

FOURTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)

OFFICE OF THE SECRETARY

NOV 17 2 3 09

S E N A T E

RECEIVED BY: *A.D.*

COMMITTEE REPORT NO. 766

Submitted jointly by the Committees on Banks, Financial Institutions and Currencies; and Trade and Commerce on NOV 17 2009.

Re: Senate Bill No. 3534.

Recommending its approval in substitution of Senate Bill Nos. 1044, 1259, 1269, 1438, 2611, 2876, 3001, 3292, 3315, 3323 and 3333 taking into consideration P.S. Res. Nos. 128 and 734.

Sponsor: Senator Escudero

MR. PRESIDENT:

The Committees on Banks, Financial Institution and Currencies; and Trade and Commerce to which were referred Senate Bill No. 1044, introduced by Senator Manny Villar entitled:

**"AN ACT
PENALIZING CREDIT CARD FRAUD AND PROVIDING PENALTIES
THEREFOR"**

S.No. 1259, introduced by Senator Miriam Defensor Santiago entitled:

**"AN ACT
REQUIRING CREDIT CARD CORPORATIONS TO GIVE THEIR CONSUMERS
NINETY DAYS NOTICE BEFORE CHANGING THEIR ANNUAL CREDIT
PERCENTAGE RATE OF INTEREST APPLICABLE ON ANY CREDIT CARD
ACCOUNT OR BEFORE CHANGING THE INDEX USED TO DETERMINE SUCH
RATE"**

S.No. 1269, introduced by Senator Miriam Defensor Santiago, entitled:

**"AN ACT
PROTECTING CONSUMER PRIVACY IN CREDIT CARD AND CHECK
TRANSACTIONS"**

S.No. 1438, introduced by Senator Francis G. Escudero, entitled:

**"AN ACT
PROVIDING PROTECTION TO CREDIT CARD HOLDERS BY SETTING A
CEILING ON INTEREST RATES AND SURCHARGES AND PROHIBITING
HIDDEN PENALTIES OR COSTS IMPOSED BY CREDIT CARD COMPANIES,
BANKS, AND SIMILAR INSTITUTIONS ON PURCHASES AND CASH
ADVANCES MADE THROUGH SUCH FACILITY"**

S.No. 2611, introduced by Senator Miriam Defensor Santiago, entitled:

**"AN ACT
TO REQUIRE ENHANCED DISCLOSURE TO CONSUMERS REGARDING THE
CONSEQUENCES OF MAKING ONLY MINIMUM REQUIRED PAYMENTS IN
THE REPAYMENT OF CREDIT CARD DEBT"**

S.No. 2876, introduced by Senator Manny Villar, entitled:

**"AN ACT
PROVIDING PROTECTION TO CREDIT CARD HOLDERS BY SETTING A
CEILING ON INTEREST RATES AND SURCHARGES AND PROHIBITING
HIDDEN PENALTIES OR COSTS IMPOSED BY BANKS AND SIMILAR
FINANCIAL INSTITUTIONS ON PURCHASES AND CASH ADVANCES MADE
THROUGH CREDIT FACILITY"**

S.No. 3001, introduced by Senator Miriam Defensor Santiago, entitled:

**"AN ACT
TO PREVENT CREDIT CARD ISSUERS FROM TAKING UNFAIR ADVANTAGE
OF COLLEGE STUDENTS AND THEIR PARENTS AND FOR OTHER PURPOSES"**

S.No. 3292, introduced by Senator Miriam Defensor Santiago, entitled:

**"AN ACT
PROHIBITING THE MAILING OF CREDIT CARD APPLICATIONS TO PERSONS
UNDER TWENTY-FIVE YEARS OF AGE"**

S.No. 3315, introduced by Senator Miriam Defensor Santiago, entitled:

**"AN ACT
PROHIBITING THE IMPOSITION OF A SURCHARGE, EXTRA CHARGE OR
ADDITIONAL CHARGE IN THE USE OF CREDIT/AUTOMATED TELLER
MACHINE (ATM)/DEBIT CARDS FOR PAYMENT OF PURCHASES OF
CONSUMER PRODUCTS OR SERVICES"**

S.No. 3323, introduced by Senator Miriam Defensor Santiago, entitled:

En

**"AN ACT
PROHIBITING CARD ISSUERS FROM ACCEPTING THIRD-PARTY SOURCED
PERSONAL INFORMATION"**

En

and S.No. 3333, introduced by Senator Miriam Defensor Santiago, entitled:

En

**"AN ACT
PROHIBITING CREDIT CARD DEBT-COLLECTION HARASSMENT"**

taking into consideration P. S. Res. No.128, introduced by Senator Manuel "Lito" M. Lapid, entitled:

En

**"RESOLUTION
DIRECTING THE APPROPRIATE COMMITTEES IN THE SENATE TO CONDUCT
AN INQUIRY, IN AID OF LEGISLATION, INTO THE RISING INCIDENCE OF
CREDIT CARD FRAUD IN THE COUNTRY, WITH THE END IN VIEW OF
STRENGTHENING THE PROVISIONS OF EXISTING LAWS TO PROTECT THE
GENERAL PUBLIC FROM UNLAWFUL TRANSACTIONS"**

En

En

and P. S. Res. No. 734, introduced by Senator Manny Villar, entitled:

**"RESOLUTION
URGING THE SENATE COMMITTEES ON BANKS, FINANCIAL INSTITUTIONS
AND CURRENCIES AND OTHER APPROPRIATE COMMITTEES TO CONDUCT
AN INQUIRY, IN AID OF LEGISLATION, INTO THE RISING NUMBER OF
CREDIT CARD USERS WITH UNPAID BILLS DUE TO ACCELERATING
INFLATION WITH THE END IN VIEW OF DRAWING UP POLICIES TO
ENCOURAGE PAYMENTS AMONG DELINQUENT PAYERS WHILE ALSO
EASING THEIR FINANCIAL BURDEN"**

have considered the same and have the honor to report them back to the Senate with the recommendation that the attached Senate Bill No. 3534, prepared by the Committees, entitled:

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

be approved in substitution of Senate Bill Nos. 1044, 1259, 1269, 1438, 2611, 2876, 3001, 3292, 3315, 3323 and 3333 taking into consideration P.S. Res. Nos. 128 and 734 with Senators Villar, Defensor-Santiago, Escudero and Lapid as authors thereof.

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Respectfully Submitted:

Chairmen:

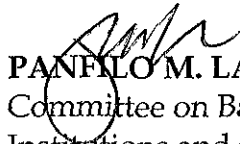


SEN. MAR ROXAS
Committee on Trade and Commerce;
and *Vice Chairman*, Committee on Banks,
Financial Institutions and Currencies



SEN. FRANCIS G. ESCUDERO
Committee on Banks, Financial Institutions
Currencies; *Member*, Committee on Trade and
Commerce

Members:



PANFILO M. LACSON
Committee on Banks, Financial
Institutions and Currencies



LOREN B. LEGARDA
Committee on Banks, Financial
Institutions and Currencies



EDGARDO J. ANGARA
Committee on Banks, Financial
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Committees on Banks, Financial
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and Commerce

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Committee on Trade and Commerce

RICHARD J. GORDON
Committee on Trade and Commerce




RAMON BONG REVILLA, JR.
Committee on Trade and Commerce

BENIGNO S. AQUINO III
Committee on Trade and Commerce

Ex-Officio Members:

May amend:


AQUILINO Q. PIMENTEL, JR.
Senate Minority Floor Leader


JUAN MIGUEL F. ZUBIRI
Senate Majority Floor Leader


JINGCOY EJERCITO-ESTRADA
Senate President-Pro Tempore

HON. JUAN PONCE ENRILE
Senate President
Senate of the Philippines
Pasay City

9 NOV 17 2009

SENATE

Senate Bill No. 3534 RECEIVED NOV 17 2009

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."
3

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.
13

14 **SEC. 3.** **Definition of Terms.** - As used in this Act, the term:
15

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.
21

22 (B.) "Open-End-Credit Plan" means a consumer credit extended to an
23 account pursuant to a plan under which:
24

- 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

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

33
34 (C.) "Access Device" means any card, plate, code, account number,
35 electronic serial number, personal identification number, or other
36 telecommunications service, equipment, or instrumental
37 identifier, or other means of account access that can be used alone
38 or in conjunction with another access device, to obtain money,
39 goods, services, or any other thing of value, or that can be used to
40 initiate a transfer of fund (other than a transfer originated solely by
41 paper instrument);

42
43 (D.) "Counterfeit Access Device" means any access device that is
44 counterfeit, fictitious, altered, or forged, or an identifiable
45 component of an access device or a counterfeit access device;

46
47 (E.) "Unauthorized Access Device" means any device that is lost,
48 stolen, expired, revoked, cancelled, or obtained with intent to
49 defraud;

50
51 (F.) "Produce" includes design, alter, authenticate, duplicate, or
52 assemble;

53
54 (G.) "Traffic" means transfer, or otherwise dispose of, to another, or to
55 obtain control of with intent to transfer or dispose of;

56
57 (H.) "Device-making equipment" means any equipment, mechanism, or
58 impression designed or primarily used for making an access device
59 or a counterfeit access device;

60
61 (I.) "Credit Card System Member" means a financial institution or
62 other entity that is a member of a credit card system, including an
63 entity, whether affiliated with or identical to the credit card issuer,
64 that is the sole member of a credit card system;

65
66 (J.) "Scanning Receiver" means a device or apparatus that can be used
67 to intercept a wire or electronic communication;

68
69 (K.) "College Student Credit Card Account" means a credit card
70 account under an open-end consumer credit plan established or
71 maintained for or on behalf of any college student;

72
73 (L.) "College Student" means an individual:

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

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

77
78 (M.) "Institution of Higher Education" means institutions offering
79 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.

1 (C.) The notice referred to with respect to an increase in any annual
2 percentage rate of interest or any change in an index shall be made
3 in a clear and conspicuous manner and shall contain a brief
4 statement of the rights of the consumer:
5

6 1.) To cancel the account before the effective date of the increase or
7 change in index; and
8

9 2.) After such cancellation, to pay any balance outstanding on such
10 account at the time of the cancellation in accordance with the
11 terms and conditions in effect before the cancellation.
12

13 (D.) Additional information regarding repayment of the outstanding
14 balance of the consumer under the account, appearing in
15 conspicuous type on the front of the first page of each such billing
16 statement, and accompanied by an appropriate explanation, shall
17 contain:
18

19 1.) The words "Minimum Payment Warning: Making only the
20 minimum payment will increase the amount of interest that you
21 pay and the time it will take to repay your outstanding
22 balance";
23

24 2.) The number of years and months (rounded to the nearest
25 month) that it would take for the consumer to pay the entire
26 amount of that balance, if the consumer pays only the required
27 minimum monthly payments;
28

29 3.) The total cost to the consumer, shown as the sum of all principal
30 and interest payments, and the breakdown of the total costs in
31 interest and principal, of paying that balance in full if the
32 consumer pays only the required minimum monthly payments,
33 and if no further advances are made;
34

35 4.) The monthly payment amount that would be required for the
36 consumer to eliminate the outstanding balance in 36 months if
37 no further advances are made; and
38

39 5.) A toll-free number at which the consumer may receive
40 information about accessing credit counseling and debt
41 management services.
42

43 **SEC. 6. *Imposable Interest Rates and Charges. -***
44

45 (A.) Interest rates imposed on any credit card on purchases and cash
46 advances made through such facility shall in no case be higher than
47 1% per month or 12% per annum, without compounding;
48

49 (B.) Surcharges or penalties shall likewise be limited to a ceiling of 1%
50 per month, without compounding;
51

- 1 (C.) No other costs shall be imposed other than the foregoing except for
2 reasonable attorney's fees and expenses of collection completely
3 disclosed to, sufficiently understood by and voluntarily agreed
4 with by an applicant for a credit card;
5
6 (D.) The pertinent provisions of the Truth in Lending Act shall apply
7 suppletorily insofar as relevant and complimentary to the
8 provisions of this Act.
9

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

- 11 (A.) Unless a parent, legal guardian, or spouse of a college student
12 assumes joint liability for debts incurred by the student in
13 connection with a college student credit card account:
14
15 1.) No credit card issuer shall grant a college student card account
16 where the credit limit for that account exceeds, during a full
17 calendar year:
18
19 (a.) Twenty percent (20%) of the annual gross income of the
20 student, if any; or
21
22 (b.) Fifteen Thousand Pesos (P15,000.00), whichever is greater;
23 and
24
25 2.) No credit card issuer shall grant a student a credit card account,
26 if the credit limit for that credit card account, combined with the
27 credit limits of any other credit card accounts held by the
28 student, would exceed thirty percent (30%) of the annual gross
29 income of the student, if any, in the most recently completed
30 calendar year.
31
32 (B.) No increase shall be made in the amount of credit authorized to be
33 extended under a college student credit card account for which a
34 parent, legal guardian, or spouse of the consumer has assumed
35 joint liability, unless such parent, guardian, or spouse, as the case
36 may be, approves in writing, and assumes joint liability for, such
37 increase.
38
39 (C.) For purposes of this Act, a credit card issuer shall require adequate
40 proof of income, income history, and credit history, subject to the
41 rules of the Monetary Board of the Bangko Sentral ng Pilipinas,
42 before any college student credit card account may be opened by or
43 on behalf of a student.
44
45 (D.) No credit card issuer may open a credit card account for, or issue
46 any credit card to, any college student who:
47
48 1) Has no verifiable annual gross income; and
49
50 2) Already maintains a credit card under an open-end-consumer
51 credit plan with that credit card issuer; or any affiliate thereof.
52

2 (E.) The Monetary Board of the Bangko Sentral ng Pilipinas may, by
3 rule, provide for exemptions to the provisions of this subsections,
4 as deemed necessary or appropriate and consistent with the
5 purpose of this Act.
6

7 **SEC. 8. Penalties. -**
8

9 (A.) Any violation of the provisions of this Act shall be punishable by a
10 penalty of imprisonment of *arresto mayor* or a fine ranging from
11 Fifty Thousand Pesos (P50,000.00) to One Hundred Thousand
12 Pesos (P100,000.00), or both, depending upon the gravity of the act
13 committed and the circumstances attendant thereto as may be
14 determined by the court.
15

16 (B.) If the entity responsible for the prohibited act is a corporation, trust
17 or firm, partnership, association, or any other entity, the penalty or
18 imprisonment shall be imposed on the entity's responsible officers,
19 including, but not limited to, the president, vice-president, chief
20 executive officer, general manager, managing director, or partner
21 directly responsible therefor.
22

23 (C.) In case the violation is committed by, or in the interest of a foreign
24 juridical person duly licensed to engage in business in the
25 Philippines, such license to engage in business in the Philippines
26 shall immediately be revoked.
27

28 **SEC. 9.** The National Bureau of Investigation (NBI) shall, in addition
29 to any other agency having such authority, have the authority to investigate
30 offenses under this Act.
31

32 **SEC. 10.** Any person who engages in the conduct of any trade or
33 commerce and who suffer any loss or money or property, real or personal, as a
34 result of the use or employment by another person who engages in any act
35 proscribed in this Act may bring in court, without prejudice to the criminal
36 liability provided for in this Act, whether by way of original complaint,
37 counterclaim, cross-claim or third-party action for damages and such equitable
38 relief, including an injunction, as the court deems to be necessary and proper.
39 Such person, if he has not suffered any loss of money or property, may obtain
40 such an injunction if it can be shown that the aforementioned unfair method of
41 competition, act or practice may have the effect of causing such loss of money or
42 property.
43

44 For purposes of this section, the injured party has one (1) year from the
45 date of the cause of action arises to file the appropriate complaint.
46

47 **SEC. 11.** If any provision or part hereof, is held invalid or
48 unconstitutional, the remainder of the law or the provision not otherwise
49 affected shall remain valid and subsisting.
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51 **SEC. 12.** Any law, presidential decree or issuance, executive order, letter
52 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,