

Senator Sanders and Representative Ocasio-Cortez Unveil the Loan Shark Prevention Act to Protect Consumers

Thursday, May 9, 2019

WASHINGTON, May 9 – Sen. Bernie Sanders (I-VT) and Rep. Alexandria Ocasio-Cortez (D-NY) unveiled new legislation, The Loan Shark Prevention Act, to combat the predatory lending practices of America's big banks and protect consumers who are burdened with exorbitant credit-card interest rates. The legislation imposes a 15-percent federal cap on interest rates and empowers individual states to establish lower limits.

The lawmakers also outlined a plan to build and expand basic post office banking services as an accessible, affordable alternative to check-cashing and payday-lending businesses.

"The reality is that today's modern-day loan sharks are no longer lurking on street corners breaking kneecaps to collect their payments," said Senator Sanders. "They wear three-piece suits and work on Wall Street, where they make hundreds of millions in total compensation and head financial institutions like JPMorgan Chase, Citigroup, Bank of America and American Express."

"Under the legislation we are introducing today, we would establish a national usury rate to make sure that no bank or store in America could charge an interest rate higher than 15 percent," Sanders said.

Representative Ocasio-Cortez stated, "There is no justifiable reason that a person—no matter their background—should be charged an interest rate higher than 15 percent. Rates higher than 15 percent are predatory debt traps, designed to keep working families underwater and allow predatory companies to enrich themselves off the misfortune of others."

Despite the fact that banks can borrow money today at less than 2.5 percent from the Federal Reserve, the median credit-card interest rate today for consumers is an astounding 21 percent.

The lawmakers outlined postal banking as a common-sense alternative to predatory lenders in a co-authored Medium post. "Post offices exist in almost every community in our country. There are more than 31,000 retail post offices in this country. An important way to provide decent banking opportunities for low-income communities is to allow the U.S. Postal Service to engage in basic banking services," they wrote.

"The Postal Service already cashes Treasury checks and issues money orders. The USPS should fully exercise its existing statutory authority and implement pilot programs offering affordable financial services, including ATMs, paycheck cashing, bill payment and electronic money transfers in post offices," they concluded.

The Loan Shark Prevention Act was lauded by consumer advocacy groups, and garnered the endorsements of Consumer Action, NETWORK Lobby for Catholic Social Justice, Demand Progress Action, Franciscan Action Network, National Advocacy Center of the Sisters of the Good Shepherd, CREDO Action, Community Change Action, Center for Popular Democracy, American Federation of State, County and Municipal Employees (AFSCME), and People's Action.

[Read a bill summary here.](#)

[Read Sanders' and Ocasio-Cortez's white paper here.](#)

[Read the bill text here.](#)

[Watch Sanders' and Ocasio-Cortez's discussion on Facebook and Twitter.](#)

THE LOAN SHARK PREVENTION ACT

If we are going to create a financial system that works for all Americans, we have got to stop financial institutions from ripping off Americans by charging sky-high interest rates and outrageous fees. Millions of Americans should not be paying credit card interest rates of 25 or 30 percent.

Senator Sanders and Representative Ocasio-Cortez are introducing the Loan Shark Prevention Act to establish a national usury rate of 15 percent on credit cards and other consumer loans, the same interest rate cap that Congress imposed on credit unions almost 40 years ago.

Under this bill, the Federal Reserve would have the authority to allow lenders to charge higher rates, if the Fed determines that the national usury cap would threaten the safety and soundness of financial institutions as evidenced by adverse trends in liquidity, capital, earnings, and growth; or if money market interest rates have risen over the preceding six-month period. Interest rates could only be raised above 15 percent for a maximum of 18 months. This bill would not preempt state laws establishing lower maximum interest rates.

WHY IS THIS BILL NEEDED?

- Americans now hold over \$1 trillion in credit card debt, the highest amount in history.
- The average household with credit card debt has over \$15,000 in credit card debt.
- In 2018, credit card companies generated over \$178 billion in interest and fees.
- The average credit card interest rate for 100 cards monitored by CreditCards.com is now a record-breaking 17.71 percent.
- The average maximum credit card interest rate for those 100 cards CreditCards.com is up to 24.98 percent, including those cardholders with good or excellent credit.
- The average interest rate on a retail credit card is 27 percent.
- The average interest rate on payday loans is 391 percent. According to Pew, the average payday loan customer borrows \$375 over five months and pays \$520 in fees.

STRONG STATE INTEREST RATE CAPS ERADICATED IN 1978

Establishing a national usury law is not a radical concept. Up until 1978, about half of the states in the country had usury laws on the books capping interest rates on credit cards and other consumer loans. But, those state interest rate caps were obliterated by a 1978 Supreme Court decision (*Marquette National Bank v. First of Omaha Service Corp*) which concluded that national banks could charge whatever interest rate they wanted if they moved to a state without a usury law.

CONGRESS IMPOSED 15% INTEREST RATE CAP ON CREDIT UNIONS IN 1980

This bill simply applies the same statutory interest rate cap on credit cards that Congress imposed on credit unions in 1980 as a result of an amendment to the Federal Credit Union Act that capped interest rates on credit union loans, including credit cards, at 15%. (From 1934-1980, Congress capped interest rates on credit union loans at 12 percent.)

The National Credit Union Administration (NCUA) has the authority to raise interest rates, if it determines that the 15% cap threatens the safety and soundness of credit unions. The Loan Shark Prevention Act would give this same authority to the Federal Reserve to raise the 15% interest rate cap on credit cards.

The reasonable interest rate cap Congress imposed on credit unions has protected consumers from being charged usurious interest rates; it has not harmed the safety and soundness of these institutions; and it has not negatively impacted the access to credit of credit union members.

Credit union members with good credit scores are still able to receive credit cards and loans that they need at reasonable interest rates. And, unlike banks, credit unions have not received hundreds of billions of dollars from U.S. taxpayers from the Treasury Department of the Federal Reserve. The time has come to extend this reasonable interest rate cap to all financial institutions that issue credit cards.

IN 1991, THE SENATE VOTED 74-19 TO CAP CREDIT CARD INTEREST RATES AT 14%.

In 1991, the Senate voted 74-19 in favor of the D'Amato-Lieberman-Specter-Conrad amendment to cap credit card interest rates at 14%.

Here is what former Senator D'Amato said about his amendment on the floor of the Senate in 1991:

“Fourteen percent is certainly a reasonable rate of interest for banks to charge customers for credit card debt. It allows a comfortable profit margin but keeps banks in line.”

116TH CONGRESS
1ST SESSION

S. 1389

To protect consumers from usury.

IN THE SENATE OF THE UNITED STATES

MAY 9, 2019

Mr. SANDERS (for himself and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To protect consumers from usury.

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 “Loan Shark Prevention
5 Act”.

6 **SEC. 2. INTEREST RATE REDUCTION.**

7 (a) NATIONAL CONSUMER CREDIT USURY RATE.—
8 Section 107 of the Truth in Lending Act (15 U.S.C. 1606)
9 is amended by adding at the end the following new sub-
10 section:

11 “(f) NATIONAL CONSUMER CREDIT USURY RATE.—

1 “(1) LIMITATION ESTABLISHED.—

2 “(A) IN GENERAL.—Notwithstanding sub-
3 section (a) or any other provision of law, but
4 except as provided in paragraph (2), the annual
5 percentage rate applicable to any extension of
6 credit may not exceed the lesser of—

7 “(i) 15 percent on unpaid balances,
8 inclusive of all finance charges; or

9 “(ii) the maximum rate permitted by
10 the laws of the State in which the con-
11 sumer resides.

12 “(B) OTHER FEES.—Any fees that are not
13 considered finance charges under section 106(a)
14 may not be used to evade the limitations of this
15 paragraph, and the total sum of such fees may
16 not exceed the total amount of finance charges
17 assessed.

18 “(2) EXCEPTIONS.—

19 “(A) BOARD AUTHORITY.—The Board may
20 establish, after consultation with the appro-
21 priate committees of Congress, the Secretary of
22 the Treasury, and any other interested Federal
23 financial institution regulatory agency, an an-
24 nual percentage rate of interest ceiling exceed-
25 ing the 15-percent annual rate under paragraph

1 (1) for periods of not to exceed 18 months,
2 upon a determination that—

3 “(i) money market interest rates have
4 risen over the preceding 6-month period;
5 and

6 “(ii) prevailing interest rate levels
7 threaten the safety and soundness of indi-
8 vidual lenders, as evidenced by adverse
9 trends in liquidity, capital, earnings, and
10 growth.

11 “(B) TREATMENT OF CREDIT UNIONS.—
12 The limitation in paragraph (1) does not apply
13 with respect to any extension of credit by an in-
14 sured credit union, as that term is defined in
15 section 101 of the Federal Credit Union Act
16 (12 U.S.C. 1752).

17 “(3) PENALTIES FOR CHARGING HIGHER
18 RATES.—

19 “(A) VIOLATION.—The taking, receiving,
20 reserving, or charging of an annual percentage
21 rate or fee greater than that permitted by para-
22 graph (1), when knowingly done, shall be
23 deemed a violation of this title, and a forfeiture
24 of the entire interest which the note, bill, or

1 other evidence of the obligation carries with it,
2 or which has been agreed to be paid thereon.

3 “(B) REFUND OF INTEREST AMOUNTS.—If
4 an annual percentage rate or fee greater than
5 that permitted under paragraph (1) has been
6 paid, the person by whom it has been paid, or
7 the legal representative thereof, may, by bring-
8 ing an action not later than 2 years after the
9 date on which the usurious collection was last
10 made, recover back from the lender in an action
11 in the nature of an action of debt, the entire
12 amount of interest, finance charges, or fees
13 paid.

14 “(4) CIVIL LIABILITY.—Any creditor who vio-
15 lates this subsection shall be subject to the provi-
16 sions of section 130.

17 “(g) RELATION TO STATE LAW.—Nothing in this
18 section may be construed to preempt any provision of
19 State law that provides greater protection to consumers
20 than is provided in this section.”.

21 (b) CIVIL LIABILITY CONFORMING AMENDMENT.—
22 Section 130(a) of the Truth in Lending Act (15 U.S.C.
23 1640(a)) is amended by inserting “section 107(f),” before
24 “this chapter”.

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116TH CONGRESS
1ST SESSION

H. R. 2930

To protect consumers from usury.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2019

Ms. OCASIO-CORTEZ (for herself, Mr. THOMPSON of Mississippi, Ms. PRESSLEY, Ms. TLAIB, Ms. OMAR, Mr. CLAY, Ms. JACKSON LEE, and Ms. VELÁZQUEZ) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To protect consumers from usury.

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.**

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25 ing the 15 percent annual rate under paragraph

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2 upon a determination that—

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4 risen over the preceding 6-month period;
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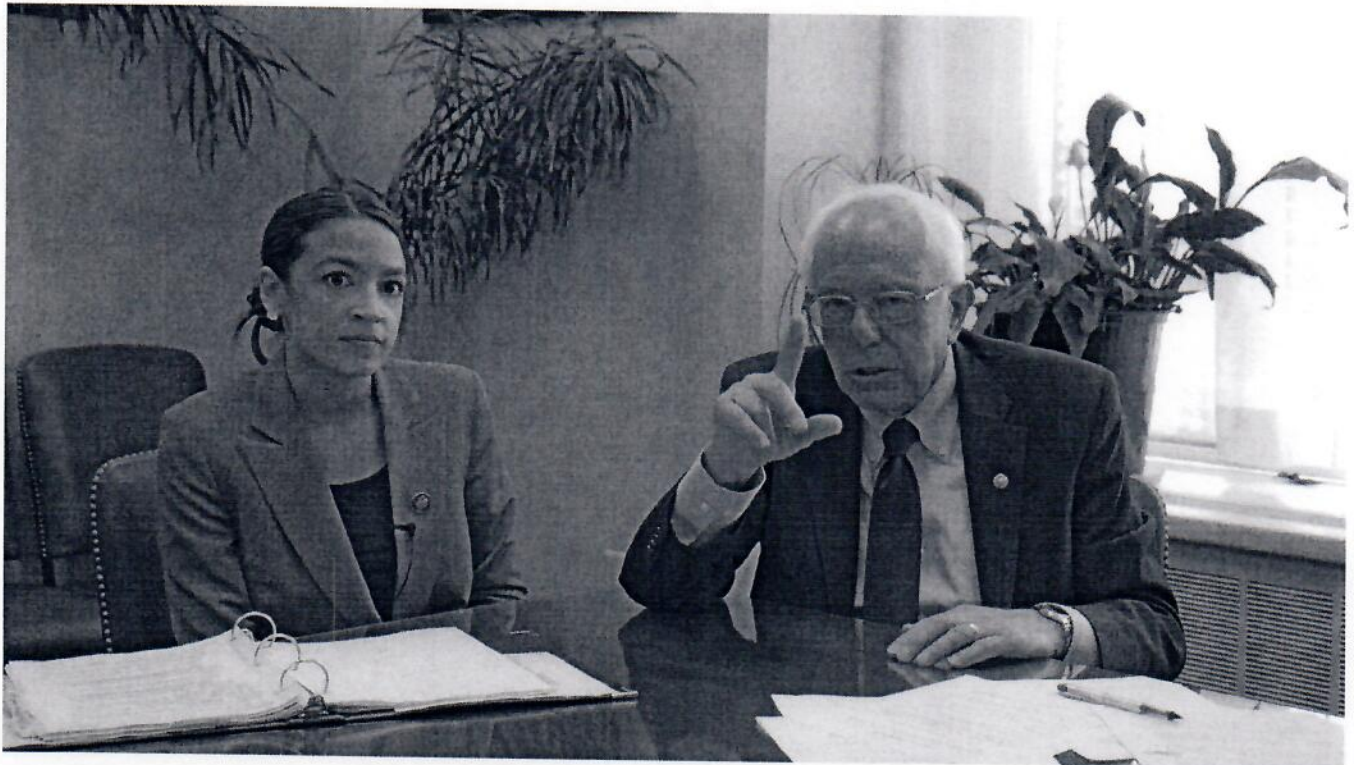
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○

Senator Bernie Sanders' and Representative Alexandria Ocasio-Cortez's Plan to Stop Big Banks and Payday Lenders from Ripping Off Americans



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May 9 · 6 min read



Watch Senator Sanders and Congresswoman Alexandria Ocasio-Cortez introduce the Loan Shark Prevention Act.

Today's modern-day loan sharks are no longer lurking on street corners, threatening violence to collect their payments. Today's loan sharks wear expensive suits and work on Wall Street, where they make hundreds of millions of dollars in total compensation by charging sky-high fees and usurious interest rates, and head financial institutions like JP Morgan Chase, Citigroup, Bank of America, and American Express.

Last year, credit-card companies raked in nearly \$180 billion in revenue from interest and fees. This year, they are expected to charge Americans \$122 billion in interest payments alone.

Despite the fact that banks can borrow money today at less than 2.5 percent from the Federal Reserve, the median credit-card interest rate today for consumers is an astounding 21.36 percent.

If you get a credit card from a store like Macy's, Kohl's, or Lowe's, interest rates are even higher. Stores like these are charging customers an average interest rate of more than 27 percent. And many of the stores rely on these high-interest-rate cards for more than a third of their revenue. Incredibly, Macy's earned almost 40 percent of its revenue from these cards and Kohl's recently made 35 percent of its total profit from high-interest-rate cards.

What this means is that if you buy a \$500 refrigerator from Lowe's or Home Depot on one of their credit cards, you will likely owe an additional \$136 in interest.

While credit-card companies are ripping off the middle class, the CEOs of large financial institutions are making out like bandits.

Jamie Dimon, the CEO of JP Morgan Chase, is now worth \$1.4 billion after his bank got a taxpayer bailout of more than \$400 billion during the financial crisis.

The former CEO of American Express, Kenneth Chenault, pocketed \$370 million in compensation after leading that credit-card giant for 17 years.

The American people are sick and tired of being ripped off by the same financial institutions that they bailed out ten years ago.

If we are going to create a financial system that works for all Americans, we have got to stop financial institutions from charging outrageous interest rates and fees.

At the same time, we must make sure that giant Wall Street financial institutions are not the only way Americans can gain access to banking services.

We can provide affordable banking options for millions of unbanked and underbanked Americans by allowing the more than 30,000 post offices in America to offer basic financial services.

CAP INTEREST RATES AT 15 PERCENT

At a time when the American people hold a record \$1 trillion in credit-card debt and desperately need relief, we need to establish a national maximum interest rate of 15 percent on credit cards and other consumer loans.

In America today, millions of consumers are now paying credit card interest rates of 20, 25, even 30 percent. When credit-card companies charge over 20 percent interest on credit cards, they are not engaged in the business of making credit available — they are involved in extortion and loan sharking.

The Bible, and virtually every major religion on earth, has a term for this practice: it's called usury. In *The Divine Comedy*, Dante reserved a special place in the Seventh Circle of Hell for people who charged usurious interest rates. Today we don't need the hellfire, the pitchforks, or the rivers of boiling blood, but we do need a national usury law that caps interest rates on credit cards and consumer loans at 15 percent.

CONGRESS IMPOSED A 15 PERCENT INTEREST RATE CAP ON CREDIT UNIONS IN 1980

In 1980, Congress passed legislation requiring credit unions to cap interest rates on their loans, with some exceptions, at no more than 15 percent. And that law has worked very well.

Unlike big banks, credit unions are member-owned and democratically controlled cooperatives that exist to provide affordable banking services to their members. Unlike big banks, credit unions didn't engage in risky behavior that caused the financial collapse. And, unlike big banks, credit unions did not receive a huge bailout from the taxpayers of this country.

Credit union members with good credit scores are able to receive the credit cards and the loans that they need at reasonable interest rates. Capping interest rates at 15 percent on the loans credit unions make was a good idea in 1980. It is time to extend this cap to every lender in America.

STRONG STATE INTEREST RATE CAPS ERADICATED IN 1978

Establishing a national usury law is not a radical concept. Up until 1978, about half of the states in the country had usury laws on the books capping interest rates on credit cards and other consumer loans. For example, in Alabama, the legal maximum rate of interest was 8 percent. In Alaska it was 10.5 percent. In Arizona it was 10 percent. In Idaho, it was 12 percent. In Kansas, it was 15 percent. In New Mexico it was 15 percent. And, in Vermont, the legal maximum rate of interest was 12 percent.

But, those state interest-rate caps were obliterated by a 1978 Supreme Court decision (*Marquette National Bank v. First of Omaha Service Corp*), which concluded that national banks could charge whatever interest rate they wanted if they moved to a state without a usury law. So most of these companies moved to South Dakota or Delaware with no interest rate caps, allowing them to charge people in Vermont or Kansas interest rates of 20 or 30 percent. That is unacceptable. Under this plan, the disastrous *Marquette* Supreme Court decision would be repealed.

IN 1991, THE SENATE VOTED 74–19 TO CAP CREDIT CARD INTEREST RATES AT 14 Percent.

In 1991, the Senate voted 74–19 in favor of the D’Amato-Lieberman-Specter-Conrad amendment to cap credit card interest rates at 14 percent.

Here is what former Senator D’Amato said about his amendment on the floor of the Senate in 1991:

“Fourteen percent is certainly a reasonable rate of interest for banks to charge customers for credit card debt. It allows a comfortable profit margin but keeps banks in line.”

ENDING PAYDAY LENDING SCAMS

There are 63 million adults in this country who are either unbanked or underbanked — disproportionately African American and Hispanic. These low-income Americans live in communities that do not have regular banking services and are forced to depend on predatory payday lenders and check-cashing outfits. Loans from payday lenders carry an average interest rate of 391 percent and can reach as high as 900 percent.

According to Pew, the average payday loan customer borrows \$375 and pays \$520 in fees, trapping low-income Americans in a vicious cycle of debt. That is unacceptable. We are going to end the greed of predatory lenders and provide affordable banking options for low-income communities.

EXPANDING AFFORDABLE BANKING OPTIONS THROUGH POSTAL BANKING

Americans desperately need and deserve access to banking services that do not rely on either payday lenders or Wall Street financial behemoths. Post offices exist in almost every community in our country. There are more than 31,000 retail post offices in this country. An important way to provide decent banking

opportunities for low-income communities is to allow the U.S. Postal Service to engage in basic banking services.

This is not a radical idea. The vast majority of postal services around the world allow their customers to do some form of banking. There are 1.5 billion people worldwide who bank with postal services. The American people should have this option as well, just as they have in the past. From 1911 to 1966, the U.S. Postal Service offered banking services. In 1947, the Postal service had 4 million people utilizing its financial services.


We need a Postmaster General and a Postal Service Board of Governors who will work with the postal unions to allow post offices to offer affordable and basic banking services and we need to implement the Postal Service Protection Act that Sen. Sanders introduced in 2013.

The Postal Service already cashes Treasury checks and issues money orders. The USPS should fully exercise its existing statutory authority and implement pilot programs offering affordable financial services, including ATMs, paycheck cashing, bill payment and electronic money transfers in post offices.

Some of the financial services USPS could provide include:

- Basic checking and savings accounts
- Low-interest loans
- Debit cards
- ATMs
- Check cashing
- Money wiring services
- Online banking services

Together, we are going to put predatory lenders out of business and provide affordable banking options to all Americans through the United States Postal Service.

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07.27.12

Durbins Bill To Crack Down On Excessive Interest Rates And Fees

Legislation Would Cap Interest Rates And Fees For All Consumer Credit Transactions

[WASHINGTON, D.C.] –U.S. Senator Dick Durbin (D-IL) introduced the Protecting Consumers from Unreasonable Credit Rates Act late yesterday - a bill to eliminate the excessive rates and fees that some consumers are charged for payday loans, car title loans and other types of credit.

"Within blocks of my home in Springfield, Illinois, there are payday lenders charging interest rates of two and three hundred percent of the value of the loan," Durbin said. "These excessive rates are often hidden and can have crippling effects on those individuals who can afford it least. Congress must enact protections against predatory lending. America's working families depend on it."

Durbin's bill would establish a new Fee and Interest Rate (FAIR) calculation that includes all interest and fees and creates a cap of 36% for all consumer credit transactions. That rate is similar to usury caps already enacted in many states and is the same as the cap already in place for military personnel and their families.

Efforts to address the exorbitant interest rates charged on many payday loans have often failed because of the difficulty in defining predatory lending. Durbin's bill seeks to overcome this problem by setting a relatively high interest rate as the cap and applying that cap to all credit transactions.

To protect consumers from predatory lending practices and to help consumers use credit more wisely, the Protecting Consumers from Unreasonable Credit Rates Act as introduced by Senator Durbin bill would:

- Establish a new Fee and Interest Rate (FAIR) that incorporates all interest, fees, finance charges, and related costs of credit.
- Institute a federal maximum annualized FAIR limit equal to 36% and apply this cap to all open-end and closed-end consumer credit transactions, including mortgages, car loans, credit cards, overdraft loans, car title loans, refund anticipation loans, and payday loans.

- Encourage the creation of responsible alternatives to small dollar lending, by providing tolerances for initial application fees and for ongoing lender costs such as insufficient funds fees and late fees.
- Ensure that this federal law does not preempt stricter state laws.
- Create specific penalties for violations of the new cap and support enforcement in civil courts and by State Attorneys General.

A federal usury cap is good policy to combat the immediate crisis and it is good policy to prevent the next crisis. Now is the time for Congress to act.

Senators Merkley (D-OR), Whitehouse (D-RI) and Boxer (D-CA) are cosponsors of the measure.

116TH CONGRESS
1ST SESSION

S. 1230

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

IN THE SENATE OF THE UNITED STATES

APRIL 29, 2019

Mr. DURBIN (for himself, Mr. MERKLEY, Mr. BLUMENTHAL, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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 Chapter 2 of the Truth in Lending Act (15 U.S.C.
10 1631 et seq.) is amended by adding at the end the fol-
11 lowing:

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

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

17 **"(b) FEE AND INTEREST RATE DEFINED.—**

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

23 "(A) any payment compensating a creditor
24 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 such as 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 not sufficient funds fees charged
11 when a borrower tenders payment on a
12 debt with a check drawn on insufficient
13 funds, overdraft fees, 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 at least 90

1 days, the term 'fee and interest rate' does not
2 include—

3 “(i) application or participation fees
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 pursuant to
10 section 106 and regulations issued
11 thereunder;

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

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

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

22 “(iii) a creditor-imposed not sufficient
23 funds fee charged when a borrower tenders
24 payment on a debt with a check drawn on

1 insufficient funds that does not exceed
2 \$15.

3 “(B) ADJUSTMENTS FOR INFLATION.—

4 The Bureau may adjust the amounts of the tol-
5 erances established under this paragraph for in-
6 flation over time, consistent with the primary
7 goals of protecting consumers and ensuring
8 that the 36-percent fee and interest rate limita-
9 tion is not circumvented.

10 “(c) CALCULATIONS.—

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

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

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

1 vided by the number of full months that the
2 credit plan has been in existence.

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

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

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

21 “(e) NO EXEMPTIONS PERMITTED.—The exemption
22 authority of the Bureau under section 105 shall not apply
23 to the rates established under this section or the disclosure
24 requirements under section 127(b)(6).

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

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

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

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

6 “(1) three times the amount of the total ac-
7 crued debt associated with the subject transaction;
8 or

9 “(2) \$50,000.

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

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 141.”.

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