;

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

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

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

22 “(iii) a creditor-imposed fee that does
23 not exceed \$15, charged when a borrower
24 tenders payment on a debt with a check
25 drawn on insufficient funds.

1 “(B) ADJUSTMENTS FOR INFLATION.—

2 The Bureau may adjust the amounts of the tol-
3 erances established under this paragraph for in-
4 flation over time, consistent with the primary
5 goals of protecting consumers and preventing
6 circumvention of the 36-percent fee and interest
7 rate limitation established under subsection (a).

8 “(c) CALCULATIONS.—

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

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

17 “(B) if the credit account has been open
18 less than 1 year, the fee and interest rate shall
19 be calculated based upon the total of all fees,
20 charges, and payments described in subsection
21 (b)(1) charged by the creditor since the plan
22 was opened, divided by the average daily bal-
23 ance, and multiplied by the quotient of 12 di-
24 vided by the number of full months that the
25 credit plan has been in existence.

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

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

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

19 “(e) NO EXEMPTIONS PERMITTED.—The exemption
20 authority of the Bureau under section 105 shall not apply
21 to this section or to the disclosure requirements under sec-
22 tion 127(b)(6).

23 “(f) DISCLOSURE OF FEE AND INTEREST RATE FOR
24 CREDIT OTHER THAN OPEN END CREDIT PLANS.—In
25 addition to the disclosure requirements under section

1 127(b)(6), the Bureau may prescribe regulations requiring
2 disclosure of the fee and interest rate established under
3 this section.

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

8 “(h) CIVIL LIABILITY AND ENFORCEMENT.—In addi-
9 tion to remedies available to the consumer under section
10 130(a), any payment compensating a creditor or prospec-
11 tive creditor, to the extent that such payment is a trans-
12 action made in violation of this section, shall be null and
13 void, and not enforceable by any party in any court or
14 alternative dispute resolution forum, and the creditor or
15 any subsequent holder of the obligation shall promptly re-
16 turn to the consumer any principal, interest, charges, and
17 fees, and any security interest associated with such trans-
18 action. Notwithstanding any statute of limitations or
19 repose, a violation of this section may be raised as a mat-
20 ter of defense by recoupment or setoff to an action to col-
21 lect such debt or repossess related security at any time.

22 “(i) VIOLATIONS.—Any person that violates this sec-
23 tion, or seeks to enforce an agreement made in violation
24 of this section, shall be subject to, for each such violation,

1 1 year in prison and a fine in an amount equal to the
2 greater of—

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

5 “(2) \$50,000.

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

12 (b) CLERICAL AMENDMENT.—The table of contents
13 for chapter 2 of the Truth in Lending Act (15 U.S.C.
14 1631 et seq.) is amended by adding at the end the fol-
15 lowing:

“140B. Maximum rates of interest.”.

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

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