

SENATE
S. B. No. 1261

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Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The nineties have witnessed the phenomenal growth of credit cards in the Philippines. Banks and other financial institutions have included credit cards in their wide array of financial services.

However, there is no specific law regulating the solicitation of applications of credit cards and the imposition of interest and penalty charges. Many card holders have been victims of being charged with additional interests and penalties, or both, because of their ignorance on the application of such fees. Present and prospective credit card holders must be sufficiently informed of what they are entering into.

The bill seeks to regulate the credit card industry by providing for the disclosure by credit card issuers of information relating to interest rates, penalties and other fees which may be incurred through the use of any credit or charge card.

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

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AN ACT
TO PROVIDE FOR MORE DETAILED AND UNIFORM DISCLOSURE BY CREDIT AND
CHARGE CARD ISSUERS WITH RESPECT TO INFORMATION RELATING TO
INTEREST RATES AND OTHER FEES WHICH MAY BE INCURRED BY CONSUMERS
THROUGH THE USE OF ANY CREDIT OR CHARGE CARD.

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

Section 1. **Short Title.** This Act may be cited as the "Fair Credit and Charge Card
Disclosure Act."

Section 2. **Declaration of Policy.** It is the policy of the state to protect the rights
of consumers by providing for the disclosure by credit and charge card issuers of information relating
to interest rates, penalties, fines and other fees which may be incurred through the use of any credit
or charge card.

Section 3. **Definition of Terms.** For purposes of this Act, the term:

- a) "Charge Card" means a card, plate or other single credit device that may be used
from time to time to obtain credit.
- b) "Credit card" means any card, plate, coupon book or other credit device existing
for the purpose of obtaining money, property, labor or services on credit.
- c) "Open-end-credit plan" means a consumer credit extended on an account pursuant
to a plan under which:
 - i) the creditor may permit the person to make purchases or obtain loans, from
time to time, directly from the creditor or indirectly by use of credit card, check or
other device:
 - ii) the person has the privilege of paying the balance; or

iii) a finance charge may be computed by the creditor from time to time on an outstanding unpaid balance.

d) "Board" means the Monetary Board.

e) "Penalty Charges" means such amount of interest imposed on the credit card holder for non-payment of an account within a prescribed period.

Section 4. Direct Mail Application and Solicitation. Any application to open a credit card account for any person under an open end credit plan or a solicitation to open such an account shall disclose the following information:

A) Annual Percentage Rate.

i) Each annual percentage rate applicable to extensions of credit under such credit plan. Where an extension of credit is subject to a variable rate, the fact that the rate is variable, the annual percentage rate in effect at the time of the mailing, and how the rate is determined.

ii) Where more than one rate applies, the range of balances for more than each rate applies.

B) Annual and Other Fees.

i) Any annual fee, other periodic fee, or membership fee imposed for the issuance or availability of a credit card, including any account maintenance fee or any other charge imposed based on activity or inactivity for the account during the billing cycle.

ii) Any minimum finance charge imposed for each period during which any extension of credit which is subject to a finance charge is outstanding.

iii) Any transaction charge imposed in connection with use of the card to purchase goods or services.

iv) Any penalty or surcharge imposed for the delay in payment of an account

C) Grace Period.

i) The date by which or the period within which any credit extended under such credit plan for purchases of goods or services must be repaid to avoid incurring a finance charge, and if no such period is offered, such fact shall be clearly stated.

ii) If the length of such grace period varies, the card issuer may disclose the range of days in the grace period, the minimum number of days in the grace period, or the average number of days in the grace period, if the disclosure is identified as such.

D) Balance Calculation Method.

i) The name of the balance calculation method used in determining the balance which the finance charge is computed if the method used has been defined by the Board, or a detailed explanation of the balance calculation method used if the method has not been so defined.

ii) In prescribing regulations to carry out this clause, the Board shall define and name not more than five (5) balance calculation methods determined to be the most commonly used methods.

Section 5. **Other Information.** In addition to the information required to be disclosed under Section 4 of this Article, each application or solicitation to which such section applies shall disclose clearly and conspicuously the following information:

A) Cash Advance Fee. Any fee imposed for an extension of credit in the form of cash

B) Late Fee. Any fee imposed for a late payment.

C) Over-The-Limit Fee. Any fee imposed in connection with an extension of credit in excess of the amount of credit authorized to be extended with respect to such amount.

Section 6. **Telephone Solicitations.** In any telephone solicitation to open a credit card account for any person under an open end consumer credit plan, the person making the solicitation shall orally disclose the information described in Section 4 of this Act.

Section 7. **Exceptions.** Section 4, shall not apply to any telephone solicitation if,

A) The credit card issuer-

i) does not impose any fee in connection with paragraph (B)(i), Section 4 of this Act.

ii) does not impose any fee in connection with telephone solicitations unless the consumer signifies acceptance by using the card;

iii) the card issuer discloses clearly and conspicuously in writing the information described in Article II within 30 days after the consumer requests the card, but in no event later than the date of delivery of the card; and

iv) the card issuer discloses clearly and conspicuously that the consumer is not obligated to accept the card or account and the consumer will not be obligated to pay any fees or charges disclosed unless the consumer elects to accept the card or account by using the card.

Section 8. Applications and Solicitation by Other Means. Any application to open a credit card account for any person under an open end consumer credit plan, and any solicitation to open such an account without requiring an application, that is made available to the public or contained in catalogs, magazines, or other publications shall meet the following disclosure requirements:

A) **Specific Information.** An application or solicitation described in this Section meets the requirement of this paragraph if such application or solicitation contains:

1) the information

i) described in Section 4

ii) described in Section 5 in a clear and conspicuous form

B) A statement, in a conspicuous and prominent location on the application or solicitation, that.

i) the information is accurate as of the date the application or solicitation was printed;

ii) the information contained in the application or solicitation is subject to change after such date;

iii) the applicant should contact the creditor for information on any change in the information contained in the application or solicitation since it was printed;

C) A clear and conspicuous disclosure of the date the application or solicitation was printed; and

D) A disclosure, in a conspicuous and prominent location on the application or solicitation, of a toll free telephone number or a mailing address at which the applicant may contact the creditor to obtain any change in the information provided in the application or solicitation since it was printed.

Section 9. **General Information Without Any Specific Term.** An application or solicitation described in Section 8 meets the requirement of this section if such application

A) contains a statement, in a conspicuous prominent location on the application or solicitation, that-

i) there are costs associated with the use of credit cards; and

ii) the applicant may contact the creditor to request disclosure of specific information of such costs by calling a toll free telephone number or by writing to an address, specified in the application;

B) contains a disclosure, in a conspicuous and prominent location on the application or solicitation, of a toll free telephone number and a mailing address at which the applicant may contact the creditor to obtain such information; and

C) does not contain any of the items described in Section 4

Section 10. **Charge Card Applications and Solicitations.** Any application or solicitation to open a charge card account shall disclose clearly and conspicuously the following information:

A) Any annual fee, other periodic fee, or membership fee imposed for the issuance or availability of the charge card, including any account maintenance fee or other charge imposed based on activity or inactivity for the account during the billing cycle.

B) Any transaction charge imposed in connection with use of the card to purchase goods or services.

C) A statement that charges incurred by use of the charge card are due and payable upon receipt of a periodic statement rendered for such charge card account.

Section 11. **Other information.** In addition to the information required to be disclosed under Section 10, each written application or solicitation to which such section applies shall disclose clearly and conspicuously the following information:

A) Cash Advance Fee. Any fee imposed for an extension of credit in the form of cash.

B) Late Fee. Any fee imposed for a late payment.

C) Over-The-Limit-Fee. Any fee imposed in connection with an extension of credit in excess of the amount of credit authorized to be extended with respect to such amount.

Section 12. **Applications and Solicitations by Other Means.** An application to open a charge card account and any solicitation to open such account without requiring an application, that is made available to the public or contained in catalogs, magazines, or other publications shall contain:

A) the information-

i) described in Section 10

ii) described in Section 11 in a clear and conspicuous form

B) a statement, in a conspicuous and prominent location on the application or solicitation, that

i) the information is accurate as of the date the application or solicitation was printed;

ii) the information contained in the application or solicitation is subject to change after such date;

iii) the applicant should contact the creditor for information on any change in the information contained in the application or solicitation since it was printed;

C) a clear and conspicuous disclosure of the date the application or solicitation was printed; and

D) a disclosure, in a conspicuous and prominent location on the application or solicitation, of a toll free telephone number or a mailing address at which the applicant may contact

the creditor to obtain any change in the information provided in the application or solicitation since it was printed.

Section 13. Issuers of Charge Cards Which Provides Access to Open End Consumer Credit Plans. If a charge card permits the card holder to receive an extension of credit under an open end consumer credit plan, which is not maintained by the charge card issuer, the charge card issuer may provide the information described in Section 10 and 11 in the form required by such sections in lieu of the information required to be provided under Sections 5, 6 and 8 with respect to any credit extended under such plan, if the charge card issuer discloses clearly and conspicuously to the consumer in the application or solicitation that-

A) the charge card issuer will make an independent decision as to whether to issue the card;

B) the charge card may arrive before the decision is made with respect to an extension of credit under an open end consumer credit plan; and

C) approval by the charge card issuer does not constitute approval by the issuer of the extension of credit.

The information required to be disclosed under Section 4 shall be provided to the charge card holder by the creditor which maintains such open end consumer credit plan before the first extension of credit under such plan.

Section 14. Regulatory Authority of the Board. The Board may, by regulation, require the disclosure of information in addition to that otherwise required by the provisions and modify any disclosure of information required by this Act in any application to open a credit card account for any person under an open end consumer credit plan or any application to open a charge card account for any person, or a solicitation to open any such account without requiring an application, if the Board determines that such action is necessary to carry out the purposes of, or prevent evasions of, any provisions of this Act.

Section 15. **Disclosure Prior to Renewal.** Except as provided in Section 6, a card issuer that imposes any fee described in Section 4 shall transmit to a consumer's credit or charge card account a clear and conspicuous disclosure of

A) the date by which, the month by which, or the billing period at the close of which, the account will expire if not renewed

B) the information described in Section 4 or Section 10 shall transmit to a consumer at least 30 days prior to the scheduled renewal date of the consumer's credit or charge card account a clear and conspicuous disclosure of-

C) the date by which, the month by which, or the billing period at the close of which, the account will expire if not renewed;

D) the information described in subsection (c)(1)(A) or (c)(4)(A)(i) shall transmit to a consumer's credit or charge card account a clear and conspicuous disclosure of:

E) the method by which the consumer may terminate continued credit availability under the account.

Section 16. **Special Rule for Certain Disclosures.** The disclosures required by this subsection may be provided-

A) prior to posting a fee described by Section 4 (B) (i) to the account, or

B) with the periodic billing statement first disclosing that the fee has been posted to the account.

Section 17. **Limitation on Use of Special Rule.** Disclosures may be provided under Section 16 only if the consumer is given a 30-day period to avoid payment of the fee or to have the fee recredited to the account in any case where the consumer does not wish to continue the availability of the credit; and

Section 18. **Short Term Renewals.** The Board may by regulation provide for fewer disclosures than are required by this Act in the case of an account which is renewable for a period of less than six (6) months.

Section 19. **Other Rules for Disclosures.** If the amount of any fee required to be disclosed under this Act is determined on the basis of percentage of another amount, the percentage used in making such determination and the identification of the amount against which such percentage is applied shall be disclosed in lieu of the amount of such fee. If a credit or charge card issuer does not impose any fee required to be disclosed under any provision of this Act, such provision shall not range not apply with respect to such issuer.

Section 20. **Penalties.** Any issuer of a charge card or credit card found violating any provision of this Act shall, after due notice and hearing, have its license to issue credit card or charge card suspended and shall be imposed a fine of not less than One Hundred Thousand Pesos (P100,000) nor more than One Million Pesos, at the discretion of the Board.

Section 21. **Repealing Clause.** Any law, presidential decree, or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with, the provisions of this Act is hereby repealed, modified or amended accordingly.

Section 22. **Separability Clause.** 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..

Effectivity Clause. This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved

MIRIAM DEFENSOR SANTIAGO