

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

7 JUL -3 P3:07

SENATE

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S No. 819

Introduced by Senator Ramon Bong Revilla, Jr.

EXPLANATORY NOTE

The leaps and bounds in telecommunications technology have enabled transactions with banks and commercial establishments through the more efficient mode of electronic transfer. It has also given rise to the popular use of credit cards for obtaining credit from banks. Through this instrument, the cardholder makes use of electronic transfer to pay his bills and to avail of a revolving credit line to fund various purchases and transactions with accredited establishments. The welfare effects of this innovation is unquantifiable - convenience to consumers, savings on the use of currency, and the stimulus to economic activities through higher rates of transactions turnover.

As early as 1973, total outstanding credit for Bank Americard (now Visa) and Master Charge (now Mastercard) the two topmost cards in the US, was reported at no less than \$27 billion. In the Philippines, we have numerous credit card companies, including VISA, Diners' Club, Unicard, Mastercard, PCIBankard, and BPI Express. The widespread popularity of credit card usage has been accompanied by increasing incidence of fraud, abuses, errors, and other situations that are matters of public concern.

This bill seeks to establish the ground rules for the operation of credit card companies, defining the rights, duties and obligations of individuals and institutions in order to promote and safeguard public welfare. Among others, it provides for:

- (a) a more equitable and efficient way of resolving billing disputes and inquiries;
- (b) the regulation of billing practices;
- (c) the prohibition of anti-competitive practices between merchants and credit card companies; and
- (d) clearer legal rights of consumers and credit card users.

In view of the foregoing, early passage of this bill is strongly urged.


RAMON BONG REVILLA, JR.
Senator

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AN ACT
ESTABLISHING A FAIR CREDIT BILLING SYSTEM, AND FOR OTHER
PURPOSES

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

1 **SECTION 1. Short Title.** - This Act shall be known as the “Fair Credit
2 **Billing Act of 2004.”**

3 **SEC. 2. Declaration of Policy and Objectives.** - It is hereby declared to
4 be the policy of the State to protect the consumer against inaccurate and unfair
5 credit billing and credit card practices.

6 Towards this end the State shall compliment, simplify and update existing
7 laws and statutes governing credit transactions; provide consumers with
8 remedies when confronted with billing problems; and regulate credit card
9 transaction and practices.

10 **SEC. 3. Definition of Terms.** - For the purposes of this Act, the term:

11 (a) “Bank” means the Central Bank of the Philippines.

12 (b) “Billing Cycle” refers to the period given a cardholder to purchase
13 goods and services on credit for the purpose of summarizing all his billings in that
14 particular period in the form of a statement of account.

15 (c) “Credit Card” means any card, plate, coupon book or other credit
16 devise existing for the purpose of obtaining money, property, labor or service on
17 credit.

18 (d) “Cardholder” means any person issued a credit card and to whom
19 credit is extended under an agreed credit plan.

1 (e) "Card Issuer" refers to any credit card company which acts as an
2 intermediary between the seller and the consumer. It pays the seller, at a
3 discounted price, the amount of goods and services purchased by the cardholder
4 and collects from the latter the undiscounted price therefor.

5 (f) "Creditor" refers to any person engaged in the regular business of
6 extending credit for which a finance charge is required whether in connection
7 with loans, sale or lease of property or services on time, credit or installment
8 basis, either as a principal or as agent.

9 (g) "Finance Charge" includes interest, fees, service charge discounts,
10 and such other charges incidents to the extension of credit as the Bank may by
11 regulations prescribe.

12 (h) "Free rid period" means the time period within which the consumer
13 may pay the full amount of the bill in order not to incur any finance charge.

14 (i) "Obligor" refers in general to a person who purchases on credit
15 directly from creditor or indirectly by use of credit card, check or other device.

16 (j) "Open-end credit plan" means a consumer credit extended on an
17 account pursuant to a plan under which:

18 1) The creditor may permit the person to make purchases or obtain
19 loans, from time to time, directly from the creditor or indirectly by use of credit
20 card, check or other device;

21 2) The person has the privilege of paying the balance in full or in
22 installments; and

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

25 SEC. 4. *Billing Error.* – As used in this Act a billing error shall consist of
26 any of the following:

27 (a) A reflection on a statement of an extension of credit which was not
28 made to the obligor or, if made, was not in the amount reflected on such
29 statement.

30 (b) A reflection on a statement of an extension of credit for which the
31 obligor requests additional clarification including documentary evidence thereof.

1 (c) A reflection on a statement of goods or services not accepted by
2 the obligor or his assignee or not delivered to the obligor or his assignee with the
3 agreement made at the time of a transaction.

4 (d) The creditor's failure to reflect properly on a statement a payment
5 made by the obligor or a credit issued to the obligor.

6 (e) A computation error or similar error of an accounting nature of the
7 creditor on a statement.

8 (f) Any other error described in the regulations of the Central Bank.

9 SEC. 5. *Written Acknowledgement.* – If a creditor, within sixty (60) days
10 after having transmitted to an obligor a statement of the latter's account in
11 connection with the extension of consumer credit, receives at the address
12 disclosed for the purpose of receiving billing inquiries a written notice referred to
13 in Section 7 hereof, the creditor, within thirty (30) days after the receipt of such
14 notice shall send a written acknowledgement to the obligor, unless the action
15 required in the next succeeding Section is taken within such thirty-day period.

16 SEC. 6. *Correction of Billing Errors.* – Under the circumstances
17 described in Section 5, and not later than two complete billing cycles which in no
18 event shall exceed ninety (90) days after the receipt of the notice and prior to
19 taking any action to collect the amount, or any part thereof, indicated by the
20 obligor under Section 7 (b) may take either of the following steps:

21 (a) Make appropriate corrections in the account of the obligor,
22 including the crediting of any finance charges on amounts erroneously billed, and
23 transmit to the obligor a notification of such corrections and the creditor's
24 explanation of any change in the amount indicated by the obligor under Section
25 7(b), and if any such change is made and the obligor so requests, copies of
26 documentary evidence of the obligor's indebtedness; or

27 (b) Send a written explanation or clarification to the obligor after having
28 conducted an investigation, setting forth to the extent applicable reasons why
29 the creditor believes the account of the obligor was correctly shown in the
30 statement and, upon request of the obligor, provide copies of documentary
31 evidence of the obligor's indebtedness. In the case of a billing error where the

1 obligor alleges that the creditor's billing statement reflects goods not delivered to
2 the obligor or his assignee in accordance with the agreement made at the time of
3 the transaction, a creditor may not construe such amount to be correctly shown
4 unless he determines that such goods were actually delivered, mailed or
5 otherwise sent to the obligor and provides the obligor with a statement of such
6 determination.

7 SEC. 7. *Written Notice.* – The creditor shall perform the act required of
8 him under Section 5 and 6 after receipt of a written notice from the obligor in
9 which the obligor:

10 (a) sets forth or otherwise enables the creditor to identify the name and
11 account number, if any, of the obligor;

12 (b) indicates the obligor's belief that the statement contains a billing
13 error and the amount of such billing error; and

14 (c) sets forth the reasons for the obligor's belief that the statement
15 contains a billing error.

16 SEC. 8. *Relief of Creditor.* – The creditor has no further responsibility if
17 the obligor:

18 (a) has agreed, after giving such written notice and before the
19 expiration of the prescribed time limit, that the statement was indeed correct, or

20 (b) continues to make *substantially the same allegation with respect to*
21 *an alleged billing error which the creditor has acted upon by complying with the*
22 *provisions of Section 5 and 6.*

23 SEC. 9. *Sending of Statements.* – An action to collect an amount or any
24 part thereof, indicated by an obligor under Section 4 (b) does not include the
25 sending of statements of account to the obligor following written notice from the
26 obligor as specified under Section 7, if:

27 (1) the obligor's account is not restricted or closed because of the
28 failure of the obligor to pay the amount indicated under Section 7 (b), and

29 (2) the creditor indicates the payment of such amount is not required
30 pending the creditor's compliance with the provisions of this Act. Nothing in this

1 Section shall be construed to prohibit any action by a creditor to collect any
2 amount which has not been indicated by the obligor to contain a billing error.

3 SEC. 10. *Prohibition Against Restriction or Closure.* – Pursuant to the
4 regulations of the Board, a creditor operating an open-end consumer credit plan
5 may not, prior under Section 5 and 6 restrict or close an account with respect to
6 which the obligor has indicated pursuant to Section 7 that he believes such
7 account to contain a billing error solely because the obligor's failure to pay the
8 amount indicated to be in error. Nothing in this Section shall be deemed to
9 prohibit a creditor from applying against the credit limit on the obligor's account
10 the amount indicated to be in error.

11 SEC. 11. *Forfeiture of Right to Collect.* – Any creditor who fails to
12 comply with the requirements of Sections 4 to 10 and Section 12 forfeits any right
13 to collect from the obligor the amount indicated by the obligor under Section 7
14 (b), and any finance charges thereon, except that the amount required to be
15 forfeited under this Section may not exceed One thousand pesos (P1,000.00).

16 SEC. 12. *Regulation of Credit Reports.* – After receiving a notice from an
17 obligor as provided in Section 5 to 7, a creditor or his agent may not directly or
18 indirectly threaten to report to person adversely on the obligor's failure to pay the
19 amount indicated by the obligor under Section 7 (b) and such amount may not be
20 reported as delinquent to any third party until the creditor has met the
21 requirements of Sections 4 to 10 and has allowed the obligor the same number
22 of days, which shall not be less than ten (10) days, and thereafter to make
23 payment as provided under the credit agreement with the obligor for the payment
24 of undisputed amounts.

25 If a creditor receives a further written notice from an obligor that an
26 amount is still in dispute within the time allowed for payment under the next
27 preceding paragraph, a creditor may not report to any third party the amount that
28 the obligor is delinquent because the obligor has failed to pay an amount which
29 he has indicated under Section 7 (b), unless the creditor also reports that the
30 amount is in dispute and, at the same time, notifies the obligor of the name and

1 address of each party to whom the creditor is reporting information concerning
2 the delinquency.

3 A creditor shall report any subsequent resolution of any delinquencies
4 reported pursuant to the immediately preceding paragraph to the parties to whom
5 such delinquencies were initially reported.

6 SEC. 13. *Length of Billing Period.* – If an open-end credit plan provides
7 a time period which an obligor may repay any portion of the credit extended
8 without incurring an additional finance charge, such additional finance charge
9 may not be imposed unless statement which includes the amount upon which the
10 finance charge for the period is based was delivered at least fifteen (15) days
11 prior to the date specified in the statement by which payment must be made in
12 order to avoid imposition of that finance charge.

13 This Section does not apply in any case where a creditor has been
14 prevented, delayed, or hindered in making timely delivery of such periodic
15 statement within the time period specified in such subsection because of an act
16 of God, war, natural disaster, strike, or other excusable or justifiable cause, as
17 determined under the regulations of the Central Bank.

18 SEC. 14. *Prompt Crediting of Payments.* – Payments received by the
19 creditor plan shall be posted promptly to the obligor's account as specified in the
20 regulations of the Central Bank. Such regulations shall prevent a finance charge
21 from being imposed on any obligor if the creditor has received the obligor's
22 payment in readily identifiable form in the amount, manner, location, and time
23 indicated by the creditor to avoid the imposition thereof.

24 SEC. 15. *Crediting Excess Payments.* – If an obligor transmits funds to a
25 creditor in excess of the total balance due to an open-end consumer credit
26 account, the creditor shall promptly inform the obligor of such excess payment
27 and, upon request of the obligor, refund the amount of the overpayment.
28 Otherwise, the creditor may credit such amount to the obligor's account.

29 SEC. 16. *Prompt Notification of Return.* – With respect to any sales
30 transaction where a credit card has been used to obtain credit, where the seller
31 is a person other than the card issuer, and when the seller accepts or allows a

1 return of the goods or forgiveness of a debit for services which were the subjects
2 of such sale, the seller shall promptly transmit to the credit card issuer, a credit
3 statement with respect thereto and the credit card issuer shall credit the account
4 of the obligor for the amount of transaction.

5 SEC. 17. *Use of Cash Discounts.* – With respect to credit cardholder
6 who may avail of cash discounts in sales transactions in which the seller is a
7 person other than the card issuer, the card issuer may not, by contract or
8 otherwise, prohibit such seller from offering a discount to a cardholder to induce
9 the cardholder to pay by cash, check or similar means rather than use a credit
10 card.

11 With respect to any sales transaction, any discount not in excess of five
12 per centum (5%) offered by the seller for the purpose of inducing payment by
13 cash, check or other means not involving the use of credit card shall not
14 constitute a finance charge if such discount is offered to all prospective buyers
15 clearly and conspicuously in accordance with regulations of the Central Bank.

16 SEC. 18. *Prohibition of Tie-in Services.* – Notwithstanding any
17 agreement to the contrary, a card issuer may not require a seller, as a condition
18 to participating in a credit card plan, to open an account or procure any other
19 service from the card issuer or its subsidiary or agent.

20 SEC. 19. *Prohibition of Offsets.* – A card issuer may not take any action
21 to offset a cardholder's indebtedness arising in connection with a consumer
22 credit transaction under the relevant credit card plan against funds of the
23 cardholder held on deposit with the card issue unless such action was previously
24 authorized in accordance with a credit plan whereby the cardholder agrees
25 periodically to pay debts incurred in his open-end credit account by permitting the
26 card issuer periodically to deduct all or a portion of such debt from the
27 cardholder's deposit account.

28 In the case of any credit account in existence on the effective date of this
29 Section the previous written authorization shall not be required until after such
30 effective date when such account is renewed but in no case later than one (1)
31 year after such effective date. Such written authorization shall be deemed to

1 exist if the card issuer has previously notified the cardholder that the use of his
2 credit card account will subject any funds which the card issuer holds in deposit
3 accounts of such cardholder to offset against any amounts due and payable on
4 his credit card account which have not been paid in accordance with the terms of
5 the agreement between the card issuer and the cardholder.

6 SEC. 20. *Attachment of Levy.* – Nothing in the next preceding Section
7 shall alter or effect the right under existing laws of a card issuer to attach or
8 otherwise levy upon funds of a cardholder held on deposit with the card issuer.

9 SEC. 21. *Rights of Credit Card Holders.* – Subject to the limitation
10 contained in Section 22, a card issuer who has issued a credit card to a
11 cardholder pursuant to an open-end consumer credit plan shall be subject to all
12 claims except tort claims, and defenses arising out of any transaction in which
13 the credit card is issued as a method of payment or extension of credit if:

14 (a) the obligor has made a good faith attempt to obtain satisfactory
15 resolution of a disagreement or problem relative to the transaction from the
16 person honoring the credit card;

17 (b) the amount of the initial transaction exceeds One thousand pesos
18 (P1,000.00); and

19 (c) the place where the initial transaction occurred was in the same
20 province or city as the mailing address previously provided by the cardholder:

21 *Provided, That the limitations set forth in paragraphs (b) and (c) with respect to*
22 *an obligor's right to assert claims and defenses against a card issuer shall not be*
23 *applicable to any transaction in which the person honoring the credit card (1) is*
24 *the same person as the card issuer, (2) is controlled by the card issuer; (3) is*
25 *under direct or indirect common control with the card issuer; (4) is a franchised*
26 *dealer in the card issuer's products or services a mail solicitation made by or*
27 *participated in by the card issuer in which the cardholder is solicited to enter into*
28 *such transaction by using the credit card issuer by the card issuer.*

29 SEC. 22. *Amount of Claims.* – The amount of claims or defenses
30 asserted by the cardholder may not exceed the amount of credit outstanding with
31 respect to such transaction at the time the cardholder first notifies the card issuer

1 or the person honoring the credit card of such claim or defense. For the purpose
2 of determining the amount of credit outstanding in the preceding sentence,
3 payments and credits to the cardholder's account are deemed to have been
4 applied, in the order indicated, to the payment of :

- 5 (a) late charges in the order of their entry to the account;
- 6 (b) finance charges in the order of their entry to the account;
- 7 (c) debits to the account other than those set forth above, in the order
8 in which each debit entry to the account was made.

9 SEC. 23. *Charge for Exceeding Credit Limit.* – If a cardholder makes
10 purchases through the use of the credit card but exceeds his credit limit due to
11 the frequent delays in billings, with the result that the cardholder may not recall
12 which "old" charges has not yet to be billed, the creditor shall not impose a tax
13 and penalty charge and shall honor the merchant or seller's charge slips that
14 exceed credit limits: *Provided, however,* That such excesses are infrequent and
15 there is no reason to suspect that the cardholder is in a financial difficulty.

16 A charge for exceeding a credit limit is not considered part of the finance
17 charge: *Provided, That*

- 18 (1) The charge is not part of the regular credit plan;
- 19 (2) The consumer is not encouraged to exceed the credit limit and incur
20 the charge; and
- 21 (3) The excess giving rise to the charge are inadvertent and infrequent.

22 SEC. 24. *Disclosure of Fair Credit Billing Rights.* ~ Any creditor shall
23 furnish to each person to whom credit is extended, prior to the consummation of
24 the transaction, a statement in writing and in the form prescribed by regulations
25 at the back of the protection provided by Sections 4 to 11 and 21 to 22 and the
26 creditor's responsibilities under Section 12 and 21 to 22.

27 In the case of any existing account under an open-end consumer credit
28 plan, the items described in the preceding sentence not previously disclosed,
29 shall, after the effective date of this Act, be disclosed in a notice mailed or
30 delivered to the obligor not later than the time of mailing the next statement of
31 account.

1 SEC. 25. *Rules and Regulations.* – The Central Bank of the Philippines
2 shall prescribe such rules and regulations as may be necessary or proper to
3 carry out the provisions of this Act.

4 SEC. 26. *Separability Clause.* – If for any reason any provision of this
5 Act or the application thereof to any person or circumstances shall be questioned
6 in any court, and shall be held to be unconstitutional or invalid, other provision of
7 this Act or the application of such provision to other persons or circumstances
8 shall not be affected thereby.

9 SEC. 27. *Repealing Clause.* – All acts, laws or parts of acts or laws,
10 decrees, rules and regulations inconsistent with the provisions of this Act are
11 hereby repealed and/or modified accordingly.

12 SEC. 28. *Effectivity.* – This Act shall take effect fifteen (15) days after its
13 publication in the Official Gazette or in at least two (2) newspapers of general
14 circulation whichever comes earlier.

Approved,