

110TH CONGRESS
2D SESSION

S. 3259

To amend title 11, United States Code, with respect to the priority of certain high cost credit debts.

IN THE SENATE OF THE UNITED STATES

JULY 14, 2008

Mr. WHITEHOUSE (for himself and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 11, United States Code, with respect to the priority of certain high cost credit debts.

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 “Consumer Credit Fair-
5 ness Act”.

6 **SEC. 2. EFFECTS OF HIGH COST CREDIT ON BANKRUPTCY**

7 **PROCEEDINGS.**

8 (a) DEFINITIONS.—Section 101 of title 11, United
9 States Code, is amended—

1 (1) by redesignating paragraph (27B) as para-
2 graph (27C); and

3 (2) by inserting after paragraph (27A) the fol-
4 lowing:

5 “(27B) The term ‘high cost consumer credit
6 transaction’ means an extension of credit by a ‘cred-
7 itor’ (as defined in section 103 of the Truth in
8 Lending Act (15 U.S.C. 1602(f))), resulting in a
9 consumer debt that has an applicable annual per-
10 centage rate (as determined in accordance with sec-
11 tion 107(a) of the Truth in Lending Act (15 U.S.C.
12 1606(a)), and including costs and fees incurred in
13 connection with the extension of such credit) that
14 exceeds the lesser of—

15 “(A) the sum of 15 percent and the yield
16 on United States Treasury securities having a
17 30-year period of maturity; or

18 “(B) 36 percent.”.

19 (b) SUBORDINATION.—Section 510 of title 11,
20 United States Code, is amended by adding at the end the
21 following:

22 “(d)(1) For the purpose of distribution under this
23 title, an allowed claim arising from a high cost consumer
24 credit transaction shall be subordinated to all other claims.

1 “(2) Any lien securing a claim subordinated under
2 paragraph (1) shall be transferred to the estate.”.

3 **SEC. 3. EXCLUSION.**

4 Section 707(b) of title 11, United States Code, is
5 amended by adding at the end the following:

6 “(8) Paragraph (2) shall not apply if the debtor’s pe-
7 tition resulted from a high cost consumer credit trans-
8 action.”.

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