

S E N A T E

Senate Bill No. 3534

Prepared by the Committees on Banks, Financial Institutions and Currencies and Trade and Commerce with Senators Villar, Defensor-Santiago, Escudero and Lapid as authors thereof

AN ACT
GOVERNING CREDIT CARD AND OTHER ACCESS DEVICE TRANSACTIONS
AND PROVIDING PENALTIES THEREFOR.

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

1 **SECTION 1. Title.** - This Act shall be known as the "Credit Card and Other
2 Access Device Act of 2009."

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4 **SEC. 2.** The State shall simplify, clarify and modernize the laws governing
5 credit transactions and encourage the development of fair and economically sound
6 consumer credit practices. The State shall promote the general welfare of the people by
7 protecting the privacy of consumers in commercial transactions involving the use of
8 credit cards. The State shall assure the full disclosure of the true cost of credit to protect
9 the consumer from lack of awareness of the true cost of credit to the user. The State shall
10 protect the economic interest of the people by assuring that only reasonable interest
11 rates and surcharges will be imposed on credit card transactions, as well as prohibit
12 hidden charges on credit card transactions.

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14 **SEC. 3.** **Definition of Terms.** - As used in this Act, the term:

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16 (A.) "Credit Card" means any instrument or device, whether known as
17 a credit card, credit plate, coupon book or other card device issued
18 with or without fee by an issuer, existing for the purpose of
19 obtaining money, property, labor, services, or anything of value on
20 credit. It shall not include a check guarantee card.

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22 (B.) "Open-End-Credit Plan" means a consumer credit extended to an
23 account pursuant to a plan under which:

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25 (1) The creditor may permit the cardholder to make purchases
26 or obtain loans, from time to time, directly from the creditor
27 or indirectly by the use of credit card;
28 (2) The person has the privilege of paying the balance; and

(3) A finance charge may be computed by the creditor from time to time on an outstanding unpaid balance.

(C.) "Access Device" means any card, plate, code, account number, electronic serial number, personal identification number, or other telecommunications service, equipment, or instrumental identifier, or other means of account access that can be used alone or in conjunction with another access device, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of fund (other than a transfer originated solely by paper instrument);

(D.) "Counterfeit Access Device" means any access device that is counterfeit, fictitious, altered, or forged, or an identifiable component of an access device or a counterfeit access device;

(E.) "Unauthorized Access Device" means any device that is lost, stolen, expired, revoked, cancelled, or obtained with intent to defraud;

(F.) "Produce" includes design, alter, authenticate, duplicate, or assemble;

(G.) "Traffic" means transfer, or otherwise dispose of, to another, or to obtain control of with intent to transfer or dispose of;

(H.) "Device-making equipment" means any equipment, mechanism, or impression designed or primarily used for making an access device or a counterfeit access device;

(I.) "Credit Card System Member" means a financial institution or other entity that is a member of a credit card system, including an entity, whether affiliated with or identical to the credit card issuer, that is the sole member of a credit card system;

(J.) "Scanning Receiver" means a device or apparatus that can be used to intercept a wire or electronic communication;

(K.) "College Student Credit Card Account" means a credit card account under an open-end consumer credit plan established or maintained for or on behalf of any college student;

(L.) "College Student" means an individual:

(1.) Who is a full-time student attending an institution of higher education; and

(2.) Who has not yet attained the age of 21.

(M.) "Institution of Higher Education" means institutions offering tertiary degree programs and post secondary programs;

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(N.) "Tertiary Degree Programs" refer to courses of study leading to master's, doctor's or similar degrees. It also includes courses of study which by themselves may be only for one, two, or three-year courses of study leading to less than a bachelor's degree program, but which can subsequently be credited in full bachelor's degrees.

SEC. 4. Privacy and Fraud. -

(A.) No person, firm, partnership, corporation, or other business entity that accepts a credit card for a business transaction shall write, cause to be written, or require that a credit card holder write personal identification, not required by the credit card issuer, on the credit card transaction form. Personal identification information shall include, but shall not be limited to a credit card holder's address or telephone number.

(B.) Acts of fraud and related activity in connection with access devices are hereby prohibited, such as those who shall:

- 1) Knowingly and with intent to defraud uses or traffics in one or more counterfeit access devices;
- 2) Knowingly and with intent to defraud uses or traffics in or uses any unauthorized device, and by such conduct obtains anything of value;
- 3) Knowingly and with intent to defraud, produces any counterfeit access device or any unauthorized access device;
- 4) Knowingly and with intent to defraud, produces, traffics in, has control or custody of, or possesses device-making equipment;
- 5) Knowingly and with intent to defraud, uses, produces, traffics in, has control or custody of, or possesses a telecommunications device;
- 6) Knowingly and with intent to defraud, uses, produces, traffics in, has control or custody of, or possesses:
 - a.) A scanning receiver; or
 - b.) Hardware or software used for altering or modifying telecommunications instruments to obtain unauthorized access to telecommunications devices
- 7) Knowingly and with intent to defraud effects transaction, with one or more access devices issued to another person or persons, to receive payment or any other thing of value;
- 8) Without authorization of the issuer of the access device, knowingly and with intent to defraud, solicits for the purpose of:

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i) Offering an access device; or

ii) Selling information regarding an application to obtain an access device; or

9) Without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, one or more evidence or records of transactions made by an access device;

(C.) The provisions of this section shall apply to all credit card transactions; provided, however, that the provisions of this section shall not be construed to prevent a person, firm, partnerships, corporation, or other business entity from requesting information that is necessary for shipping, delivery, or installation or purchased merchandise or services or for a warranty when such information is provided voluntarily by a credit holder. In addition, the provisions of this section shall not be construed to prohibit a person, firm, partnership, corporation or other business entity from requesting one or more additional identification cards to confirm the identity of the credit card user.

SEC. 5. Notice and Minimum Payments. -

(A.) In the case of any credit card under an open-end-credit plan, no increase in any annual percentage rate of interest shall be allowed except an increase due solely to a change in another rate of interest to which such rate is indexed or an increase due to the expiration of any introductory percentage rate of interest applicable to any outstanding balance of credit under such plan; and no change in the index used to determine any such annual percentage rate of interest shall likewise take effect before the end of the ninety (90) day period beginning on the date of notice of such increase or change in index is first provided to the consumer.

(B.) If, after receiving a notice with respect to any credit card account under an open-end-credit plan, a consumer cancels the credit card account before the end of the ninety (90) day period, the following shall be observed:

1.) An annual percentage rate of interest applicable after the cancellation with respect to the outstanding balance on such account as of the date of cancellation may not exceed any annual percentage rate or interest applicable with respect to such balance under the terms and conditions in effect before the cancellation; and

2.) The repayment of such outstanding balance after the cancellations shall be subject to all other terms and conditions applicable with respect to such account before the cancellation.

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(C.) The notice referred to with respect to an increase in any annual percentage rate of interest or any change in an index shall be made in a clear and conspicuous manner and shall contain a brief statement of the rights of the consumer:

- 1.) To cancel the account before the effective date of the increase or change in index; and
- 2.) After such cancellation, to pay any balance outstanding on such account at the time of the cancellation in accordance with the terms and conditions in effect before the cancellation.

(D.) Additional information regarding repayment of the outstanding balance of the consumer under the account, appearing in conspicuous type on the front of the first page of each such billing statement, and accompanied by an appropriate explanation, shall contain:

- 1.) The words "Minimum Payment Warning: Making only the minimum payment will increase the amount of interest that you pay and the time it will take to repay your outstanding balance";
- 2.) The number of years and months (rounded to the nearest month) that it would take for the consumer to pay the entire amount of that balance, if the consumer pays only the required minimum monthly payments;
- 3.) The total cost to the consumer, shown as the sum of all principal and interest payments, and the breakdown of the total costs in interest and principal, of paying that balance in full if the consumer pays only the required minimum monthly payments, and if no further advances are made;
- 4.) The monthly payment amount that would be required for the consumer to eliminate the outstanding balance in 36 months if no further advances are made; and
- 5.) A toll-free number at which the consumer may receive information about accessing credit counseling and debt management services.

SEC. 6. *Imposable Interest Rates and Charges. -*

- (A.) Interest rates imposed on any credit card on purchases and cash advances made through such facility shall in no case be higher than 1% per month or 12% per annum, without compounding;
- (B.) Surcharges or penalties shall likewise be limited to a ceiling of 1% per month, without compounding;

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- (C.) No other costs shall be imposed other than the foregoing except for reasonable attorney's fees and expenses of collection completely disclosed to, sufficiently understood by and voluntarily agreed with by an applicant for a credit card;
 - (D.) The pertinent provisions of the Truth in Lending Act shall apply suppletorily insofar as relevant and complimentary to the provisions of this Act.

10 **SEC. 7. *Student Credit Card Protection.* -**

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- (A.) Unless a parent, legal guardian, or spouse of a college student assumes joint liability for debts incurred by the student in connection with a college student credit card account:
 - 1.) No credit card issuer shall grant a college student card account where the credit limit for that account exceeds, during a full calendar year:
 - (a.) Twenty percent (20%) of the annual gross income of the student, if any; or
 - (b.) Fifteen Thousand Pesos (P15,000.00), whichever is greater; and
 - 2.) No credit card issuer shall grant a student a credit card account, if the credit limit for that credit card account, combined with the credit limits of any other credit card accounts held by the student, would exceed thirty percent (30%) of the annual gross income of the student, if any, in the most recently completed calendar year.
 - (B.) No increase shall be made in the amount of credit authorized to be extended under a college student credit card account for which a parent, legal guardian, or spouse of the consumer has assumed joint liability, unless such parent, guardian, or spouse, as the case may be, approves in writing, and assumes joint liability for, such increase.
 - (C.) For purposes of this Act, a credit card issuer shall require adequate proof of income, income history, and credit history, subject to the rules of the Monetary Board of the Bangko Sentral ng Pilipinas, before any college student credit card account may be opened by or on behalf of a student.
 - (D.) No credit card issuer may open a credit card account for, or issue any credit card to, any college student who:
 - 1) Has no verifiable annual gross income; and
 - 2) Already maintains a credit card under an open-end-consumer credit plan with that credit card issuer; or any affiliate thereof.

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(E.) The Monetary Board of the Bangko Sentral ng Pilipinas may, by rule, provide for exemptions to the provisions of this subsections, as deemed necessary or appropriate and consistent with the purpose of this Act.

SEC. 8. Penalties. -

(A.) Any violation of the provisions of this Act shall be punishable by a penalty of imprisonment of *arresto mayor* or a fine ranging from Fifty Thousand Pesos (P50,000.00) to One Hundred Thousand Pesos (P100,000.00), or both, depending upon the gravity of the act committed and the circumstances attendant thereto as may be determined by the court.

(B.) If the entity responsible for the prohibited act is a corporation, trust or firm, partnership, association, or any other entity, the penalty or imprisonment shall be imposed on the entity's responsible officers, including, but not limited to, the president, vice-president, chief executive officer, general manager, managing director, or partner directly responsible therefor.

(C.) In case the violation is committed by, or in the interest of a foreign juridical person duly licensed to engage in business in the Philippines, such license to engage in business in the Philippines shall immediately be revoked.

SEC. 9. The National Bureau of Investigation (NBI) shall, in addition to any other agency having such authority, have the authority to investigate offenses under this Act.

SEC. 10. Any person who engages in the conduct of any trade or commerce and who suffer any loss or money or property, real or personal, as a result of the use or employment by another person who engages in any act proscribed in this Act may bring in court, without prejudice to the criminal liability provided for in this Act, whether by way of original complaint, counterclaim, cross-claim or third-party action for damages and such equitable relief, including an injunction, as the court deems to be necessary and proper. Such person, if he has not suffered any loss of money or property, may obtain such an injunction if it can be shown that the aforementioned unfair method of competition, act or practice may have the effect of causing such loss of money or property.

For purposes of this section, the injured party has one (1) year from the date of the cause of action arises to file the appropriate complaint.

SEC. 11. If any provision or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SEC. 12. Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent

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with the provision of this Act is hereby repealed, modified, or amended accordingly.

SEC. 13. This Act shall take effect fifteen (15) days after its publication in at least two (2) newspaper of general circulation or the Official Gazette.

Approved,