



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5027

Introduced 1/25/2010, by Rep. Joseph M. Lyons

SYNOPSIS AS INTRODUCED:

110 ILCS 26/40 new

205 ILCS 675/8

815 ILCS 140/9

from Ch. 17, par. 7008

from Ch. 17, par. 6012

Amends the Credit Card Marketing Act of 2009. Provides that a credit card issuer who complies with or is exempt from the applicable college student credit card marketing requirements of the federal Truth in Lending Act and the regulations promulgated under that Act shall be deemed to be in compliance with or exempt from all of the provisions of the Credit Card Marketing Act of 2009. Amends the Illinois Financial Services Development Act. Provides that a financial institution that complies with or is exempt from the specified federal statutory and regulations standards shall be deemed to be in compliance with or exempt from all of specified provisions of the Act. Amends the Credit Card Issuance Act. Provides that a credit card issuer who complies with or is exempt from the applicable credit card application, solicitation, and periodic statement disclosure requirements of the federal Truth in Lending Act and the regulations promulgated under that Act shall be deemed to be in compliance with or exempt from all of the specified provisions of the Credit Card Issuance Act. Provides that a credit card issuer who complies with or is exempt from the applicable consumer credit card issuance requirements of the federal Truth in Lending Act and the regulations promulgated under that Act pertaining to credit cards issued to persons under the age of 21 shall be deemed to be in compliance with or exempt from all of the specified provisions of the Credit Card Issuance Act. Effective immediately.

LRB096 17918 MJR 33286 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning financial regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Credit Card Marketing Act of 2009 is amended
5 by adding Section 40 as follows:

6 (110 ILCS 26/40 new)

7 Sec. 40. Applicability. A credit card issuer who complies
8 with or is exempt from the applicable college student credit
9 card marketing requirements of the federal Truth in Lending Act
10 and the regulations promulgated under that Act shall be deemed
11 to be in compliance with or exempt from all of the provisions
12 of this Act.

13 Section 10. The Illinois Financial Services Development
14 Act is amended by changing Section 8 as follows:

15 (205 ILCS 675/8) (from Ch. 17, par. 7008)

16 Sec. 8. Amendment of governing agreement.

17 (a) If the agreement governing a revolving credit plan so
18 provides or allows, a financial institution may at any time or
19 from time to time amend the terms of such agreement in
20 accordance with the further provisions of this Section 8. The
21 financial institution shall notify each affected borrower of

1 the amendment in the manner set forth in the agreement
2 governing the plan and in compliance with the requirements of
3 the Truth-in-Lending Act and regulations promulgated
4 thereunder, as in effect from time to time, if applicable.

5 (b) Subject to subsection (c) below, if the terms of the
6 agreement governing the plan, as originally drawn or as amended
7 pursuant to this Section so provide, any amendment may, on and
8 after the date upon which it becomes effective as to a
9 particular borrower, apply to all then outstanding unpaid
10 indebtedness in the borrower's account under the plan,
11 including any such indebtedness which shall have arisen out of
12 purchases made or loans obtained prior to the effective date of
13 the amendment.

14 (c) If such amendment has the effect of increasing the
15 interest or other charges to be paid by the borrower, the
16 financial institution shall mail or deliver to the borrower, at
17 least 30 days before the effective date of the amendment, a
18 clear and conspicuous written notice which shall:

19 (1) describe the amendment and the existing term or
20 terms of the agreement affected by the amendment,

21 (2) set forth the effective date of the amendment,

22 (3) state whether or not the amendment will apply to
23 the outstanding unpaid indebtedness as of the effective
24 date of the amendment,

25 (4) state that absent the borrower's written notice to
26 the financial institution within 30 days of the earlier of

1 the mailing or delivery of the notice of amendment that the
2 borrower does not agree to accept the amendment, the
3 amendment will become effective and apply to the borrower's
4 account, and

5 (5) provide an address to which the borrower may send
6 notice of the borrower's election not to accept the
7 amendment and include an addressed postcard that the
8 borrower may return to the financial institution for that
9 purpose.

10 (c-5) If such amendment results in an unfavorable change in
11 the interest or other charges on a revolving credit plan which:
12 (i) relates to a change in the borrower's credit standing, (ii)
13 does not affect all or a substantial portion of a class of the
14 creditor's accounts, and (iii) does not relate to inactivity,
15 default, or delinquency on that revolving credit plan, the
16 financial institution shall include in the notice required by
17 subsection (c) of this Section 8 a statement that is
18 substantially similar to the following:

19 Change in Credit Standing

20 The amendment to the terms of your account relates to a
21 change in your credit standing. The change in your credit
22 standing may have resulted from a default or delinquency on
23 other accounts you may have, or other adverse changes in
24 your financial circumstances. If you submit the enclosed
25 postcard or otherwise notify us in a timely manner as
26 provided in this notice that you do not accept the

1 amendment, you will be able to pay off your existing
2 balance at the rate in effect prior to the amendment.
3 However, in that instance, you may not be eligible to
4 obtain additional credit under this plan after the
5 effective date of the amendment. If you do not provide
6 timely notice to us as provided in this notice that you do
7 not accept the amendment, the amendment to the terms of
8 your account will become effective and apply to your
9 account.

10 (c-10) As a condition to the effectiveness of the
11 borrower's notice not to accept the amendment, the financial
12 institution may require the borrower to return all credit
13 devices.

14 Any borrower who gives a timely notice electing not to
15 accept the amendment shall be permitted to pay the outstanding
16 unpaid indebtedness in the borrower's account under the plan in
17 accordance with the terms of the agreement governing the plan
18 without giving effect to the amendment.

19 Notwithstanding the financial institution's receipt of the
20 borrower's notice under item (4) that the borrower does not
21 accept the amendment, the amendment shall be deemed to have
22 been accepted and effective with respect to the borrower and
23 the borrower's account if the borrower uses the credit device
24 to obtain credit under the credit plan on or after the
25 effective date of the amendment, and the amendment shall be
26 deemed effective as of the effective date originally disclosed

1 by the financial institution.

2 (d) For purposes of this Section, the following shall not
3 be deemed an amendment which has the effect of increasing the
4 interest to be paid by the borrower:

5 (1) a decrease in the required amount of periodic
6 installment payments; and

7 (2) a change from a daily periodic rate to a periodic
8 rate other than daily, or from a periodic rate other than
9 daily to a daily periodic rate, provided that there is no
10 resulting change in the annual percentage rate as
11 determined in accordance with the Truth-in-Lending Act and
12 regulations promulgated thereunder, as in effect from time
13 to time.

14 (e) A financial institution that complies with or is exempt
15 from the following federal statutory and regulations standards
16 shall be deemed to be in compliance with or exempt from all of
17 the provisions of this Section:

18 (1) the applicable disclosure requirements and
19 restrictions of the federal Truth in Lending Act and
20 regulations promulgated under that Act pertaining to
21 increasing the interest or other charges to be paid by the
22 borrower under an open end credit plan; and

23 (2) the applicable adverse action notice requirements
24 of the federal Equal Credit Opportunity Act and regulations
25 promulgated under that Act.

26 (Source: P.A. 93-287, eff. 1-1-04.)

1 Section 15. The Credit Card Issuance Act is amended by
2 changing Section 9 as follows:

3 (815 ILCS 140/9) (from Ch. 17, par. 6012)

4 Sec. 9. Penalties.

5 (a) Any credit card issuer who knowingly violates this Act
6 is guilty of a Class A misdemeanor.

7 (b) No credit card issuer who violates this Act, except as
8 a result of an accident or bona fide error of computation, may
9 recover interest, annualized membership fee or participation
10 fee or charge, late payment charges, minimum finance charges
11 and over the limit charges in connection with any credit card
12 issued.

13 (c) A credit card issuer who complies with or is exempt
14 from the applicable credit card application, solicitation, and
15 periodic statement disclosure requirements of the Truth in
16 Lending Act and the regulations promulgated under that Act
17 shall be deemed to be in compliance with or exempt from all of
18 the provisions of subsection (a) of Section 6 of this Act.

19 (d) A credit card issuer who complies with or is exempt
20 from the applicable consumer credit card issuance requirements
21 of the federal Truth in Lending Act and the regulations
22 promulgated under that Act pertaining to credit cards issued to
23 persons under the age of 21 shall be deemed to be in compliance
24 with or exempt from all of the provisions of Section 7.2 of

1 this Act.

2 (Source: P.A. 88-569; eff. 8-5-94.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.