

Republic of the Philippines
House of Representatives
Quezon City

SIXTEENTH CONGRESS
Second Regular Session

House Bill No. **4861**



Introduced by Hon. Nelson R. Collantes and
Hon. Agapito H. Guanlao

EXPLANATORY NOTE

Credit card users have increased tremendously since the 1990s. In fact, data from the Market Manila reveal that as of December 2010, at least 6.7 million credit cards have been issued to Filipino consumers. This number represents an estimated 3% yearly growth rate from the 2007-2010. In the same source, it is said that this data will still increase if the number of consumers amounting to roughly 1 million individuals with multiple cards will be included.

The conditions and penalties imposed by banks and credit card companies on card holders tend to be very prohibitive, especially for those who fail to settle their dues. In spite of this situation, the above-mentioned data imply that consumers still rely on plastic money in times of dire need and for emergency expenditures.

Likewise, it is also observed that almost all banks and other financial institutions already promote and offer credit cards. And as such, these credit cards companies compete with each other to promote and encourage individuals to apply for credit cards. As a result, the various methods employed by credit card companies to market and promote credit cards at times inhibit the consumers to scrutinize the terms, conditions and sanctions that will be imposed for delayed payments.

Nelson P. Collantes

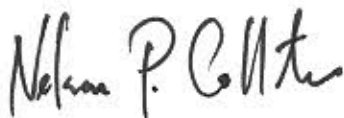


And for the credit card issuers, this situation limits their time to actually determine the paying capacity and credit standing of the applicants.

This bill seeks to set order and regulations in the credit card industry. It intends to create an environment that is beneficial to both parties ---- the credit card companies and the consumers.

The bill seeks among others to make credit available and accessible through the exercise of utmost diligence in credit investigation and the exercise of "openness" in dealing with requests of consumers for adjustments in credit limits.

In view of the foregoing, the enactment of this legislative measure is earnestly sought.



HON. NELSON P. COLLANTES



HON. AGAPITO H. GUANLAO

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AN ACT
TO REGULATE THE PHILIPPINE CREDIT CARD INDUSTRY

Article 1. Short Title - This Act shall be known as the "*Philippine Credit Card Industry Regulation Law*"

Article 2. Declaration of Basic Policy - It is the policy of the State to foster the development of the credit card industry as an indispensable tool to promote an efficient payments system; to make consumer credit readily available to all Filipinos under conditions of fair and sound consumer credit practices which are aligned with global best practices; to encourage competition and transparency that support a more efficient delivery of services; and to ensure that appropriate mechanisms are in place to protect and educate credit card holders.

Article 3. Scope and Coverage - This law shall govern all credit card issuers, acquirers and all credit card transactions.

Article 4. Supervision - The Bangko Sentral ng Pilipinas (BSP) shall supervise all credit card issuers and acquirers.

Supervision shall include the following;

- a. The issuance of rules of conduct or the establishment of standards of operation for uniform application to all institutions or functions covered, and the imposition of penalties in case of non-compliance therewith;
- b. The conduct of examination as determined by the Monetary Board to determine compliance with laws regulations; and
- c. Overseeing to ascertain that laws and regulations are complied with.

Article 5. Definition of Terms -

- a. **Acceleration clause** - any provision in the contract between the credit card issuer and the cardholder that gives the credit card issuer the right to demand the full settlement of the obligation in case of default or non-payment of any amount due or for any valid reason
- b. **Annual membership fee** - amount a credit card issuer levies for the right to use its card and acquire access to other membership benefits.
- c. **Acquirer** - shall refer to the institution that accepts and facilitates the processing of the credit card transaction which is initially accepted by the merchant;
- d. **Balance transfer** - transfer of the balance in a credit card account to another credit card account.
- e. **Billing cycle/billing period** - period of time between billings
Billing cycles shall be at least fifteen (15) days.
- f. **Card Association** - shall mean companies that provide credit network such as American Express, VISA International, MasterCard International, JCB International, Diners Club, China Union Pay or any other card association.
- g. **Cash advance** - any cash obtained from the credit card account on any manner availed by the cardholder.

- h. **Credit Card** - any card or other credit device intended for the purpose of obtaining money, property, or services on credit.
- i. **Credit card issuer** - is a bank or a corporation that offers the use of its credit card.
- j. **Credit card limit** - the maximum total amount for purchases, cash advances, balance transfer, and finance charges, service fees, penalties and other charges which can be charged to the credit card.
- k. **Default or delinquency** - non-payment of, or payment of an amount less than, the *Minimum Amount Due*, *Minimum Payment Required*, or words of similar import for at least two (2) billing cycles;
- l. **Finance charges** - shall refer to the interest charged to the cardholder on all credit card transactions in accordance with the terms and conditions specified in the agreement on the use of the credit card.
- m. **Installment purchases** - transactions wherein payment for is amortized in parts over a fixed period.
- n. **Industry Association** - shall mean associations composed of companies engaged in the business of banking, finance, credit and payments.
- o. **Minimum amount due or minimum payment required** - the minimum amount that a cardholder is required to pay on or before the payment due date for a particular billing period/cycle which may include:
 - (i) total outstanding balance multiplied by the required payment percentage or a fixed amount whichever is higher;
 - (ii) any amount which is part of any fixed monthly instalment that is charged to the card;
 - (iii) any amount in excess of the credit line; and
 - (iv) all past due amounts, if any

- p. **Outstanding balance** - the amount to be repaid at any point in time
- q. **Statement cut-off date** - the end date of a billing cycle as determined by the credit card issuer, when account activities (purchases, payments, charges) during the billing cycle are summarized.
- r. **Statement of account or billing statement** - Regular statement listing of the purchases, payment and other debits and credits made to the credit card account within the billing cycle.
- s. **Supplementary card or extension card** - a card issued to another person whose credit limit is consolidated with the primary cardholder.

Article 6. Minimum requirements for risk management system of credit card issuers - To effectively deliver services and at the same time safeguard the credit card issuer and acquiring bank's interests, they must establish an appropriate system for managing risk exposures arising from credit card operations. Such risk management system shall be documented in a complete and concise manner, and shall cover the organizational set-up for the institution engaged in or unit handling the credit card business, internal and external functions, and internal control system.

Article 7. Minimum requirements for the issuance of credit cards - Before issuing credit cards. Credit card issuers shall conduct know-your-client (KYC) procedures and exercise proper diligence in ascertaining that applicants possess good credit standing and are financially capable of fulfilling their credit commitments.

Article 8. Service level agreement - there shall be in the service level agreement between the acquiring banks and their partner merchants, a

provision requiring merchants to perform due diligence to establish the identity of the cardholders.

Nothing in this law shall preclude the card issuers from verifying or seeking confirmation with the card holder or designated contract detail any purchase if in its assessment there is reasonable concern as to the validity of said purchase

Article 9. Determination of credit card limit; Changes thereof - Credit card issuers shall determine, based on the credit standing and financial capacity of the card holder, the credit limit to be extended to the cardholder. The card issuers may thereafter implement changes in the credit limit applicable of the account based on its risk management policies and guidelines: *Provided*, that the card holder is notified of such changes: *Provided, further*, that any credit limit increase may be declined by the cardholder: *Provided, finally*, that the cardholder has an option to request for a credit limit adjustment subject to the approval of the credit card issuer.

Article 10. Information to be Disclosed - Credit Card issuers shall disclose to all credit cardholders and potential credit cardholders the following information:

- a. Finance charges for unpaid amounts after payment due date:
- b. The percentage that the interest bears to the total amount to be financed expressed as a simple monthly or annual rate, as the case may be, on the outstanding balance of the obligation;
- c. The default, late payment/ penalty fees or similar delinquency-related charges payable in the event of late payments: *Provided*, that late payment or penalty fees shall be based on the unpaid minimum amount due or a prescribed minimum fixed amount: *Provided, further*, that said late payment or penalty fees maybe base on the total outstanding balance of the credit card obligation, including amounts payable under installment terms or deferred payment schemes, if the contract between the issuer

and the cardholders contains an “acceleration clause” and the total outstanding balance of the credit card is classified and reported as past due;

- d. The method of determining the amount of interest and/or delinquency charges may be imposed
- e. The method of determining the amount of interest and/or delinquency charges, including any minimum or fixed amount imposed as interest and/or delinquency charge;
- f. Other fees, such as membership/ renewal fees/ processing fees, over-the-limit fees, collection fees, credit investigation fees and attorney’s fees.
- g. For transaction made in foreign currencies and/or outside the Philippines, for dual currency accounts (peso and dollar billings), as well as payments made by credit cardholders in any currency other than the billing currency, the manner of conversion from the transaction currency and payment currency to Philippine pesos or billing currency, which may be a definition or general description of conversion rates (e.g. The international rates of credit card networks plus mark-up, if any);
- h. A reminder to the cardholder in the billing statement, or its equivalent document, that payment of only the minimum amount due or any amount less than the total amount due for the billing cycle/period would mean the imposition of interest and/or other charges. A written statement in the following form must be printed in the monthly billing statement - “Important Reminder: Paying less than the total amount due will increase the amount of interest you pay and the time it takes to repay your balance”: and
- i. Any other information that may be required by the BSP

The credit card issuer shall endeavor to convey said information in a manner that is understandable by the credit card holder: *Provided*, that the items enumerated above may be include quarterly at the minimum, in the billing statement in a table format

Article 11. Computation to be disclosed - in addition to the foregoing, a credit card issuer shall to the extent practicable, provide a detailed explanation and a clear illustration of the manner by which all charges and fees are computed.

Every billing statement shall contain clear and concise repayment information that would apply to the outstanding balance of the consumer placed in a conspicuous place and prominent location on the billing statement. The repayment information shall also include the number of months (rounded to the nearest month) that it would take to pay the entire amount of that balance excluding installment, if the consumer pays only the required minimum monthly payments and if no further advance are made.

Compliance with this Article may be deferred for such reasonable time as the BSP may determine for credit card issuers to modify their systems accordingly.

Article 12. Over-the-limit transaction - if a cardholder breaches his credit limit by a new transaction, the subject transaction may be processed subject to the discretion of the credit card issuer: *Provided*, that no over the limit fee shall be charged unless the cardholder provides expressed consent to be charged the over the limit fee or unless that account remains to be over the limit on the account's next statement date: *Provided*, further, that such fees are clearly and prominently disclosed in the table of fees and charges.

Article 13. Lost or stolen card - In case a credit card is lost or stolen, any transaction prior to reporting to the credit card issuer shall be for the account of the cardholder.

Article 14. Confidentiality of information - Credit card issuers, their officers and employees shall keep strictly confidential the data in the card holder, except under any of the following circumstances:

- a. Disclosure of information is with the consent of the cardholder;
- b. Release, submission or exchange of customer information with, credit information bureaus, industry association, and Card Association;
- c. Upon Orders of Court of competent jurisdiction or any government office or agency authorized by law, or under such conditions as may be prescribed by the Monetary Board of the BSP;
- d. Disclosure to third party service providers solely for the purpose of assisting or rendering services to the credit card issuer and for recovery purposes or to enforce its rights against the cardholder
- e. Disclosure to third parties such as insurance companies, solely for the purpose of insuring the credit card issuer from cardholder default or other credit loss, and the cardholder from fraud or unauthorized charges; and,
- f. Disclosure to third parties for the purpose of investigating fraud or unauthorized activities or mitigating risk involving card issuance, use and acquiring.

Provided that, the recipient of information pursuant to items "a" to "f" shall likewise be bound to strictly keep confidential the data on the cardholder; *Provided further*, that the recipients of information other than those enumerated under item a, b, and f are not allowed to further disclose information/data.

Article 15. Customer Assistance Unit - The card issuer shall establish a consumer assistance unit within its organization responsible for providing prompt action for the expeditious resolution of complaints, inquiries and request.

Article 16. Complaint on billing error or discrepancy - Credit card issuers shall give cardholders up to sixty (60) calendar days from statement date to report any error or discrepancy in their billing statement. The credit card issuer shall take action within ten (10) business days from receipt of such notice.

Article 17. Appropriate manner of collection - Credit card issuers may resort to all reasonable and legally permissible means to collect amounts due them under the credit card agreement: *Provided*, that in the exercise of their rights and performance of duties, they must observe good faith and reasonable conduct and refrain from engaging in unscrupulous or untoward acts.

A credit card issuer or collection agent shall not harass abuse or oppress any person or engage in any unfair practices, as may be defined by BSP rules and regulations, in connection with the collection of any card debt.

Article 18. Use of third-party Collection Agents - Credit card issuers may engage qualified third party service providers/collection agents for the purpose of assisting or rendering services in the administration of the credit card business including for the purpose of recovery or to enforce rights against the cardholder.

Article 19. Endorsement of Credit Card Debt collection by Credit card Issuer to a Collection Agency - A credit card issuer shall inform its cardholder in writing of the endorsement of the collection of the account to a collection agency, or the endorsement of the account from one collection agency to another, prior to the actual endorsement. The notification shall include the full name of the collection agency and its contact details: *Provided*, That the required notification in writing shall be included in the terms and condition of the credit card agreement: *Provided, further*, That the credit card issuer shall refer the collection of an account to only one collection agency at any on time.

Article 20. Communication in connection with debt collection - The credit card issuer or its collection agency may communicate with a

credit cardholder in connection with the collection of any debt through the mode prescribed within guidelines provided by the BSP.

Article 21. Due Date - Notwithstanding any provision in the contract, if the payment due date for a credit card falls on weekend and regular national holidays, the card payment due date is automatically moved to the next business day. Payment through any authorized mode, made to any accredited payment centers of the card issuer shall be considered as payment to the credit card issuer made on the same date.

Article 22. Application of Card Payment - Upon receipt of a payment from a cardholder who has account that carry different interest rates for different types of purchase (i.e. cash advances, regular purchases, balance transfer), the credit issuer shall apply amounts in excess of the minimum payment amount first to the fees and charges, and then to the billed balance bearing the highest rate of interest, followed by the billed balance bearing the next higher rate of interest, until the payment is exhausted. Provided that the original rates for promotional offers shall be the basis for determining hierarchy of payment

Article 23. Termination of account - A cardholder may cancel or terminate his account anytime: *Provided*, That the cardholder either pays in full outstanding balance or enters into another agreement for repayment of outstanding balance whether one-time or on instalments within a fixed period of time; *Provided, further*, that repayment in instalments shall only be generally subject to interest unless there is a violation of the new agreement.

Article 24. Violation of this Act and Other Related Rules, Regulation, Orders or Instructions - Whenever any person wilfully violates any provision of this law or any related rules, regulation, order or instructions, issued by the Monetary Board, the person or persons responsible for such violation shall be punished by imprisonment of not less than two (2) years nor more than ten (10) years or by a fine of not less than Fifty thousand Pesos (P50,000.00) nor more than two hundred thousand pesos (P200,000.00), or both, at the discretion of the court.

Article 25. Administrative Sanction On Credit Card - The provision of Section 37 of Republic Act No. 7653 shall be made applicable to any credit card issuer, acquiring bank, their directors and officers, including, but not limited to, the administrative sanctions that may be imposed, without prejudice to the criminal sanctions against the culpable person provided in Article 24, for any will full violation of this law or any regulated rules, regulations, orders or instruction issued by the Monetary Board: *Provided*, that in addition to the administrative sanctions that may be imposed, the authority of the credit card issuer credit cards may be suspended or cancelled by the BSP.

Article 26. Repealing Clause - All other laws, decrees, executive orders, proclamation and administrative regulations, or parts thereof inconsistent here with repealed or modified accordingly.

Article 27. Effectivity Clause - This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation

Approved,