

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2946

Introduced by HON. MA. AMELITA CALIMBAS-VILLAROSA

EXPLANATORY NOTE

This bill seeks to provide adequate protection to users of credit cards, a commercial breakthrough that emerged in recent years. Gone are the days when people would shop around bringing substantial amount of cash with them because of the expediency and security offered by the use of these credit cards. Unfortunately, with such convenience comes great responsibility. The ease with which one can purchase on credit has lured many clueless consumers to make improvident acquisitions that eventually lead to their economic collapse because of compounded interest charges and hefty penalties imposed over and above their outstanding balance.

While the 1987 Constitution guarantees the freedom of parties to stipulate terms and conditions in a contract as they see fit, equally fundamental is the legal maxim that such stipulations should not contravene law, morals, good customs, public order or public policy. Hence, while the Usury Law has been suspended by Central Bank Circular No. 905, series of 1982, and since its effectivity on January 1, 1983 parties to a loan agreement have been given wide latitude to agree on any interest rate, it is well-settled in Philippine Jurisprudence¹ that stipulated interest rates are illegal if they are unconscionable. Nothing in the said Central Bank Circular grants lenders carte blanche authority to raise interest levels which will either enslave their borrowers or lead to a hemorrhaging of their assets.

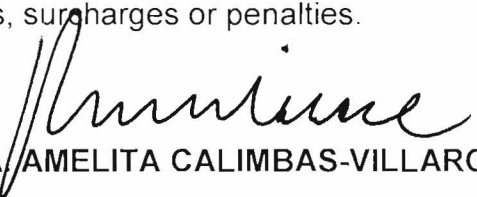
On April 22, 2003, the Supreme Court promulgated the important decision of *Ruiz v. Court of Appeals*, 401 SCRA 410 (2003), where it struck down the stipulated interest rate of 36% per annum on a loan agreement and reduced the same to 12% per annum. Moreover, an explicit ruling was made that the only

¹ Sps. Solangon vs. Salazar, 360 SCRA 379 (2001) and a long line of cases before it.

permissible rate of surcharge or penalty on an unpaid loan is 1% per month, without compounding. The highest court of the land reiterated that a stipulated penalty be equitably reduced if it is iniquitous or unconscionable.

We have, at present, the Truth in Lending Act requiring strict disclosure of all important terms and conditions of loan agreements entered into by the borrowing public with banks and similar financial institutions to guide the former through the labyrinth of legalities in fine print loan documentation, affording them the opportunity to give intelligent and informed consent before they bind themselves to perhaps a lifetime of paying loan amortization as well as commit their real and personal properties as collateral.

There remains to be a void, however, in legislation and in jurisprudence, regarding the wide-spread use of the so-called "plastic money" or credit card and the crippling interest rates and penalties that go with it. Most credit card companies impose an interest rate ranging from 3% to 4.25% per month on a credit card holder's revolving unpaid balance. This would translate to 36% to 51% per annum. The burden is heightened by fine print stipulations on compounded surcharges or penalties that come as a surprise to unassuming credit card users. Hence, the pressing need to provide them adequate protection through statutory sanction to bolster the above-discussed judicial admonition against unconscionable interest rates, surcharges or penalties.


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**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 SUCH CREDIT FACILITY.**

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

SECTION 1. Interest rates imposed by credit card companies 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.

SECTION 2. Surcharges or penalties shall likewise be limited to a ceiling of 1% per month, without compounding.

SECTION 3. 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 credit card facility.

SECTION 4. The pertinent provisions of the Truth in Lending Act shall apply suppletorily insofar as relevant and complementary to the provisions of this Act.

SECTION 5. This Act shall take effect immediately upon its approval.