

113TH CONGRESS
2^D SESSION

H. R. 5130

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

IN THE HOUSE OF REPRESENTATIVES

JULY 17, 2014

Mr. CARTWRIGHT (for himself, Ms. CLARK of Massachusetts, Mr. CLAY, Mr. CLYBURN, Mr. CUMMINGS, Mr. DANNY K. DAVIS of Illinois, Mr. DOGGETT, Ms. EDWARDS, Mr. ELLISON, Mr. FATTAH, Ms. JACKSON LEE, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. GEORGE MILLER of California, Ms. PINGREE of Maine, Mr. RANGEL, Ms. TSONGAS, Ms. MICHELLE LUJAN GRISHAM of New Mexico, and Mr. COHEN) 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 2014”.

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 \$23,700,000,000 for high-cost overdraft loans, as
18 much as \$8,100,000,000 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—

13 (1) by adding at the end the following:

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 ceeding 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.”; and

17 (2) in the table of contents for such chapter, by
 18 adding after the item relating to section 140A the
 19 following new item:

“140B. Maximum rates of interest.”.

20 **SEC. 4. DISCLOSURE OF FEE AND INTEREST RATE FOR**
 21 **OPEN END CREDIT PLANS.**

22 Section 127(b)(6) of the Truth in Lending Act (15
 23 U.S.C. 1637(b)(6)) is amended by striking “the total fi-
 24 nance charge expressed” and all that follows through the
 25 end of the paragraph and inserting “the fee and interest

1 rate, displayed as 'FAIR', established under section
2 140B.”.

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