Plenary Session

Bankruptcy Reform Redux: Mortgage and Consumer Credit, Labor, Executive Compensation and Other Legislation in the 110th Congress

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Date	Committee	Hearing/Mark Up
Bankruptc		
10/2/2007	House Judiciary Subcommittee on Commercial and Administrative Law	United States Trustee Program: Watchdog or Attack
7/17/2007	House Judiciary Subcommittee on Commercial and Administrative Law	Hearing on Working Families in Financial Crisis: Medi and Bankruptcy
5/1/2007	House Judiciary Subcommittee on Commercial and Administrative Law	Hearing on the Second Anniversary of the Enactmen Bankruptcy Abuse Prevention and Consumer Protec of 2005: Are Consumers Really Being Protected Und Act?
Supbrime Mortgages		
1/31/2008	Senate Banking Committee	Strengthening our Economy: Foreclosure Prevention Neighborhood Preservation.
1/29/2008	House Judiciary Subcommittee on Commercial and Administrative Law	Hearing on the Growing Mortgage Foreclosure Crisis: Identifying Solutions and Dispelling Myths
12/13/2007	Senate Finance Committee	The Housing Decline: The Extent of the Problem and Potential Remedies
12/12/2007	House Judiciary Committee	Mark-Up Hearing of H.R. 3690 (archived webcast ava
12/6/2007	House Financial Services Committee	Accelerating Loan Modifications, Improving Foreclosu Prevention and Enhancing Enforcement
12/5/2007	Senate Judiciary Committee	The Looming Foreclosure Crisis: How To Help Familie Their Homes
11/6/2007	House Financial Services Committee	Mark-Up Hearing of H.R. 3915
11/2/2007	House Financial Services Committee	Progress in Administration and Other Efforts to Coord and Enhance Mortgage Foreclosure Prevention
10/30/2007	House Judiciary Subcommittee on Commercial and Administrative Law	Hearing on Straightening Out the Mortgage Mess: Ho We Protect Home Ownership and Provide Relief to Consumers in Financial Distress? – Part II
10/24/2007	House Financial Services Committee	Legislative Proposals on Reforming Mortgage Practic
9/27/2007	House Financial Services Subcommittee on Capital Markets, Insurance, and Government	The Role of Credit Rating Agencies in the Structured Market
9/26/2007	Senate Banking Committee	The Role and Impact of Credit Rating Agencies on th Subprime Credit Markets
9/25/2007	House Judiciary Subcommittee on Commercial and Administrative Law	Straightening Out the Mortgage Mess: How Can We Home Ownership and Provide Relief to Consumers in Financial Distress?
5/8/2007	Subcommittee on Financial Institutions and Consumer Credit Committee Hearing	The Role of the Secondary Market in Subprime Mort Lending
4/17/2007	House Financial Services Committee	Possible Responses to Rising Mortgage Foreclosures
3/27/2007	House Financial Services Subcommittee on Financial Institutions and Consumer Credit Hearing	Subprime and Predatory Mortgage Lending: New Re Guidance, Current Market Conditions and Effects on Regulated Financial Institutions
3/22/2007	Senate Banking Committee	Mortgage Market Turmoil: Causes and Consequence
Private Equit		
9/27/2007	Senate Finance Committee	Offshore Tax Issues: Reinsurance and Hedge Funds
9/6/2007	Senate Finance Committee	Carried Interest Part III
7/31/2007	Senate Finance Committee	Carried Interest Part II
7/11/2007	Senate Finance Committee	Carried Interest Part I
3/13/2007	House Financial Services Committee	Hedge Funds and Systemic Risk in the Financial Mar

Credit Cards and Other		
12/12/2007	House Judiciary Committee	Mark-up of H.R. 3753, the "Federal Judicial Salary R Act of 2007" (archived webcast available)
12/4/2007	Senate Homeland Security and Government Affairs Permanent Subcommittee on Investigations	Credit Card Practices: Unfair Interest Rate Increases
11/15/2007	House Education and Labor Committee	Markup on "H.R. 4137, The College Opportunity and Affordability Act of 2007"
10/2/2007	House Financial Services Committee	Systemic Risk: Examining Regulators' Ability to React Threats in the Financial System
10/2/2007	House Financial Services Committee Oversight and Investigations Subcommittee	Credit-Based Insurance Scores: Are They Fair?
6/19/2007	House Financial Services Committee	Consumers' Ability to Dispute and Change Inaccurate Information
6/7/2007	House Financial Services Subcommittee on Financial Institutions	Improving Credit Card Consumer Protection: Recent and Regulatory Initiatives
6/5/2007	U.S. Senate Committee on Homeland Security and Governmental Affairs	Executive Stock Options: Should the IRS and Stockh Be Given Different Information?
4/26/2007	House Financial Services Subcommittee on Financial Institutions	Credit Card Practices: Current Consumer and Regula Issues
3/7/2007	U.S. Senate Committee on Homeland Security and Governmental Affairs	Credit Card Practices: Fees, Interest Rates, and Grac Periods
1/25/2007	Senate Banking Committee	Examining the Billing, Marketing, and Disclosure Prac the Credit Card Industry, and Their Impact on Consu
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II

110TH CONGRESS
1ST SESSION

S. 1395

To prevent unfair practices in credit card accounts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 15, 2007

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

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A BILL

To prevent unfair practices in credit card accounts, and for other purposes.

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 "Stop Unfair Practices
5 in Credit Cards Act of 2007".

6 **SEC. 2. STOP UNFAIR INTEREST RATES AND FEES.**

7 Section 163 of the Truth in Lending Act (15 U.S.C.
8 1666b) is amended—

1 (1) by striking the section title and all that fol-
2 lows through "If an open" and inserting the fol-
3 lowing:

4 **"§ 163. Billing period and finance charges**

5 "(a) BILLING PERIOD.—

6 "(1) FOURTEEN-DAY MINIMUM.—If an open";

7 (2) by striking "(B) Subsection (a)" and insert-
8 ing the following:

9 "(2) EXCUSABLE CAUSE.—Subsection (a)"; and

10 (3) by adding at the end the following:

11 "(b) NO INTEREST CHARGE ON DEBT THAT IS PAID
12 ON TIME.—If an open end consumer credit plan provides
13 a time period within which an obligor may repay any por-
14 tion of the credit extended without incurring an interest
15 charge, and the obligor repays all or a portion of such
16 credit within the specified time period, the creditor may
17 not impose or collect an interest charge on the portion of
18 the credit that was repaid within the specified time period.

19 "(c) NO INTEREST ON DEBT THAT IS PAID ON TIME
20 AND IN FULL.—In an open end consumer credit plan, if
21 a billing statement requests an obligor to repay within a
22 specified time period all of the credit extended under the
23 plan and related finance charges, and the obligor pays all
24 of the specified amount within the specified time period,
25 the creditor may not impose or collect an additional inter-

1 est charge on the amount that was paid in full and within
2 the specified time period.

3 ''(d) LIMITS ON INTEREST RATE INCREASES.—

4 ''(1) IN GENERAL.—With respect to a credit
5 card account under an open end consumer credit
6 plan, the creditor shall not increase the periodic rate
7 of interest applicable to extensions of credit while
8 such account remains open, unless—

9 ''(A) such increase is pursuant to the expi-
10 ration of an introductory rate which was dis-
11 closed under section 127(c)(6);

12 ''(B) such increase is pursuant to the ap-
13 plication of a variable rate which was disclosed
14 under section 127(c)(1)(A)(i)(II);

15 ''(C) such increase is pursuant to the ap-
16 plication of a penalty rate which was disclosed
17 under subsections (a)(4) and (c)(1)(A)(i) of sec-
18 tion 127; or

19 ''(D) the obligor has provided specific writ-
20 ten consent to such increase at the time such
21 increase was proposed.

22 ''(2) LIMIT ON PENALTY INTEREST RATE.—If
23 an obligor fails to repay an extension of credit in ac-
24 cordance with the terms of a credit card account
25 under an open end consumer credit plan, and the

1 creditor determines to apply a penalty rate, as de-
2 scribed in paragraph (1)(C), notwithstanding para-
3 graph (1)(D), such penalty rate may not, while such
4 account is open, exceed 7 percentage points above
5 the interest rate that was in effect with respect to
6 such account on the date immediately preceding the
7 first such penalty increase for such account.

8 "(e) INTEREST RATE INCREASES LIMITED TO FU-
9 TURE CREDIT EXTENSIONS.—With respect to a credit
10 card account under an open end consumer credit plan, if
11 the creditor increases the periodic interest rate applicable
12 to an extension of credit under the account, such increased
13 rate shall apply only to extensions of credit made on and
14 after the date of such increase under the account, and any
15 extension of credit under such account made before the
16 date of such increase shall continue to incur interest at
17 the rate that was in effect on the date prior to the date
18 of the increase.

19 "(f) NO INTEREST CHARGES ON FEES.—With re-
20 spect to a credit card account under an open end consumer
21 credit plan, if the creditor imposes a transaction fee on
22 the obligor, including a cash advance fee, late fee, over-
23 the-limit fee, or balance transfer fee, the creditor may not
24 impose or collect interest with respect to such fee amount.

1 "(g) FIXED CREDIT LIMIT.—With respect to each
2 credit card account under an open end consumer credit
3 plan, the creditor shall offer to the obligor the option of
4 obtaining a fixed credit limit that cannot be exceeded, and
5 with respect to which any request for credit in excess of
6 such fixed limit must be refused, without exception and
7 without imposing an over-the-limit fee or other penalty on
8 such obligor.

9 "(h) OVER-THE-LIMIT FEE RESTRICTIONS.—With
10 respect to a credit card account under an open end con-
11 sumer credit plan, an over-the-limit fee, as described in
12 section 127(c)(1)(B)(iii)—

13 "(1) may be imposed on the account only when
14 an extension of credit obtained by the obligor causes
15 the credit limit on such account to be exceeded, and
16 may not be imposed when such credit limit is ex-
17 ceeded due to a penalty fee, such as a late fee or
18 over-the-limit fee, that was added to the account bal-
19 ance by the creditor; and

20 "(2) may be imposed only once during a billing
21 cycle if, on the last day of such billing cycle, the
22 credit limit on the account is exceeded, and no addi-
23 tional over-the-limit fee shall be imposed in a subse-
24 quent billing cycle with respect to such excess credit,
25 unless the obligor has obtained an additional exten-

1 sion of credit in excess of such credit limit during
2 such subsequent cycle.
3 ''(i) OTHER FEES.—
4 ''(1) NO FEE TO PAY A BILLING STATEMENT.—
5 With respect to a credit card account under an open
6 end consumer credit plan, the creditor may not im-
7 pose a separate fee to allow the obligor to repay an
8 extension of credit or finance charge, whether such
9 repayment is made by mail, electronic transfer, tele-
10 phone authorization, or other means.
11 ''(2) REASONABLE CURRENCY EXCHANGE
12 FEE.—With respect to a credit card account under
13 an open end consumer credit plan, the creditor may
14 impose a fee for exchanging United States currency
15 with foreign currency in an account transaction, only
16 if—
17 ''(A) such fee reasonably reflects the actual
18 costs incurred by the creditor to perform such
19 currency exchange;
20 ''(B) the creditor discloses publicly its
21 method for calculating such fee; and
22 ''(C) the primary Federal regulator of such
23 creditor determines that the method for calcu-
24 lating such fee complies with this paragraph.

1 "(j) ANNUAL AUDIT.—The primary Federal regu-
2 lator of a card issuer shall audit, on at least an annual
3 basis, the credit card operations and procedures used by
4 such issuer to ensure compliance with this section and sec-
5 tion 164, including by reviewing a sample of billing state-
6 ments to determine when they were mailed and received,
7 and by reviewing a sample of credit card accounts to deter-
8 mine when and how payments and finance charges were
9 applied. Such regulator shall promptly require the card
10 issuer to take any corrective action needed to comply with
11 this section.".

12 **SEC. 3. STOP UNFAIR APPLICATION OF CARD PAYMENTS.**

13 Section 164 of the Truth in Lending Act (15 U.S.C.
14 1666c) is amended—

15 (1) by striking the section heading and all that
16 follows through "Payments" and inserting the fol-
17 lowing:

18 **"§ 164. Prompt and fair crediting of payments**

19 "(a) IN GENERAL.—Payments"; and

20 (2) by adding at the end the following:

21 "(b) APPLICATION OF PAYMENT.—Upon receipt of a
22 payment from a cardholder, the card issuer shall—

23 "(1) apply the payment first to the card bal-
24 ance bearing the highest rate of interest, and then

1 to each successive balance bearing the next highest
2 rate of interest, until the payment is exhausted; and
3 ''(2) after complying with paragraph (1), apply
4 the payment in the most effective way to minimize
5 the imposition of any finance charge to the account.
6 ''(c) CHANGES BY CARD ISSUER.—If a card issuer
7 makes a material change in the mailing address, office,
8 or procedures for handling cardholder payments, and such
9 change causes a material delay in the crediting of a card-
10 holder payment made during the 60-day period following
11 the date on which such change took effect, the card issuer
12 may not impose any late fee or finance charge for a late
13 payment on the credit card account to which such payment
14 was credited.''.

15 **SEC. 4. STOP DECEPTIVE DISCLOSURE.**

16 Section 127(e) of the Truth in Lending Act (15
17 U.S.C. 1637(e)) is amended by adding at the end the fol-
18 lowing:
19 ''(3) INTEREST RATE LINKED TO PRIME
20 RATE.—If a credit card solicitation, application,
21 agreement, or plan specifies use of a variable inter-
22 est rate established by reference to a 'prime rate',
23 'prime interest rate', or similar rate or index, the
24 referenced rate shall be disclosed and defined as the
25 bank prime loan rate posted by a majority of the top

1 25 (by assets in domestic offices) United States
2 chartered commercial banks, as published by the
3 Board of Governors of the Federal Reserve System.
4 To avoid an unfair or deceptive act or practice, a
5 card issuer may not use the term 'prime rate' to
6 refer to any other type of interest rate.''.

7 **SEC. 5. DEFINITIONS.**

8 Section 103 of the Truth in Lending Act (15 U.S.C.
9 1602) is amended by adding at the end the following:
10 ''(cc) PRIMARY FEDERAL REGULATOR.—
11 ''(1) IN GENERAL.—The term 'primary Federal
12 regulator', when used with respect to a card issuer
13 that is a depository institution, has the same mean-
14 ing as the term 'appropriate Federal banking agen-
15 cy', under section 3 of the Federal Deposit Insur-
16 ance Act.
17 ''(2) AREAS OF RESPONSIBILITY.—For each
18 card issuer within its regulatory jurisdiction, the pri-
19 mary Federal regulator shall be responsible for over-
20 seeing the credit card operations of the card issuer,
21 ensuring compliance with the requirements of this
22 title, and enforcing the prohibition against unfair or
23 deceptive acts or practices.''.

1 **SEC. 6. STRENGTHEN CREDIT CARD INFORMATION COL-**
2 **LECTION.**
3 Section 136(b) of the Truth in Lending Act (15
4 U.S.C. 1646(b)) is amended—
5 (1) in paragraph (1)—
6 (A) by striking ''The Board shall'' and in-
7 serting the following:
8 ''(A) IN GENERAL.—The Board shall''; and
9 (B) by adding at the end the following:
10 ''(B) INFORMATION TO BE INCLUDED.—
11 The information under subparagraph (A) shall
12 include, as of a date designated by the Board—
13 ''(i) a list of each type of transaction
14 or event for which one or more of the card
15 issuers has imposed a separate interest
16 rate upon a cardholder, including pur-
17 chases, cash advances, and balance trans-
18 fers;
19 ''(ii) for each type of transaction or
20 event identified under clause (i)—
21 ''(I) each distinct interest rate
22 charged by the card issuer to a card-
23 holder, as of the designated date; and
24 ''(II) the number of cardholders
25 to whom each such interest rate was
26 applied during the calendar month im-

1 mediately preceding the designated
2 date, and the total amount of interest
3 charged to such cardholders at each
4 such rate during such month;
5 "(iii) a list of each type of fee that
6 one or more of the card issuers has im-
7 posed upon a cardholder as of the des-
8 ignated date, including any fee imposed for
9 obtaining a cash advance, making a late
10 payment, exceeding the credit limit on an
11 account, making a balance transfer, or ex-
12 changing United States dollars for foreign
13 currency;
14 "(iv) for each type of fee identified
15 under clause (iii), the number of card-
16 holders upon whom the fee was imposed
17 during the calendar month immediately
18 preceding the designated date, and the
19 total amount of fees imposed upon card-
20 holders during such month;
21 "(v) the total number of cardholders
22 that incurred any interest charge or any
23 fee during the calendar month immediately
24 preceding the designated date; and

1 “(vi) any other information related to
2 interest rates, fees, or other charges that
3 the Board deems of interest.”; and
4 (2) by adding at the end the following:
5 “(5) REPORT TO CONGRESS.—The Board shall,
6 on an annual basis, transmit to Congress and make
7 public a report containing an assessment by the
8 Board of the profitability of credit card operations
9 of depository institutions. Such report shall include
10 estimates by the Board of the approximate, relative
11 percentage of income derived by such operations
12 from—
13 “(A) the imposition of interest rates on
14 cardholders, including separate estimates for—
15 “(i) interest with an annual percent-
16 age rate of less than 25 percent; and
17 “(ii) interest with an annual percent-
18 age rate equal to or greater than 25 per-
19 cent;
20 “(B) the imposition of fees on cardholders;
21 “(C) the imposition of fees on merchants;
22 and
23 “(D) any other material source of income,
24 while specifying the nature of that income.”.

1 **SEC. 7. CONFORMING AMENDMENT.**

2 Section 8 of the Fair Credit and Charge Card Disclo-
3 sure Act of 1988 (15 U.S.C. 1637 note) is repealed.

4 **SEC. 8. EFFECTIVE DATE.**

5 This Act and the amendments made by this Act shall
6 become effective 180 days after the date of enactment of
7 this Act.

○

SENATOR CARL LEVIN (D-MICH)
ON INTRODUCING S. 1395, THE
STOP UNFAIR PRACTICES IN CREDIT CARDS ACT

May 15, 2007

Mr. President, I am introducing today, along with Senator McCaskill, the Stop Unfair Practices in Credit Cards Act.

Credit cards are a fixture of American family life today. People use them to buy groceries, rent a car, shop on the Internet, pay college tuition, even pay their taxes. In 2005, the average family had 5 credit cards, and American households used nearly 700 million credit cards to buy goods and services worth $1.8 trillion.

Credit cards fuel commerce, facilitate financial planning, and help families deal with emergencies. But credit cards have also contributed to record amounts of household debt. Some credit card issuers have socked families with sky-high interest rates of 25%, 30%, and higher, and have hit consumers with hefty fees for late payments, for exceeding a credit limit, and other transactions. In too many cases, credit card issuers have made it all but impossible for working families to climb out of debt.

That's why in 2005, the Permanent Subcommittee on Investigations, which I chair and on which Senator McCaskill now serves, initiated an in-depth investigation into unfair and abusive credit card industry practices. In the fall of 2006, the Government Accountability Office released a report I had requested which, for the first time in years, provided a comprehensive examination of the interest rates and fees being charged by credit card companies. Following the release of that report and continuing through today, the Subcommittee has been deluged with calls and letters from Americans expressing anger and frustration at the way they have been treated by their credit card companies and sharing stories of unfair and often abusive practices.

The Subcommittee has been examining these allegations of unfair treatment, and has identified many troubling credit card industry practices that should be restricted or banned. Our first hearing in March focused on industry practices involving grace periods, interest rates, and fees. It revealed a number of unfair, little known, and sometimes abusive credit card practices which prey upon families experiencing financial hardships and squeeze even consumers who pay their credit card bills on time.

The legislation we are introducing today is aimed at stopping abusive credit card practices that trap too many hard-working families in a downward spiral of debt. American families deserve to be treated honestly and fairly by their credit card companies. Our bill would help ensure that fair treatment.

Here are just a few things our bill would do. It would stop credit card companies from charging interest on debt that is paid on time. It would crack down on abusive fees, including

repeated late fees and over-the-limit fees, as well as fees to pay your bill. It would also prohibit the charging of interest on those fees. It would establish guidelines on interest rate increases, including a cap on penalty interest rate hikes at no more than seven percent. And it would require that increased interest rates apply only to future credit card debt, and not to debt already incurred.

Our bill will be referred to the Senate Banking Committee which has primary jurisdiction over credit card legislation and which has been holding its own hearings on unfair credit card practices. My friend, Senator Dodd, the Committee Chairman, has a long history of fighting credit card abuses; Senator Shelby, the Ranking Republican, as well as many other members of the Committee have also expressed concern about a number of credit card problems. It is my hope that our bill and the legislative record being compiled by our Subcommittee will help the Banking Committee in its deliberations and help build momentum to enact legislation halting the unfair credit card practices that outrage American consumers. Credit card abuses are too harmful to American families, our economy, and our economic future to let these unfair practices continue.

Let me describe the key provisions of our bill in more detail.

No Interest Charges for Debt Paid on Time

The first section of the bill would put an end to an indefensible practice that imposes little known and unfair interest charges on many unsuspecting, responsible consumers. Most credit cards today offer what is called a grace period. Card holders are told that, if they pay their monthly credit card bill during this grace period, they will not be charged interest on the debt for which they are being billed. What many card holders do not realize, however, is that this grace period typically provides protection against interest charges only if their monthly credit card bill is paid in full. If the card holder pays less than one hundred percent of the monthly bill – even if the card holder pays on time – he or she will be charged interest on the entire billed amount, including the portion that was paid by the specified due date.

An example shows why this billing practice is unfair and should be stopped. Suppose a consumer who usually pays his or her credit card account in full and owes no money as of December 1 makes a lot of purchases in December. The consumer gets a credit card bill on January 1 for $5,020, due January 15. Suppose the consumer pays that bill on time, but pays $5,000 instead of the full amount owed.

Most people assume that the next bill would be for the $20 in unpaid debt, plus interest on that $20. But that common sense assumption is wrong. That's because current industry practice is to charge the consumer interest not only on the $20 that wasn't paid on time, but also on the $5,000 that was paid on time. Let me say that again. Industry practice is to force the consumer to pay interest on the portion of the debt that was paid on time. In other words, the consumer would pay interest on the entire $5,020 from the first day of the billing month, January 1, until the day the $5,000 payment was made on January 15, compounded daily. So much for a grace period. After that, the consumer would be charged interest on the $20 past due, compounded daily, from January 15 to the end of the month.

The end result would be a February 1 bill that more than doubles the $20 debt. Using an interest rate of 17.99%, for example, in just one month, the $20 debt would rack up interest charges of more than $35.

Charging $35 of interest over one month on a $20 credit card debt is indefensible, especially when applied to a consumer who paid over 90% of their credit card debt on time during the grace period. Our legislation would end this unfair billing practice by amending the Truth in Lending Act to prohibit the charging of interest on any portion of a credit card debt that is paid on time during a grace period. Using our example, this prohibition would bar the charging of interest on the $5,000 that was paid on time, and result in a February balance that reflects what a rational consumer would have expected: the $20 past due, plus interest on the $20 from January 1 to January 31.

No Trailing Interest on Debt Paid on Time and In Full

The second section of our bill would address a related unfair billing practice, which I call "trailing interest." Charging trailing interest on credit card debt is another widespread, but little known industry practice that squeezes responsible and largely unsuspecting consumers for still more interest charges.

Going back to our example, you might think that once the consumer gets gouged in February by receiving a bill for $55 on a $20 debt, and pays that bill on time and in full, without making any new purchase, that would be the end of that credit card debt for the consumer. But you would be wrong. It would not be the end.

Even if, on February 15, the consumer paid the February 1 bill in full and on time – all $55 – the next bill would likely have an additional interest charge related to the $20 debt. In this case, the charge would reflect interest that would have accumulated on the $55 from February 1 to 15, which is the time from when the bill was sent to the day it was paid. The total interest charge in our example would be about 38 cents. While some credit card issuers will waive trailing interest if the next month's bill is less than $1, a common industry practice is to fold the 38 cents into the next bill if a consumer makes a new purchase.

Now 38 cents isn't much in the grand scheme of things. That may be why many consumers don't notice this extra interest charge or bother to fight it. Even if someone had questions about the amount of interest on a bill, most consumers would be hard pressed to understand how the amount was calculated, much less whether it was correct. But by nickel and diming tens of millions of consumer accounts with trailing interest charges, credit card issuers reap large profits.

This little known billing practice, which squeezes consumers for a few more cents on the dollar, and targets responsible card holders who pay their bills on time and in full, goes too far. If a consumer pays a credit card bill on time and in full – paying one hundred percent of the amount specified by the date specified in the billing statement -- it is unfair to charge that consumer still more interest on the debt that was just paid. Our legislation would put an end to

trailing interest by prohibiting credit card issuers from adding interest charges to a credit card debt which the consumer paid on time and in full in response to a billing statement.

Unfair Unilateral Interest Rate Hikes

A third problem examined by the Subcommittee involves a widespread industry practice in which credit card issuers claim the right to unilaterally change the terms of a credit card agreement at any time for any reason with only a 15-day notice to the consumer under the Truth in Lending Act.

As the National Consumer Law Center testified at our hearing, this practice means that smart shoppers who choose a credit card after comparing a variety of card options are continually vulnerable to a change-in-terms notice that alters the favorable terms they selected, and provides them with only 15 days to accept the changes or find an alternative. By asserting the right to make unilateral changes to credit card terms on short notice, credit card issuers undermine not only the bargaining power of individual consumers, but also principles of fair market competition. Such unilateral changes are particularly unfair when they alter material terms in a credit card agreement such as the interest rate applicable to extensions of credit.

That's why our bill would impose two types of limits on credit card interest rate hikes. First, for consumers who comply with the terms of their credit card agreements, the bill would prohibit a credit card issuer from unilaterally hiking an interest rate that was represented to, and included in the disclosures provided, to a consumer under the Truth in Lending Act, unless the consumer affirmatively agreed in writing to the increase at the time it is proposed. This prohibition is intended to protect responsible consumers who play by the rules from a sudden hike in their interest rate for no apparent reason – a complaint that the Subcommittee has heard all too often. Under our bill, issuers would no longer be able to unilaterally hike the interest rates of card holders who play by the rules.

The bill's second limit would apply to consumers who, for whatever reason, failed to comply with the terms of their credit card agreement, perhaps by paying late or exceeding the credit limit. In that circumstance, credit card issuers would be permitted to impose a penalty interest rate on the account, but the bill would place a cap on how high that penalty interest rate could go.

Specifically, the bill would limit any such penalty rate hike to no more than a 7% increase above the interest rate in effect before the penalty rate was imposed. That means a 10% rate could rise no higher than 17%, and a 15% rate could not exceed 22%. This type of interest rate limit is comparable to the caps that today operate in many adjustable mortgages. The effect of the credit card cap would be to prohibit penalty interest rates from dramatically increasing the interest rate imposed on the card holder, as happened in cases examined by the Subcommittee where credit card interest rates jumped from 10% or 15% to as much as 32%. Penalty interest rate hikes that double or triple existing interest rates are simply unreasonable and unfair.

If a credit card account were opened with a low introductory interest rate followed by a higher interest rate after a specified period of time, it is intended that the penalty rate cap

proposed in the bill would apply to each of those disclosed rates individually. For example, suppose the credit card account had a 0% introductory rate for six months and a 12% rate after that. Suppose further that, during the six-month introductory period, the card holder exceeded the credit limit. The bill would allow the card issuer to impose a penalty interest rate of up to 7% for the rest of the six month period. Once the six month period ended, it is intended that the 12% rate would take effect. If the consumer were to again exceed the limit, it is intended that any penalty rate imposed upon the account be no greater than 19%.

If a card issuer were to analyze an account and conclude that a penalty rate increase of up to 7% would be insufficient to protect against the risk of default on the account, the issuer could choose to reduce the credit limit on the account or cancel the account altogether. If the card issuer chose to cancel the account, it is intended that the consumer would retain the right to pay off any debt on the account using the interest rate that was in effect when the debt was incurred.

The point of the bill's penalty interest rate cap is to stop penalty interest rate hikes which are disproportional; which too often stick families with sky-high interest rates of 25%, 30%, and even 32%; and which too often make it virtually impossible for working American families to climb out of debt.

Apply Interest Rate Increases Only to Future Debt

Still another troubling practice involving credit card interest rate hikes is the problem of retroactive application. Industry practice today is to apply an increased interest rate not only to new debt incurred by the card holder, but also to previously incurred debt.

Retroactive application of a higher interest rate means that pre-existing credit card debt suddenly costs a consumer much more to repay. Take, for example, a $3,000 credit card debt that a consumer was paying down each month with timely payments. Suddenly, the card holder falls ill, misses a payment or pays it late, and the card issuer increases the interest rate from 15% to 22%. If applied to the existing $3,000 debt, that higher rate would require the card holder to make a much steeper minimum monthly payment and pay much more interest than originally planned. That is often enough to sink a working family into a deepening spiral of debt from which they cannot recover.

By making it a common practice to institute after-the-fact interest rate hikes for existing credit card debt -- in effect unilaterally changing the terms of an existing loan -- the credit card industry has unfairly positioned itself to reap greater profits at consumers' expense. Our bill would fight back by limiting the retroactive application of interest rate hikes to lessen the financial impact on American households. Specifically, our bill would provide that interest rate hikes could be applied only to future credit card debt and not to any credit card debt incurred prior to the rate increase. Instead, any earlier debt would continue to accrue interest at the rate previously in effect.

Unfair Practices Related to Fees

The first set of provisions in our bill addresses unfair practices related to interest rates. The next set of provisions targets unfair practices related to fees imposed on card holders by credit card companies.

The need for pro-consumer fee protections is illustrated by the story of Wes Wannemacher of Ohio, a witness featured at the Subcommittee's March hearing. In 2001 and 2002, Mr. Wannemacher charged about $3,200 on a new Chase credit card to pay for expenses mostly related to his wedding. Over the next six years, he paid about $6,300 toward that debt, yet in February 2007, Chase said that he still owed them about $4,400.

How could Mr. Wannemacher pay nearly double his original credit card debt and still owe $4,400? As he explained in his testimony, in addition to repaying the original debt of $3,200, Mr. Wannemacher was socked with $4,900 in interest charges, $1,100 in late fees, and 47 over-limit fees totaling $1,500, despite going over his $3,000 credit limit by a total of $200. These facts show that Mr. Wannemacher paid $2,600 in fees on a $3,200 debt. In addition, those fees were added to his outstanding credit card balance, and he was charged interest on the fee amounts, increasing his debt by hundreds if not thousands of additional dollars. There's something so wrong with this picture, that Chase didn't even defend its treatment of the account at the Subcommittee hearing; instead, Chase forgave the $4,400 debt that it said was still owing on the Wannemacher credit card.

No Interest Charges on Fees

It is no secret that credit card companies are making a great deal of money off the fees they are imposing on consumers. According to GAO, fee income now produces about 10 percent of all income obtained by credit card issuers. The GAO report which I commissioned on this subject identified a host of different fees that have become common practice, including fees for transferring balances, making a late payment, exceeding a credit limit, paying a bill by telephone, and exchanging foreign currency. According to GAO, late fees now average $34 per month and over-limit fees average $31 per month, with some of these fees climbing as high as $39 per month. As Mr. Wannemacher discovered, these hefty fees are not only added to the credit card's outstanding balance, they also incur interest. The higher the fees climb, the higher the balances owed, and the higher the interest charges on top of that.

Charging interest on money borrowed is certainly justified, but squeezing additional dollars from consumers by charging interest on transaction fees goes too far. Steep fees already deepen household debt from credit cards; those fees should not also generate interest income for the credit card issuer. Our bill would ban this industry-wide practice by prohibiting credit card issuers from charging or collecting interest on the fees imposed on consumers.

Over-the-Limit Fee Restrictions

Mr. Wannemacher exceeded the $3,000 limit on his credit card on three occasions in 2001 and 2002 for a total of $200. Over the following six years, however, he was charged over-

the-limit fees on 47 occasions totaling about $1,500. In other words, Chase tried to collect over-the-limit fees from Mr. Wannemacher that were seven times larger than the amount he went over the limit.

At our March hearing, Chase did not attempt to defend the 47 over-the-limit fees it imposed; instead, it announced that it was changing its policy and would join with others in the industry in imposing no more than three over-the-limit fees in a row on a credit card account with an outstanding balance that exceeded the credit limit. While Chase's voluntary change in policy is welcome, it doesn't go far enough in curbing abusive practices related to over-the-limit fees.

First, if a credit card issuer approves the extension of credit that allows the card holder to exceed the account's established credit limit, the issuer should be allowed to impose only one over-the-limit fee for that credit extension. One fee for one violation – especially when the card issuer facilitated the violation by approving the excess credit charge.

Second, the fee should be imposed only if the account balance is over the credit limit at the end of the billing cycle. If a card holder exceeds the limit in the middle of the billing cycle and then takes prompt action to reduce the balance below the limit, perhaps by making a payment or obtaining a credit for returning a purchase, there is no injury to the creditor and no justification for an over-the-limit fee.

Third, a credit card issuer should impose an over-the-limit fee only when an action taken by the card holder causes the credit limit to be exceeded, and not when a penalty imposed by the card issuer causes the excess charge. The card issuer should not be able to pile penalty upon penalty, such as by assessing a late fee on an account and then, if the late fee pushes the credit card balance over the credit limit, also imposing an over-the-limit fee.

In addition, the bill would require credit card issuers to offer consumers the option of establishing a true credit limit on their account – a credit limit that could not be exceeded, because the account would be programmed to refuse approval of any extension of credit over the established limit. In too many cases, credit card issuers no longer provide consumers with the option of having a fixed credit limit, preferring instead to enable all of their card holders to exceed their credit limits only to be penalized by a hefty fee, added interest, and, possibly, a penalty interest rate.

Pay-to-Pay and Currency Exchange Fees.

There's more. Another unfair but common fee is what I call the "pay-to-pay fee." It is the $5 to $15 fee that many issuers charge consumers to pay their credit card bill on time by using the telephone. To me, charging folks a fee to pay their bills is a travesty. My bill would prohibit a credit card issuer from charging a separate fee to allow a credit card holder to pay all or part of a credit card balance.

Another fee that has raised eyebrows is the one charged by credit card issuers to exchange dollars into or from a foreign currency. A number of issuers today charge an amount

equal to two percent of the amount of currency being exchanged in addition to a one-percent "conversion fee" charged by Visa or Master Card, for a total of three percent. Our bill responds by requiring foreign currency exchange fees to reasonably reflect the actual costs incurred by the creditor to perform the currency exchange, and requiring regulators to ensure compliance with that standard.

Fair Treatment of Card Holder Payments

In addition to unfair practices involving interest rates and fees, the Subcommittee investigation uncovered several unfair industry practices involving how credit card holder payments are applied to satisfy finance charges and other credit card debt. One such practice that has caught the Subcommittee's attention is the industry-wide practice of applying consumer payments first to the balances with the lowest interest rates.

Right now, a single credit card account often carries balances subject to multiple interest rates. Credit cards typically use one interest rate for purchases, another for cash advances, and a third for balance transfers. Many card issuers also offer new customers low introductory interest rates, such as 0 or 1%, but limit these "come on" rates to a short time period or to a balance transferred from another card. Moreover, many of these interest rates may vary over time, since it is a common practice to offer variable interest rates that rise and fall according to a specified rate or index.

When a consumer payment is made, credit card issuers currently have complete discretion on how to apply that payment to the various balances bearing different interest rates. Consumers are typically given no option to direct where their payments are applied. Today, virtually all credit card issuers apply a consumer payment first to the balance with the lowest interest rate. After that balance is paid off, card issuers apply the payment to the balance with the next lowest interest rate, and so on.

This payment practice clearly favors creditors over consumers. It allows the card issuers to direct payments first to the balances that provide them with the lowest returns, and minimize payments to the balances bearing the highest interest rates so those balances can accumulate more interest for a longer period. Consumers who want to pay off a cash advance bearing a 20% interest rate, for example, are told that they cannot make that payment until they first pay off all other balances with a lower interest rate.

Our bill would replace this unfair industry-wide practice with a pro-consumer approach. Reversing current industry practice, the bill would require card holder payments to be applied first to the balance bearing the highest interest rate, and then to each successive balance bearing the next highest rate, until the payment is used up. The bill would also require credit card issuers to apply card holder payments in the most effective way to minimize the imposition of any fees or interest charges to the account.

In addition, the bill would prohibit credit card issuers from imposing late fees on consumers if the issuer was itself responsible for the delay in crediting the payment. For example, if a card issuer changed the mailing address for payments, had to shut down its mail

sorting equipment for repairs, or mistakenly routed a consumer payment to the wrong department, the issuer would not be allowed to assess a late fee on the card holder for the resulting late payment. Instead, if the card issuer caused the late payment, it would be barred from assessing a late fee on the consumer.

Two Definitions

In addition to provisions to improve practices related to interest rates, fees, and consumer payments, the bill would add two new definitions to the Truth in Lending Act, intended to further address concerns related to unfair credit card practices.

The first definition involves use of the term, "prime rate." Many credit card issuers today use variable interest rates that are linked to the "prime rate" or "prime interest rate" and vary over time. For example, a disclosure may indicate that a credit card will bear an interest rate equal to the prime rate plus a specified number of percentage points. Since the 1950s, the term "prime rate" has been commonly understood to mean the lowest interest rate offered by U.S. banks to their most creditworthy borrowers. That is how the term is defined, for example, in Webster's Collegiate Dictionary.

The problem, however, is that no current statute or regulation defines the prime rate referenced in credit card disclosures under the Truth in Lending Act, and some card issuers have stated expressly that the prime rate used in credit card agreements does not necessarily match the lowest interest rates they provide to their most creditworthy borrowers. Litigation has also arisen between card holders and card issuers as to what is meant by the term and whether card holders are being misled. See, e.g., Lum v. Bank of America, 361 F.3d 217 (3d Cir. 2004).

To remedy this gap in the law, the bill would require credit card disclosures under the Truth in Lending Act that reference the prime rate to use the bank prime loan rate published by the Federal Reserve Board. This published rate is widely accepted in the financial community as an accurate depiction of the lowest interest rate offered by U.S. banks to their most creditworthy borrowers, and the rate is readily available to the public on the Federal Reserve website. By mandating use of this published rate, the bill will ensure that consumers are not deceived by a credit card issuer using a misleading definition of the commonly used term "prime rate."

The second definition added by the bill to the Truth in Lending Act involves specifying the "primary federal regulator" of a credit card issuer. Today, many credit card issuers are federally chartered or regulated banks subject to one or more federal bank regulators. The bill would make it clear that when a card issuer is a federal bank, its primary federal regulator is the same primary regulator assigned to the bank under federal banking law. The provision would also make it clear that the primary federal regulator is responsible for overseeing the bank's credit card operations, ensuring compliance with credit card statutes and regulations, and enforcing the prohibition against unfair or deceptive acts or practices in the Federal Trade Commission Act. Another provision in the bill would make it clear that federal regulators are expected to conduct at least annual audits to ensure card issuer compliance with the statutes and regulations seeking to ensure fair and effective credit card operations.

Improved Data Collection

The next section of the bill would improve current credit card data collection efforts. Right now, credit card issuers file periodic reports with the Federal Reserve providing information about credit card interest rates and profits. This data plays a critical role in credit card oversight efforts, as well as financial and economic analyses related to consumer spending and household debt. The bill would strengthen current data collection efforts by requiring more specific information on interest rates and fees. For example, current data reports cannot be used to determine how many credit card accounts have interest rates of 25% or greater, what types of fees are imposed on consumers, or how many card holders are affected by such interest rates and fees. The new bill would ensure that regulators, credit card users, and the public have the information needed to answer those basic questions.

The bill would also require the development of credit card industry-wide estimates of the approximate relative income derived from interest rates, fees imposed on card holders, fees imposed on merchants, and any other material source of income. GAO provided this information for the first time in its 2006 report, estimating that the credit card industry now derives about 70% of its income from interest charges, 20% from interchange fees imposed on merchants, and 10% from fees imposed on consumers. This valuable information should continue to be collected so that regulators, credit card users, and the public gain a more informed understanding of the credit card industry.

The bill's data collection requirements are largely modeled upon and intended to replicate key interest rate, fee, and revenue data presented by GAO in its 2006 report, "Credit Cards: Increased Complexity in Rates and Fees Heightens Need for More Effective Disclosures to Consumers." Credit card experts were also consulted to determine what information would be most helpful to strengthen credit card oversight.

Transition Period

The final provision in the bill would provide a six-month transition period for credit card issuers to implement the bill's provisions.

Conclusion

Credit card issuers like to say that they are engaged in a risky business, lending unsecured debt to millions of consumers, and that's why they have to set interest rates so high and impose so many fees. But the data shows that, typically, 95 to 97% of U.S. card holders pay their bills. And it is clear that credit card operations are enormously profitable. For the last decade, credit card issuers have reported year after year of solid profits, maintained their position as the most profitable sector in the consumer lending field, and reported consistently higher rates of return than commercial banks. Credit card issuers make such a hefty profit that they sent out 8 billion pieces of mail last year soliciting people to sign up.

With profits like those, credit card issuers can afford to stop treating American families unfairly. They can give up charging interest on debt that was paid on time, give up charging

consumers a fee to pay their bills, give up hiking interest rates from 15% to 32%, and give up imposing repeated over-the-limit fees for a single over-the-limit purchase. As one Michigan businessman expressed it to the Subcommittee, "I don't blame the credit card issuers for putting me into debt, but I do blame them for keeping me there."

Some argue that Congress doesn't need to ban unfair credit card practices; they contend that improved disclosure alone will empower consumers to seek out better deals. Sunlight can be a powerful disinfectant, which is why I have strongly urged the Federal Reserve Board to expedite its regulatory effort to strengthen credit card disclosure and help consumers understand and compare how various credit cards work. But credit cards have become such complex financial products that even improved disclosure will frequently not be enough to curb the abuses -- first because some practices are so complex that consumers can't easily understand them, and second because better disclosure does not always lead to greater market competition, especially when virtually an entire industry is using and benefiting from practices that disadvantage consumers.

So when we find credit card practices that are inherently unfair, consumers are often best served, not by greater disclosure, but by stopping the unfair practices that take advantage of them. Among those practices identified in this bill are unfair interest charges that squeeze consumers who pay their credit card debt on time; unilateral and retroactive interest rate hikes that deepen and prolong credit card debt; unreasonable fees; and payment allocation practices that prevent consumers from paying off the credit card debts bearing the highest interest rates first.

Congress needs to enact pro-consumer legislation that puts an end to unfair credit card practices. I am afraid that these practices are too entrenched, too profitable to the credit card companies, and too immune to consumer pressure for the companies to change them on their own. Our bill offers measures that would combat a host of unfair practices that plague consumers and unfairly deepen and prolong their debt. I look forward to working with my colleagues to address these problems.

I ask unanimous consent to have a summary of the bill printed in the Congressional Record following my remarks.

Detailed Chart Comparing Provisions of Current Bankruptcy Bills Dealing with Modification of Home Mortgages, as of 12/13/2007
Prepared by Mark S. Scarberry
Professor of Law, Pepperdine Univ. School of Law, and the Robert M. Zinman Scholar in Residence, American Bankruptcy Institute

	Durbin Bill, S. 2136	Specter Bill, S. 2133 Chabot Bill, H.R. 3778 (identical except as noted in row for "Allows strip down …")	Miller Bill, H.R. 3609 as introduced	Conyers Amendment to H.R. 3609 in the Nature of a Substitute (approved 17-15 by House Judiciary Committee)
Has sunset provision, orlimitation based on time of mortgage origination, or limitation to particular chapter of Code	No sunset provision. No limitation based on time of mortgage origination. Some provisions apply to chapters other than chapter 13.	Would apply only to chapter 13 cases, and only to such cases filed before the sunset date, seven years after the date of enactment. Provisions dealing with modification of mortgages would apply only to mortgages "initiated before September 26, 2007."	No sunset provision. No limitation based on time of mortgage origination. Provisions apply only in chapter 13 cases.	Would apply only to chapter 13 cases. Provisions dealing with mortgage modification would (1) be subject to seven year sunset provision (thus applying only to cases filed during period beginning with date of enactment of bill and ending seven years later), and (2) apply only to mortgages securing debts incurred during period beginning Jan. 1, 2000 and ending on date of enactment.
Eliminates or limits § 1322(b)(2) prohibition on modification of mortgage on principal residence	Yes. Modification would be permitted if debtor has insufficient current income to make mortgage payments and cure arrearages, after deducting other "expenses" permitted under § 707(b)(2)(A) & (B) (as incorporated in § 1325(b)(3)).	Yes. In certain cases the bills would permit modification, but only in specified ways described below. Uses same approach as § 1322(d) to determine relevant median income for comparison. Mortgage modification permitted if debtor's and spouse's current monthly income (whether or not case is joint case) times	Deletes prohibition in § 1322(b)(2).	Yes. In certain cases the bill would permit modification. If permitted, modification could take specific forms described below. Only "nontraditional mortgages" and "subprime mortgages," as defined in the bill,[1] could be modified, and only if debtor has insufficient current monthly income to make mortgage payments and cure arrearages, after

		twelve is less than 150% of relevant median income. (Bill could be read to apply 150% multiplier only to debtors in households of one person.) Modification is limited to mortgages "initiated before September 26, 2007."		deducting "amounts"[2] (other than payments to be made on the mortgage at issue) set forth in § 707(b)(2)(A) & (B). To confirm plan, court must find that "modification is in good faith."
Allows strip down of mortgage lien to value of home in chapter 13[3]	Yes, if modification of mortgage is permitted. Strip down is not addressed specifically but would be permitted under the general authorization to modify the mortgagee's claim.	Specter Bill: Yes, if modification of mortgage is permitted, ***but only if debtor and mortgagee so agree in writing***. Chabot Bill: Yes, if modification of mortgage is permitted ***with no requirement of agreement by mortgagee***.	Yes. Strip down is not addressed specifically but would be permitted under the general authorization to modify the mortgagee's claim.	Yes, if modification of mortgage is permitted. Allows "claim for a debt … secured by" the mortgage to be reduced to value of property. Provides, on completion of plan, for lien to be retained only for unpaid amount of that reduced claim. Might be interpreted to reduce overall claim rather than simply secured claim, which could prevent mortgage holder from having unsecured claim for deficiency.
Allows payment of modified mortgage beyond duration of chapter 13 plan	Yes. Unclear whether it provides exception to § 1325(a)(5)(B)(i)(I)(bb) to allow mortgagee to retain lien after debtor receives discharge. Does not provide expressly for discharge to be granted on completion of payments other than mortgage	Apparently yes, if modification of mortgage is permitted, because allowed modifications do not include changes in payment schedule. Unclear whether it provides exception to § 1325(a)(5)(B)(i)(I)(bb) to allow mortgagee to retain	Yes. Provides expressly for mortgagee to retain lien after debtor receives discharge despite provisions of § 1325(a)(5)(B)(i)(I)(bb). Also provides expressly for discharge not to be delayed until completion of	Yes. See row immediately below. Provides expressly for mortgagee to retain lien after discharge of other debts until reduced and modified mortgage claim is paid, despite provisions of §1325(a)(5)(B)(i)(I)(bb). Also provides expressly for discharge not to be delayed

	payments. Does not expressly provide for mortgage not to be discharged as personal liability of debtor.	lien after debtor receives discharge. Does not provide expressly for discharge to be granted on completion of payments other than mortgage payments. Does not expressly provide for mortgage not to be discharged as personal liability of debtor.	mortgage payments, and for mortgage obligation not to be discharged.	until completion of mortgage payments, and for mortgage obligation (as possibly reduced by modification) not to be discharged.
Allows chapter 13 plan to provide for extension of mortgage payments beyond term of mortgage	Yes, if modification of mortgage is permitted. Mortgage term can be extended to thirty years from origination of mortgage.	No.	Yes, without any express limitation on term.	Yes, if modification of mortgage is permitted. Language is ambiguous but apparently allows modified mortgage to be paid over term ending thirty years from origination of mortgage or over any longer period provided by original payment schedule.
Allows or requires court to determine mortgage interest rate for home mortgage modified in chapter 13 plan	Yes, if modification of mortgage is permitted. Court must set mortgage rate at most recent annual Fed figure for yield on conventional mortgages plus risk premium. Debtor might have option of leaving contractual provisions regarding interest rate unchanged.	No.	Yes. Ordinary rules for determining interest rate needed to provide full present value of secured claim apparently would apply. No further guidance given in bill.	Yes. Not clear whether, if plan modifies mortgage, plan must include all modifications specified in bill. Probably debtor may choose to include in plan only those modifications desired by debtor. Thus plan may set interest rate at most recent annual Fed figure for yield on conventional mortgages plus risk premium, but probably need not do so. If plan does so,

				then court would determine amount of risk premium.
Allows chapter 13 plan to determine home mortgage interest rate.	No, except to extent that plan proponent must include appropriate interest rate in plan.	Yes, to a limited degree. If modification permitted, plan may modify right of holder of adjustable rate mortgage by "prohibiting or delaying adjustments to the rate of interest applicable to the debt on and after the date of filing of the plan or voiding any such adjustments that occurred during the 2-year period preceding that date of filing." Apparently debtor could lock in below-market teaser rate for life of mortgage. Voiding of increases might entitle debtors to refunds of some interest paid pre-petition.[4]	No, except to extent that plan proponent must include an interest rate that court will find to be sufficient to provide full present value of secured claim per § 1325(a)(5)(B)(ii).	Yes, if modification permitted. Combines elements of Durbin and Specter/Chabot approaches. If plan sets interest rate at Fed figure plus risk premium, then plan will include proposed risk premium but court will then determine the needed risk premium. Alternatively, with respect to adjustable rate mortgage, plan may modify interest rate by "prohibiting, reducing, or delaying adjustments to such rate of interest applicable on and after the date of filing of the plan." Debtor with below-market teaser rate apparently can opt to keep it and prevent rate increases for life of mortgage.
Limits post-petition fees and charges imposed by oversecured home mortgagee where debtor is in chapter 13	Only lawful and reasonable fees provided for in the mortgage agreement may be added, and only if mortgagee gives court notice.	Not clear. Same treatment as interest in cases of substantial failure to disclose material terms regarding fees. See footnote 4 below.	Requires timely notice of fees to debtor and trustee.	Only lawful and reasonable fees provided for in the mortgage agreement may be added, and only if mortgagee gives court notice. Only oversecured mortgagee may add fees. Fee limitation appears to preclude not only allowance of fees (beyond those permitted) in chapter

				13 but also any form of liability for such fees incurred during chapter 13 case regardless of whether chapter 13 plan is confirmed or successfully completed.
Allows waiver of prepayment penalty in chapter 13 plan	Yes, whether or not mortgage may be modified otherwise, and without regard to income and expenses.	Yes, in chapter 13 plan, but only if modification of mortgage is permitted.	Yes (not specifically but as part of general authorization to modify mortgagee's claim in chapter 13 plan).	Yes, in chapter 13 plan, but only if modification of mortgage is permitted.
Disallows mortgage claim for violations of law	Yes. Applies generally to allowance of claims under all chapters of Bankruptcy Code. Entire mortgage claim is disallowed (and mortgage lien is voided) if mortgage is subject to any damages or rescission claim for any violation of TILA or any other state or federal consumer protection law in effect when noncompliance occurred, even if mortgagee obtained foreclosure judgment.	No.	No.	No.
Waives pre-filing credit counseling requirement where home is in foreclosure	Yes, if mortgage foreclosure sale has been scheduled, and regardless of which chapter of the Bankruptcy Code the filing is made under.	Yes, as a pre-filing requirement, but debtor must obtain such counseling after the filing, apparently in addition to the required pre-discharge financial management course. Waiver applies	Yes, if mortagee has initiated judicial or nonjudicial foreclosure on debtor's principal residence. Waiver applies only in chapter 13 cases.	Yes, as a pre-filing requirement (in cases commenced within seven years of enactment of bill), on certification that debtor received notice that mortgage holder "may commence a foreclosure."

		only in chapter 13 cases.		Debtor must obtain such counseling after the filing, apparently in addition to the required pre-discharge financial management course. Waiver applies only in chapter 13 cases.
Allows debtor (or trustee, upon timely intervention) to pursue claims (or defenses) held by debtor but not scheduled as asset of debtor (or as defense, presumably by way of scheduling creditor's claim as disputed).	Yes. Defendant cannot avoid liability by claiming that debtor is not real party in interest or by asserting judicial estoppel. Applies generally, not just in chapter 13 cases.	No.	No.	No.
Allows court to refuse enforcement of arbitration agreement in core matters involving consumer debtor	Yes. Applies generally, not just in chapter 13 cases.	No.	No.	No.
Creates $75,000 federal bankruptcy homestead exemption for debtors over 55	Yes. Applies generally, not just in chapter 13 cases. A $75,000 exemption is added to §§ 522(b)(3) and 522(d). Could be read to be in addition to whatever homestead exemption is provided under state law,	No.	No.	No.

	where state law exemptions are used.			
Requires study to be performed	No.	Yes. Comptroller General must conduct a study "to determine the impact of allowing bankruptcy judges to restructure principal residence mortgages on the secondary market for mortgages"and submit a report to Congress within 180 days of enactment.	No.	Yes. Comptroller General and Director of Executive Office for United States Trustees each must conduct a study "to determine the impact of the amendments made by sections 2 through 7 of this Act" and each must submit a report to Congress within 180 days of enactment.

[1] A nontraditional mortgage is one which at any time provides for periodic payments that are interest-only or that would cause negative amortization. Perhaps unclear whether common practice of paying pro-rated interest only for partial month at beginning of mortgage would make almost all mortgages "nontraditional." Definition could cause mortgage to become "nontraditional" if mortgage holder permits financially distressed debtor to temporarily make reduced payments. Subprime mortgages are first mortgages with interest rates more than 3% over yield on comparable Treasury securities (under detailed provisions in bill for determining interest rate and choice of comparable Treasury securities) or subordinate mortgages with interest rates more than 5% over yield on comparable Treasury securities.

[2] Use of term "amounts" in Conyers Substitute H.R. 3609 rather than term "expenses" as in S. 2136 makes clear that under Conyers Substitute payments on other secured debts must be included in calculation.

[3] Note that if chapter 13 case is "dismissed or converted without completion of the plan," the full amount of the lien under nonbankruptcy law would be restored. See § 1325(a)(5)(B)(II), which would not be amended by any of the bills. A debtor who cannot complete a plan may qualify for a chapter 13 hardship discharge under § 1328(b), in which case the strip down would not be reversed, because the chapter 13 case would not be dismissed or converted.

[4] The bills also explicitly allow court to order recovery (in chapter 13 cases only) of pre-petition interest payments as fraudulent transfers if there was a substantial failure to disclose material terms regarding interest. Under § 548(a), up to two years of pre-petition interest could be recoverable. Section 548(a) apparently would not allow recovery of post-petition interest paid by debtor during the plan (though this is not clear), and the bills do not characterize the obligation to pay interest going forward as a fraudulently incurred obligation

One Hundred Tenth Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Thursday, the fourth day of January, two thousand and seven

An Act

To amend the Internal Revenue Code of 1986 to exclude discharges of indebtedness on principal residences from gross income, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mortgage Forgiveness Debt Relief Act of 2007".

SEC. 2. DISCHARGES OF INDEBTEDNESS ON PRINCIPAL RESIDENCE EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 108(a) of the Internal Revenue Code of 1986 is amended by striking "or" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", or", and by inserting after subparagraph (D) the following new subparagraph:

"(E) the indebtedness discharged is qualified principal residence indebtedness which is discharged before January 1, 2010.".

(b) SPECIAL RULES RELATING TO QUALIFIED PRINCIPAL RESIDENCE INDEBTEDNESS.—Section 108 of such Code is amended by adding at the end the following new subsection:

"(h) SPECIAL RULES RELATING TO QUALIFIED PRINCIPAL RESIDENCE INDEBTEDNESS.—

"(1) BASIS REDUCTION.—The amount excluded from gross income by reason of subsection (a)(1)(E) shall be applied to reduce (but not below zero) the basis of the principal residence of the taxpayer.

"(2) QUALIFIED PRINCIPAL RESIDENCE INDEBTEDNESS.—For purposes of this section, the term 'qualified principal residence indebtedness' means acquisition indebtedness (within the meaning of section 163(h)(3)(B), applied by substituting '$2,000,000 ($1,000,000' for '$1,000,000 ($500,000' in clause (ii) thereof) with respect to the principal residence of the taxpayer.

"(3) EXCEPTION FOR CERTAIN DISCHARGES NOT RELATED TO TAXPAYER'S FINANCIAL CONDITION.—Subsection (a)(1)(E) shall not apply to the discharge of a loan if the discharge is on account of services performed for the lender or any other factor not directly related to a decline in the value of the residence or to the financial condition of the taxpayer.

"(4) ORDERING RULE.—If any loan is discharged, in whole or in part, and only a portion of such loan is qualified principal residence indebtedness, subsection (a)(1)(E) shall apply only to so much of the amount discharged as exceeds the amount

of the loan (as determined immediately before such discharge) which is not qualified principal residence indebtedness.

"(5) PRINCIPAL RESIDENCE.—For purposes of this subsection, the term 'principal residence' has the same meaning as when used in section 121.".

(c) COORDINATION.—

(1) Subparagraph (A) of section 108(a)(2) of such Code is amended by striking "and (D)" and inserting "(D), and (E)".

(2) Paragraph (2) of section 108(a) of such Code is amended by adding at the end the following new subparagraph:

"(C) PRINCIPAL RESIDENCE EXCLUSION TAKES PRECEDENCE OVER INSOLVENCY EXCLUSION UNLESS ELECTED OTHERWISE.—Paragraph (1)(B) shall not apply to a discharge to which paragraph (1)(E) applies unless the taxpayer elects to apply paragraph (1)(B) in lieu of paragraph (1)(E).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness on or after January 1, 2007.

SEC. 3. EXTENSION OF TREATMENT OF MORTGAGE INSURANCE PREMIUMS AS INTEREST.

(a) IN GENERAL.—Subclause (I) of section 163(h)(3)(E)(iv) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking "December 31, 2007" and inserting "December 31, 2010".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or accrued after December 31, 2007.

SEC. 4. ALTERNATIVE TESTS FOR QUALIFYING AS COOPERATIVE HOUSING CORPORATION.

(a) IN GENERAL.—Subparagraph (D) of section 216(b)(1) of the Internal Revenue Code of 1986 (defining cooperative housing corporation) is amended to read as follows:

"(D) meeting 1 or more of the following requirements for the taxable year in which the taxes and interest described in subsection (a) are paid or incurred:

"(i) 80 percent or more of the corporation's gross income for such taxable year is derived from tenant-stockholders.

"(ii) At all times during such taxable year, 80 percent or more of the total square footage of the corporation's property is used or available for use by the tenant-stockholders for residential purposes or purposes ancillary to such residential use.

"(iii) 90 percent or more of the expenditures of the corporation paid or incurred during such taxable year are paid or incurred for the acquisition, construction, management, maintenance, or care of the corporation's property for the benefit of the tenant-stockholders.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 5. EXCLUSION FROM INCOME FOR BENEFITS PROVIDED TO VOLUNTEER FIREFIGHTERS AND EMERGENCY MEDICAL RESPONDERS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by inserting after section 139A the following new section:

"SEC. 139B. BENEFITS PROVIDED TO VOLUNTEER FIREFIGHTERS AND EMERGENCY MEDICAL RESPONDERS.

"(a) IN GENERAL.—In the case of any member of a qualified volunteer emergency response organization, gross income shall not include—

"(1) any qualified State and local tax benefit, and

"(2) any qualified payment.

"(b) DENIAL OF DOUBLE BENEFITS.—In the case of any member of a qualified volunteer emergency response organization—

"(1) the deduction under 164 shall be determined with regard to any qualified State and local tax benefit, and

"(2) expenses paid or incurred by the taxpayer in connection with the performance of services as such a member shall be taken into account under section 170 only to the extent such expenses exceed the amount of any qualified payment excluded from gross income under subsection (a).

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED STATE AND LOCAL TAX BENEFIT.—The term 'qualified state and local tax benefit' means any reduction or rebate of a tax described in paragraph (1), (2), or (3) of section 164(a) provided by a State or political division thereof on account of services performed as a member of a qualified volunteer emergency response organization.

"(2) QUALIFIED PAYMENT.—

"(A) IN GENERAL.—The term 'qualified payment' means any payment (whether reimbursement or otherwise) provided by a State or political division thereof on account of the performance of services as a member of a qualified volunteer emergency response organization.

"(B) APPLICABLE DOLLAR LIMITATION.—The amount determined under subparagraph (A) for any taxable year shall not exceed $30 multiplied by the number of months during such year that the taxpayer performs such services.

"(3) QUALIFIED VOLUNTEER EMERGENCY RESPONSE ORGANIZATION.—The term 'qualified volunteer emergency response organization' means any volunteer organization—

"(A) which is organized and operated to provide firefighting or emergency medical services for persons in the State or political subdivision, as the case may be, and

"(B) which is required (by written agreement) by the State or political subdivision to furnish firefighting or emergency medical services in such State or political subdivision.

"(d) TERMINATION.—This section shall not apply with respect to taxable years beginning after December 31, 2010.".

(b) CLERICAL AMENDMENT.—The table of sections for such part is amended by inserting after the item relating to section 139A the following new item:

"Sec. 139B. Benefits provided to volunteer firefighters and emergency medical responders.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 6. CLARIFICATION OF STUDENT HOUSING ELIGIBLE FOR LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Subclause (I) of section 42(i)(3)(D)(ii) of the Internal Revenue Code of 1986 (relating to certain students not to disqualify unit) is amended to read as follows:

"(I) single parents and their children and such parents are not dependents (as defined in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) of another individual and such children are not dependents (as so defined) of another individual other than a parent of such children, or.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to—

(1) housing credit amounts allocated before, on, or after the date of the enactment of this Act, and

(2) buildings placed in service before, on, or after such date to the extent paragraph (1) of section 42(h) of the Internal Revenue Code of 1986 does not apply to any building by reason of paragraph (4) thereof.

SEC. 7. APPLICATION OF JOINT RETURN LIMITATION FOR CAPITAL GAINS EXCLUSION TO CERTAIN POST-MARRIAGE SALES OF PRINCIPAL RESIDENCES BY SURVIVING SPOUSES.

(a) SALE WITHIN 2 YEARS OF SPOUSE'S DEATH.—Section 121(b) of the Internal Revenue Code of 1986 (relating to limitations) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR CERTAIN SALES BY SURVIVING SPOUSES.—In the case of a sale or exchange of property by an unmarried individual whose spouse is deceased on the date of such sale, paragraph (1) shall be applied by substituting '$500,000' for '$250,000' if such sale occurs not later than 2 years after the date of death of such spouse and the requirements of paragraph (2)(A) were met immediately before such date of death.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or exchanges after December 31, 2007.

SEC. 8. MODIFICATION OF PENALTY FOR FAILURE TO FILE PARTNERSHIP RETURNS; LIMITATION ON DISCLOSURE.

(a) EXTENSION OF TIME LIMITATION.—Section 6698(a) of the Internal Revenue Code of 1986 (relating to failure to file partnership returns) is amended by striking "5 months" and inserting "12 months".

(b) INCREASE IN PENALTY AMOUNT.—Paragraph (1) of section 6698(b) of such Code is amended by striking "$50" and inserting "$85".

(c) LIMITATION ON DISCLOSURE OF TAXPAYER RETURNS TO PARTNERS, S CORPORATION SHAREHOLDERS, TRUST BENEFICIARIES, AND ESTATE BENEFICIARIES.—

(1) IN GENERAL.—Section 6103(e) of such Code (relating to disclosure to persons having material interest) is amended by adding at the end the following new paragraph:

"(10) LIMITATION ON CERTAIN DISCLOSURES UNDER THIS SUBSECTION.—In the case of an inspection or disclosure under this subsection relating to the return of a partnership, S corporation, trust, or an estate, the information inspected or disclosed shall not include any supporting schedule, attachment, or list which includes the taxpayer identity information of a person other than the entity making the return or the person conducting the inspection or to whom the disclosure is made.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to returns required to be filed after the date of the enactment of this Act.

SEC. 9. PENALTY FOR FAILURE TO FILE S CORPORATION RETURNS.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 of the Internal Revenue Code of 1986 (relating to assessable penalties) is amended by adding at the end the following new section:

"SEC. 6699. FAILURE TO FILE S CORPORATION RETURN.

"(a) GENERAL RULE.—In addition to the penalty imposed by section 7203 (relating to willful failure to file return, supply information, or pay tax), if any S corporation required to file a return under section 6037 for any taxable year—

"(1) fails to file such return at the time prescribed therefor (determined with regard to any extension of time for filing), or

"(2) files a return which fails to show the information required under section 6037,

such S corporation shall be liable for a penalty determined under subsection (b) for each month (or fraction thereof) during which such failure continues (but not to exceed 12 months), unless it is shown that such failure is due to reasonable cause.

"(b) AMOUNT PER MONTH.—For purposes of subsection (a), the amount determined under this subsection for any month is the product of—

"(1) $85, multiplied by

"(2) the number of persons who were shareholders in the S corporation during any part of the taxable year.

"(c) ASSESSMENT OF PENALTY.—The penalty imposed by subsection (a) shall be assessed against the S corporation.

"(d) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).".

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 of such Code is amended by adding at the end the following new item:

"Sec. 6699. Failure to file S corporation return.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns required to be filed after the date of the enactment of this Act.

SEC. 10. MODIFICATION OF REQUIRED INSTALLMENT OF CORPORATE ESTIMATED TAXES WITH RESPECT TO CERTAIN DATES.

The percentage under subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 1.50 percentage points.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

I

110TH CONGRESS
2D SESSION

H. R. 5138

To amend title 11 of the United States Code to provide protection for medical debt homeowners, to restore bankruptcy protections for individuals experiencing economic distress as caregivers to ill or disabled family members, and to exempt from means testing debtors whose financial problems were caused by serious medical problems.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 28, 2008

Ms. SHEA-PORTER introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To amend title 11 of the United States Code to provide protection for medical debt homeowners, to restore bankruptcy protections for individuals experiencing economic distress as caregivers to ill or disabled family members, and to exempt from means testing debtors whose financial problems were caused by serious medical problems.

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 "Medical Bankruptcy
5 Fairness Act of 2008".

1 **SEC. 2. DEFINITIONS.**

2 Section 101 of title 11, the United States Code, is
3 amended—
4 (1) by inserting after paragraph (39A) the fol-
5 lowing:
6 ''(39B) the term 'medically distressed debtor'
7 means a debtor who, in any consecutive 12-month
8 period during the 3 years before the date of the fil-
9 ing of the petition—
10 ''(A) incurred or paid medical expenses for
11 the debtor or a dependent of the debtor that
12 were not paid by any third party payor and
13 were in excess of the lesser of—
14 ''(i) 25 percent of the debtor's house-
15 hold income for such 12-month period; or
16 ''(ii) $10,000.
17 ''(B) was a member of a household in
18 which 1 or more members (including the debt-
19 or) lost all or substantially all of the member's
20 employment or business income for 4 or more
21 weeks during such 12-month period due to a
22 medical problem of a member of the household
23 or a dependent of the debtor; or
24 ''(C) was a member of a household in
25 which 1 or more members (including the debt-
26 or) lost all or substantially all of the member's

1 alimony or support income for 4 or more weeks
2 during such 12-month period due to a medical
3 problem of a person obligated to pay alimony or
4 support.''.

5 **SEC. 3. EXEMPTIONS.**

6 (a) EXEMPT PROPERTY.—Section 522 of title 11, the
7 United States Code, is amended by adding at the end the
8 following:

9 ''(r) For a debtor who is a medically distressed debt-
10 or, if the debtor elects to exempt property—

11 ''(1) listed in subsection (b)(2), then in lieu of
12 the exemption provided under subsection (d)(1), the
13 debtor may elect to exempt the debtor's aggregate
14 interest, not to exceed $250,000 in value, in real
15 property or personal property that the debtor or a
16 dependent of the debtor uses as a residence, in a co-
17 operative that owns property that the debtor or a de-
18 pendent of the debtor uses as a residence, or in a
19 burial plot for the debtor or a *dependent* of the debt-
20 or; or

21 ''(2) listed in subsection (b)(3), then if the ex-
22 emption provided under applicable law specifically
23 for such property is for less than $250,000 in value,
24 the debtor may elect in lieu of such exemption to ex-
25 empt the debtor's aggregate interest, not to exceed

1 $250,000 in value, in any such real or personal
2 property, cooperative, or burial plot.''.
3 (b) CONFORMING AMENDMENTS.—Sections
4 104(b)(1) and 104(b)(2) of title 11, the United States
5 Code, are amended by inserting immediately after
6 ''522(q),'' ''522(r),''.

7 **SEC. 4. DISMISSAL OF A CASE OR CONVERSION TO A CASE**
8 **UNDER CHAPTER 11 OR 13.**

9 Section 707(b) of title 11, the United States Code,
10 is amended by adding at the end the following:
11 ''(8)(A) No judge, United States trustee (or
12 bankruptcy administrator, if any), trustee, or other
13 party in interest may file a motion under paragraph
14 (2) if the debtor is a medically distressed debtor or
15 an economically distressed caregiver.
16 ''(B) In this paragraph, the term 'economically
17 distressed caregiver' means a caregiver who, within
18 3 years before the date of the filing of the petition—
19 ''(i) experienced a downgrade in employ-
20 ment status that correlates to a reduction in
21 wages, work hours, business income or results
22 in unemployment, to care for a relative for not
23 less than 30 days; or
24 ''(ii) in any consecutive 12-month period,
25 has incurred or paid medical expenses on behalf

1 of a relative that were not paid by any third
2 party payor and were in excess of the lesser
3 of—
4 ''(I) 25 percent of the debtor's house-
5 hold income for such 12-month period; or
6 ''(II) $10,000.''.

7 **SEC. 5. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

8 (a) EFFECTIVE DATE.—Except as provided in sub-
9 section (b), this Act and the amendments made by this
10 Act shall take effect on the date of the enactment of this
11 Act.

12 (b) APPLICATION OF AMENDMENTS.—The amend-
13 ments made by this Act shall apply only with respect to
14 cases commenced under title 11 of the United States Code
15 on or after the date of the enactment of this Act.

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I

110TH CONGRESS
1ST SESSION

H. R. 3753

To increase the pay of Federal judges, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 4, 2007

Mr. CONYERS (for himself, Mr. DANIEL E. LUNGREN of California, Mr. HOYER, Mr. BOEHNER, Mr. BERMAN, Mr. PENCE, Mr. WATT, Mr. BACHUS, Mr. SCHIFF, Mrs. BIGGERT, Ms. WASSERMAN SCHULTZ, and Mr. GOHMERT) introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To increase the pay of Federal judges, and for other purposes.

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 ''Federal Judicial Salary
5 Restoration Act of 2007''.

6 **SEC. 2. RESTORATION OF COMPENSATION.**

7 Effective the first applicable pay period beginning on
8 or after the date of enactment of this Act, the salaries

1 of the following categories of federal judicial officers shall
2 be as follows:

3 (1) The judges of the United States district
4 courts appointed under section 133(a) of title 28,
5 United States Code, shall be adjusted to $233,500.

6 (2) The judges of the United States courts of
7 appeals appointed under section 44(a) of title 28,
8 United States Code, shall be adjusted to $247,500.

9 (3) The associate justices of the United States
10 Supreme Court provided for in section 1 of title 28,
11 United States Code, shall be adjusted to $286,900.

12 (4) The Chief Justice of the United States pro-
13 vided for in section 1 of title 28, United States
14 Code, shall be adjusted to $299,800.

15 **SEC. 3. COORDINATION RULE.**

16 If a pay adjustment under section 2 is to be made
17 for an office as of the same date that any other pay adjust-
18 ment would take effect for such office, the adjustment
19 under section 2 shall be made first.

20 **SEC. 4. REPEAL OF PROHIBITION ON SALARY INCREASES.**

21 Section 140 of Public Law 97–92, as amended by
22 Public Law 107–77 (28 U.S.C. 461 note), is repealed.

23 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

24 There are authorized to be appropriated such sums
25 as may be necessary to carry out this Act.

1 **SEC. 6. EFFECTIVE DATE.**

2 This Act and the repeal made by this Act take effect
3 on the date of the enactment of this Act.

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