Congressional Research Service

MEMORANDUM May 12, 2009

To: Honorable Carolyn Maloney
Attention: Edward Mills

From: Mark Jickling, Specialist in Financial Economics, 7-7784

Subject: **Credit Card Bills: H.R. 627 as passed the House and the Senate Amendment in the Nature of a Substitute**

This memorandum provides a comparative analysis of H.R. 627 (the Credit Cardholders' Bill of Rights Act of 2009), as passed by the House on April 30, 2009, and the amendment in the nature of a substitute prepared by the Senate Banking Committee. The table below sets out the major provisions of the bills.

Table 1. Comparison of H.R. 627 and Senate Amendment in the Nature of a Substitute

Provision	H.R. 627	Senate Amendment
Short Title	Credit Cardholders' Bill of Rights Act of 2009	Credit Card Accountability Responsibility and Disclosure Act of 2009
Increasing Rates and Fees on Outstanding Balances	Prohibits creditors from raising interest rates on an existing balance of a credit card account unless the increase is solely due to (1) a change in a published index not under the creditor's control, (2) the expiration of a promotional rate; (3) failure to comply with a workout plan (see below); or (4) the consumer's minimum payment being at least 30 days overdue. In the case of expiration of a promotional rate, the new rate may not exceed the rate that would have applied under the terms of the agreement after expiration of the promotional rate. Also prohibits imposition of fees in lieu of a rate increase on an existing balance. (Sec. 2(a) and 2(b))	No increase in an interest rate, fee, or finance charge may apply to existing balances unless the increase is due (1) to the expiration of an introductory percentage rate (and the expiration date was clearly disclosed to the consumer), (2) to a change in another rate of interest to which the account is indexed, (3) failure to comply with a workout or temporary hardship agreement, or (4) failure to make a minimum payment for 60 days after the due date. When rates are raised for late payments, the increase must be reversed if the consumer makes timely minimum payments for 6 months. (Sec. 101(b))
Workout Agreements	If a rate is reduced pursuant to a workout agreement between borrower and lender, and the borrower fails to comply with the agreement, lender may raise rates, but only to the level that prevailed before the workout agreement. Directs the Federal Reserve to set standards for workout agreements. (Sec. 2(b))	No comparable provision.

Provision	H.R. 627	Senate Amendment
Treatment of Existing Balances After a Rate Increase	If a creditor raises rates, but the higher rate does not apply to an existing balance, the creditor must offer a 5-year amortization period for repayment of the existing balance, and may not increase the percentage of the existing balance included in the minimum payment by more than double. Creditors may also offer an alternative method which is at least as beneficial to the consumer. (Sec. 2 (a))	Similar provisions regarding amortization and repayment; also defines "existing balance" as the amount owed 14 days after notice is provided of an increase in interest rates, fees, or finance charges. (Sec. 101(b))
Review of Rate Increases	No comparable provision.	Requires lenders who raise the interest rate on a credit card account to review the account at least once every 6 months and to reduce the rate when the review indicates a reduction is warranted. (Sec. 101(c))
Rate Increases During the First Year	No comparable provision.	Prohibits credit card issuers from increasing rates in the first year after a credit card account is opened, except under the circumstances specified above, under "Increasing Rates and Fees on Outstanding Balances." (Sec. 101(d))
Advance Notice of Credit Card Rate Increases or Changes in Contract Terms	Requires creditors to provide written notice at least 45 days before any rate increase takes effect. The notice must describe in a complete and conspicuous manner the change in the rate and the extent to which such increase will apply to an existing balance. Except under specified circumstances (see "Increasing Rates on Outstanding Balances" above), banks may not increase rates for new balances during the first year the account is open. (Sec. 2(c))	Requires creditors to provide written notice at least 45 days before any rate increase takes effect, except in cases where a promotional rate expires or the rate is indexed to a published interest rate. The notice shall include a brief statement of the right of the consumer to cancel the account before the higher rate takes effect. (Sec. 101(a))
Advance Notice of a Change of Terms in an Account	45-day notice is required for significant changes in the terms of an account. 30-day notice is required before the creditor closes an account. (Sec. 2(c))	45-day notice is required for significant changes in the terms of an account. (Sec. 101(a))
Promotional Rates	Promotional interest rates must be in effect for at least 6 months. (Sec. 2(c))	Promotional interest rates must be in effect for at least 6 months, unless the Federal Reserve provides exceptions by rule. (Sec. 101(d))
Limits on Certain Fees and Charges	Prohibits fees based on method of payment (e.g., payment by telephone or electronic funds transfer).	Prohibits credit card issuers from charging a fee to allow a credit card holder to pay a credit card debt, whether payment is by mail, telephone, electronic transfer, or otherwise, except for expedited service by a service representative. (Sec. 102(a))
Penalty Fees	No comparable provision.	Requires penalty fees to be reasonable and proportional to the omission or violation. Requires bank regulators to issue regulations within 9 months of enactment setting standards for reasonableness and proportionality. (Sec. 102(b))

Provision	H.R. 627	Senate Amendment
Double-Cycle Billing	Prohibits double-cycle billing, or finance charges on balances on a credit card account that are based on days in billing cycles preceding the most recent such cycle, as a result of the loss of a grace period. Exceptions are provided for finance charges following the return of a payment for insufficient funds, and for adjustment of finance charges following resolution of a billing dispute. (Sec. 3(a))	If a credit card plan provides a time period within which a consumer may repay any portion of the credit extended without incurring an interest charge, and the consumer repays all or part of such credit within the specified time period, the creditor may not impose or collect an interest charge on the portion of the credit that was repaid within the specified time period. Exceptions are provided for finance charges following the return of a payment for insufficient funds, and for adjustment of finance charges following resolution of a billing dispute. (Sec. 102(a))
Account Balances Attributable Only to Accrued Interest	If the outstanding balance on a credit card account consists only of accrued interest to previously-repaid credit, no fee may be imposed in connection with such a balance, and failure to make timely repayments on such a balance shall not constitute a default on the account. (Sec. 3(b))	No provision.
Periodic Account Statement Disclosures	Each periodic credit card account statement shall contain a telephone number and website address at which the consumer may request the payoff balance on the account. (Sec. 3(c))	No directly comparable provision, but Sec. 201 requires disclosures related to minimum monthly payments.
Disclosure Requirements for Small Credit Card Issuers	Each periodic statement provided by small credit card issuers (those with fewer than 50,000 credit cards issued) must include a toll-free number or website at which the consumer may request the outstanding balance on the account.	No comparable provision.
Right to Cancel Account Before First Notice of Open Account Provided to Credit Bureau	Requires creditors to remove any information provided to a consumer reporting agency (credit bureau) if the consumer does not use or activate the card, or cancels the account, during the 45 days after opening the account. Permits a creditor to furnish information about an application for a credit card account or any inquiry about such account to a consumer reporting agency. (Sec. 3(d))	No directly comparable provision, but Sec. 101(a) requires advance notification of the intent to cancel an account, and specifies that cancellation shall not trigger a demand for immediate repayment of the full amount owed.
Use of Certain Terms Describing Interest Rates	Specifies the way certain terms may be used. "Fixed rate" may only refer to a rate that may not change for any reason over a specified time period. The term "prime rate" must not be used to describe a rate other than the rate published in Federal Reserve statistical releases. (Sec. 3(e))	Limits the use of the term "fixed rate" to refer to a rate that may not change for any reason over a specified time period. (Sec. 103)

Provision	H.R. 627	Senate Amendment
Due Dates and Timely Payments	Payments received by 5 p.m. (local time) on the due date must be considered timely; electronic payments received by 5 p.m. must be credited to the consumer's account the same day; and evidence that a payment was mailed 7 days before the due date creates a presumption of timely payment. If payments are not accepted on the due date (if it falls on a weekend or holiday), payment received the next business day must be considered timely. (Sec. 3(e))	Payments received by 5 p.m. on the date on which such payments are due shall be considered timely. If a card issuer makes a material change in the mailing address or procedures for handling cardholder payments, and such change causes a material delay in the crediting of a cardholder payment made during the 60-day period following the change, no late fee or finance charge may be imposed for late payment. (Sec. 104) If payments are not accepted on the due date (if it falls on a weekend or holiday), payment received the next business day must be considered timely. The payment due date must be the same day each month. (Sec. 106)
Payment Allocations	If the balance of a credit card account is charged 2 or more different interest rates (e.g., separate rates for cash advances and purchases), the creditor must allocate all of a consumer's payment (in excess of the monthly minimum) to the outstanding balance carrying the highest interest rate. Notwithstanding the above, a creditor may allocate the entire amount paid to a balance on which interest has been deferred for the past 2 billing cycles. (Sec. 3(f))	Upon receipt of a payment from a cardholder, the card issuer shall apply the payment first to the card balance bearing the highest rate of interest, and then to each successive balance bearing the next highest rate of interest, until the payment is exhausted. An exception is made for the allocation of payment to interest charges that have been deferred during the previous 2 billing cycles. (Sec. 104)
Prohibition on Restricted Grace Periods	If a creditor offers cardholders a grace period within which to pay in full and not incur finance charges, that grace period must be available to cardholders who receive a promotional rate or deferred interest plan. (Sec. 3(f))	No comparable provision.
Timely Provision of Periodic Account Statements	Creditors must send consumers periodic account statements not less than 21 calendar days before the due date. (The current standard is 14 days.) (Sec. 3(g))	Identical provision. (Sec. 106)
Consumer Choice Regarding Over-the-limit Transactions, and Limits on Related Fees	If a credit card plan has a credit limit, and fees are charged for exceeding that limit, no such fee may be imposed unless the consumer elects to pay such fees when the creditor completes transactions that exceed the credit limit. (Federal Reserve would issue regulations to provide for certain de minimis exceptions.) Over-the-limit fees may be imposed only once over the two billing cycles following the transaction that exceeded the credit limit. An over-the-limit fee due to a hold may not be imposed unless the actual transaction for which the hold was placed would have resulted in the consumer exceeding the credit limit. (Sec. 4)	Prohibits the charging of over-the-limit fees on a credit card account unless the consumer has expressly elected to permit the issuer to complete over-the-limit transactions on the account. (Sec. 102(a))

Provision	H.R. 627	Senate Amendment
Disclosure Requirements for Small Credit Card Issuers	Small credit card issuers issuers (those with fewer than 50,000 credit cards issued) must establish either a toll-free number or website to allow consumers to notify creditors not to authorize transactions that would extend their credit beyond the authorized amount, which would result in an over-the-limit fee. (Sec. 4)	No comparable provision.
Information Collection Regarding Credit Card Lending	Directs the Federal Reserve to collect semiannual data on the types of transactions for which different rates are charged, the various types of fees, the number of cardholders who pay fees, finance charges, or interest, and other matters. The Fed shall report annually to Congress on the amount of credit card lenders' income derived from: interest paid at above and below 25%; fees from cardholders and merchants; and other material sources of income. (Sec. 5)	No comparable provision.
Subprime or "Fee Harvester" Cards	For cards whose annual fees exceed 25% of the credit limit, no payment of any fees (other than late fees, over-the-limit fees, or fees for payments returned for insufficient funds) may be made from the credit made available by the card. (Sec. 6)	Substantially similar provisions. (Sec. 105)
Increased Penalties	No provision.	Raises existing money penalties for violations of the Truth in Lending Act related to credit card lending. (Sec. 107)
Enhanced Consumer Disclosures	Requires a a "Minimum Payment Warning," including information on how long it would take to pay off a balance by making only the minimum monthly payment, and a table showing the level of payment required to pay off a balance over various time periods. (Sec. 11) Requires disclosures to be made in a readable font, in at least 12-point type. (Sec. 14) Requires stores that accept credit card applications to post signs containing certain required disclosures. (Sec. 18)	Requires a "Minimum Payment Warning," with disclosures related to (1) the consequences—time needed to pay off debt, total interest to be paid—of making only the minimum monthly payment, (2) late payment deadlines and penalties, and (3) any change in terms effective upon renewal of an account. Requires lenders to provide a toll-free number where consumers may obtain credit counseling or debt management information, and directs the Treasury to establish standards for debt counselors. Provides penalties for failure to make required disclosures. (Sec. 201) Requires prominent disclosure of payment deadlines and any fees and/or interest rate increases that will follow missed deadlines. (Sec. 202) Changes in terms of accounts must be disclosed upon renewal of the account. (Sec. 203)

Provision	H.R. 627	Senate Amendment
Underage Consumers	Prohibits the issuing of credit cards to consumers less than 18 years old, except to consumers who are emancipated under applicable state law, or unless a parent or guardian is designated as the primary account holder. (Sec. 7)	No credit card may be issued to a consumer less than 21 years old, unless the consumer submits a written application to the card issuer that includes (1) the signature of a parent or guardian indicating joint liability for debts incurred by the consumer in connection with the account, or (2) financial information indicating an independent means of repaying any obligation arising in connection with the account. (Sec. 301) Prohibits certain advertising and solicitation practices, including "pre-screened" offers of credit, aimed at consumers under 21, unless they have "opted-in" for inclusion on related marketing lists. (Sec. 302)
College Students	For full-time college students between the ages of 18 and 21, credit extended in any year may not exceed $500 or 20% of the student's gross income. (Sec. 7)	Prohibits increases in the credit limit on accounts where a parent, legal guardian, spouse or other individual is jointly liable unless the individual who is jointly liable approves the increase in writing. (Sec. 303)
Active-Duty Military Personnel and Recently-Disabled Veterans	Prohibits credit card lenders from making adverse credit reports for 2 years regarding active duty personnel or recently-disabled veterans. (Sec. 9)	No comparable provision.
Posting Information on the Internet	Requires lenders to post the terms of credit card contracts on the Internet, and to furnish the Federal Reserve with electronic copies to permit the creation of a central repository of such information. (Sec. 10)	Substantially similar provisions. (Sec. 204)
Timely Settlement of Deceased Debtors' Estates	Directs the Federal Reserve to issue regulations requiring creditors to establish procedures ensuring that outstanding balances can be resolved in a timely manner. (Sec. 16)	No comparable provision.
Implementation Reports	Directs the Federal Reserve to report to Congress on the implementation of this legislation every 90 days until full industry implementation is achieved. (Sec. 17)	No comparable provision.
Review of Credit Card Plans and Regulations	Directs the Federal Reserve to conduct biennial reviews of credit card terms and lenders' practices, the effectiveness of required disclosures and protections against unfair practices, and the impact of this legislation. (Sec. 12)	Requires the Federal Reserve to review the consumer credit card market every 2 years to examine issues including: the terms of credit card agreements and the practices of credit card issuers; the cost and availability of credit; and credit card innovation. Requires the Fed to publish a public summary of the review. (Sec. 502)

Provision	H.R. 627	Senate Amendment
Studies and Reports	Directs the Federal Reserve, in consultation with other bank regulators and the Federal Trade Commission, to study and report on the extent to which credit limits are lowered or interest rates raised based on (1) the type and geographical location of a consumer's transactions and (2) the identity of the holder of the consumer's home mortgage. The report shall also include the numbers and identities of lenders that engage in these practices and whether such practices have an adverse effect on minority and low-income consumers. (Sec. 9)	Directs GAO to study the impact of interchange fees on consumers and merchants and the extent to which such fees are disclosed, and to report to Congress within 180 days of enactment. (Sec. 501)
Gift Cards	No comparable provisions.	Provides that it is unlawful to impose a dormancy fee, inactivity fee or service fee with respect to a gift certificate, gift card or general-use prepaid card except as otherwise provided, and that it is unlawful to sell or issue a gift card or general-use prepaid card that is subject to an expiration date of less than 5 years. Clarifies that these provisions do not preempt state laws to the extent such state laws provide stronger consumer protection. Effective date for these provisions is 9 months after enactment. (Secs. 401, 402, and 403)
Effective Date	Most provisions would take effect 12 months after enactment, or June 30, 2010, whichever is earlier. The exception is for the required 45-day advance notification of an interest rate increase: this requirement would take effect 90 days after enactment. (Sec. 19) The regulatory agencies shall issue implementing regulations 5 months after enactment, or by or June 1, 2010, whichever is earlier. (Sec. 19)	9 months after enactment. (Sec. 2)