

116TH CONGRESS  
2D SESSION

# S. 3560

To amend the Truth in Lending Act to extend the consumer credit protections provided to members of the Armed Forces and their dependents under title 10, United States Code, to all consumers.

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## IN THE SENATE OF THE UNITED STATES

MARCH 22, 2020

Mr. VAN HOLLEN (for himself and Mr. BROWN) 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 amend the Truth in Lending Act to extend the consumer credit protections provided to members of the Armed Forces and their dependents under title 10, United States Code, to all consumers.

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 “Small Business and  
5 Consumer Emergency Credit Act”.

1 **SEC. 2. LIMITATIONS ON CONSUMER CREDIT AND MAX-**  
 2 **IMUM RATES OF INTEREST.**

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

6 **“§ 140B. Limitations on consumer, small business,**  
 7 **and nonprofit maximum rates of interest**  
 8 **during national emergencies**

9 “(a) DEFINITIONS.—In this section, the term ‘con-  
 10 sumer credit’ includes consumer credit and credit extended  
 11 to—

12 “(1) an organization that is described in section  
 13 501(c)(3) of the Internal Revenue Code of 1986 and  
 14 exempt from tax under section 501(a) of such Code;  
 15 and

16 “(2) a small business concern, as defined in  
 17 section 3 of the Small Business Act (15 U.S.C.  
 18 632).

19 “(b) APPLICATION OF THE MILITARY LENDING  
 20 ACT.—

21 “(1) CORONAVIRUS DISEASE 2019 (COVID–19)  
 22 NATIONAL EMERGENCY.—The annual percentage  
 23 rate of interest described in section 987(b) of title  
 24 10, United States Code (commonly referred to as  
 25 the ‘Military Lending Act’), shall be applicable  
 26 under this section for any extension of consumer

credit made during the period beginning 1 day after the date of enactment of this section and ending on the date on which the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the coronavirus disease 2019 (COVID–19) terminates.

“(2) EXCEPTIONS.—Paragraph (1) shall not apply to credit extended by a Federal credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752), subject to the limitation on rate of interest described in section 107(5)(A)(vi) of that Act (12 U.S.C. 1757(5)(A)(vi)), as implemented by the National Credit Union Administration Board, or to a State credit union that complies with that limitation.

“(c) NO EXEMPTIONS PERMITTED.—The exemption authority of the Bureau under section 105(f) shall not apply with respect to this section.

“(d) CALCULATION OF THE ANNUAL PERCENTAGE RATE FOR OPEN END CREDIT.—

“(1) IN GENERAL.—For purposes of this section, the annual percentage rate applicable to an open end credit plan shall be calculated under section 107(a)(2), subject to adjustments to the amount considered a finance charge, as provided in

1 the rules issued by the Secretary of Defense on July  
2 22, 2015, to carry out section 987 of title 10,  
3 United States Code.

4 “(2) EXCEPTION TO FINANCE CHARGE CAL-  
5 CULATION.—

6 “(A) IN GENERAL.—Notwithstanding para-  
7 graph (1), for consumer credit extended in a  
8 credit card account under an open end con-  
9 sumer credit plan, a bona fide fee other than a  
10 periodic rate is not a charge required to be in-  
11 cluded within the finance charge for purposes of  
12 this section if the fee, including any fee charged  
13 before the account is opened or during the 1-  
14 year period beginning on the date on which the  
15 account is opened, is assessed in compliance  
16 with section 127(n).

17 “(B) LIMITATION.—Subparagraph (A)  
18 shall not apply to—

19 “(i) any credit insurance premium or  
20 fee, including any charge for single pre-  
21 mium credit insurance, any fee for a debt  
22 cancellation contract, or any fee for a debt  
23 suspension agreement; or

24 “(ii) any fee for a credit-related ancil-  
25 lary product sold in connection with the

1 credit card account under an open end  
2 consumer credit plan.

3 “(e) CALCULATION OF THE ANNUAL PERCENTAGE  
4 RATE FOR CLOSED-END CREDIT.—For purposes of this  
5 section, the annual percentage rate applicable to credit not  
6 under an open end credit plan shall be calculated under  
7 section 107(a)(1), subject to adjustments to the amount  
8 considered a finance charge, as provided in the rules  
9 issued by the Secretary of Defense on July 22, 2015, to  
10 carry out section 987 of title 10, United States Code.

11 “(f) RELATION TO STATE LAW.—Nothing in this sec-  
12 tion may be construed to preempt any provision of State  
13 law that provides greater protection to consumers than is  
14 provided under this section.

15 “(g) PENALTIES AND REMEDIES.—In addition to the  
16 penalties and remedies in this Act, section 987(f) of title  
17 10, United States Code, shall apply to a creditor who ex-  
18 tends consumer credit to a consumer in violation of this  
19 section to the same extent as such section 987(f) applies  
20 to a creditor who extends consumer credit to a covered  
21 member or a dependent with respect to a covered member  
22 (as those terms are defined in such section 987).

23 “(h) PRESERVATION OF STATE ENFORCEMENT.—

24 “(1) STATE ATTORNEYS GENERAL.—Not later  
25 than 3 years after the date on which a violation of

1       this section occurs, the attorney general of a State  
 2       (or an equivalent official) may bring a civil action in  
 3       the name of that State—

4               “(A) in any district court of the United  
 5       States that is located in that State or in a  
 6       State court that is located in that State and  
 7       that has jurisdiction over the defendant; and

8               “(B) to—

9               “(i) enforce provisions of this section  
 10       or rules issued under this section; and

11              “(ii) secure remedies under provisions  
 12       of this section or remedies otherwise pro-  
 13       vided under other law.

14       “(2) STATE REGULATORS.—Not later than 3  
 15       years after the date on which a violation of this sec-  
 16       tion occurs, a State regulator may bring a civil ac-  
 17       tion or initiate another appropriate proceeding to—

18              “(A) enforce the provisions of this section  
 19       or regulations issued under this section with re-  
 20       spect to any entity that is, or is required to be,  
 21       State-chartered, incorporated, licensed, or oth-  
 22       erwise authorized to do business under State  
 23       law; and

24              “(B) secure remedies under provisions of  
 25       this section or remedies otherwise provided

1 under other provisions of law with respect to an  
 2 entity described in subparagraph (A).

3 “(3) NOTICE REQUIREMENT; ADDITIONAL REG-  
 4 ULATIONS.—Subsections (b), (c), and (d) of section  
 5 1042 of the Consumer Financial Protection Act of  
 6 2010 (12 U.S.C. 5552), shall apply to a civil action  
 7 or other appropriate proceeding brought or initiated  
 8 under paragraph (1) or (2) to the same extent as  
 9 those subsections apply to actions and other admin-  
 10 istrative and regulatory proceedings described in  
 11 subsection (a) of such section 1042.”.

12 (b) CLERICAL AMENDMENT.—The table of contents  
 13 for chapter 2 of the Truth in Lending Act is amended  
 14 by adding at the end the following:

“140B. Limitations on consumer, small business, and nonprofit maximum rates  
 of interest during national emergencies.”.

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