

110TH CONGRESS
2D SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

Mr. DURBIN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Consumers
5 from Unreasonable Credit Rates Act of 2008”.

6 **SEC. 2. NATIONAL MAXIMUM INTEREST RATE.**

7 Chapter 2 of the Truth in Lending Act (15 U.S.C.
8 1631 et seq.) is amended by adding at the end the fol-
9 lowing:

1 **“SEC. 140. MAXIMUM RATES OF INTEREST.**

2 “(a) IN GENERAL.—Notwithstanding any other pro-
3 vision of law, no creditor may make an extension of credit
4 to a consumer with respect to which the annual percentage
5 credit rate, as defined in subsection (b), exceeds 36 per-
6 cent.

7 “(b) ANNUAL PERCENTAGE CREDIT RATE DE-
8 FINED.—For purposes of this section, the annual percent-
9 age credit rate includes all charges payable directly or in-
10 directly incident to, ancillary to, or as a condition of the
11 extension of credit, including—

12 “(1) any payment compensating a creditor or
13 prospective creditor for an extension of credit or
14 making available a line of credit, or any default or
15 breach by a borrower of a condition upon which
16 credit was extended, including fees connected with
17 credit extension or availability, such as numerical
18 periodic rates, late fees, excessive creditor-imposed
19 not sufficient funds fees charged when a borrower
20 tenders payment on a debt with a check drawn on
21 insufficient funds, over limit fees, annual fees, cash
22 advance fees, and membership fees;

23 “(2) all fees which constitute a finance charge,
24 as defined by rules of the Board in accordance with
25 this title;

1 “(3) credit insurance premiums, whether op-
2 tional or required; and

3 “(4) all charges and costs for ancillary products
4 sold in connection with or incidental to the credit
5 transaction.

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

10 “(d) CIVIL LIABILITY AND ENFORCEMENT.—In addi-
11 tion to remedies available to the consumer under section
12 130(a), any payment compensating a creditor or prospec-
13 tive creditor, to the extent that such payment is a trans-
14 action made in violation of this section, shall be null and
15 void, and not enforceable by any party in any court or
16 alternative dispute resolution forum, and the creditor or
17 any subsequent holder shall promptly return to the con-
18 sumer any principal, interest, charges, and fees, and any
19 security interest associated with such transaction. Not-
20 withstanding any statute of limitations or repose, a viola-
21 tion of this section may be raised as a matter of defense
22 by recoupment or set off to an action to collect such debt
23 or repossess related security at any time.

24 “(e) VIOLATIONS.—Any person that violates this sec-
25 tion, or seeks to enforce an agreement made in violation

1 of this section, shall be subject to, for each such violation,
2 1 year in prison and a fine in an amount equal to the
3 greater of—

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

6 “(2) \$50,000.

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