

# Credit Cards and the Credit CARD Act of 2009

## Consumer Law

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The modern multi-retailer revolving-balance credit card was introduced by Bank of America in 1958 by sending out 20,000 unsolicited BankAmericards to consumers in California. The BankAmericard was later renamed Visa.



LIFE  
TAKES  
VISA

- The consumer financial services industry spent more than \$13 billion on direct-mail advertising in 2007.
- Banks and credit card institutions earned a return-on-investment of \$13.37 per dollar spent on direct-mail.



- **Credit cards are a \$160 billion business.**

The average credit-card debt for card-holding households:

- \$2,966 in 1990
- \$9,659 in 2008

Credit card industry profits:

- \$27.4 billion in 2003
- \$40.7 billion in 2007
- Up 49% in 4 years

## Lack of regulation of credit cards

- Choice of law
- Banking deregulation in 1970s
- Smiley v. Citibank, 517 U.S. 735 (1996)

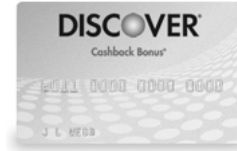
## Katie Groves, 42

The interest rate on Katie's Chase Visa card jumped from 12% to 29.99% — even though she had never missed a payment and owed only \$500 — because Chase checked her credit report and looked at the levels of debt she owed to other parties.



## Janet Hard, 42, of Freeland, Mich.

- Discover raised her rate from 7.9% in 2000 to 24.4% in 2007.
- She was charging her family of four's dentist bills to the card, because they were without dental insurance.
- "When I look at the money that we have paid to Discover during just the last two years, I feel sick. Of the \$5,618 made in payments to Discover, \$3478.39 went to interest ... My husband and I feel as though we've been robbed."
- Discover said the rate increases were because Hard was too close to her credit limit and was late on payments to other banks.



## Credit CARD Act of 2009

Credit  
Card  
Accountability,  
Responsibility and  
Disclosure Act of 2009

## Credit CARD Act of 2009

### *THE POLITICS:*

- Passed in the House of Representatives 361-64
- Passed in the Senate 90-5
- Signed by Pres. Obama on May 22, 2009
- Changes taking effect in February and August 2010
- Provides credit-card consumer with a “bill of rights”
- Allows visitors to carry guns into national parks and national wildlife refuges

## Credit CARD Act of 2009

### Kinds of requirements

- Information
- Time
- Choices and defaults (opt-outs & opt-ins)
- Fee caps
- Restrictions for underage consumers
- Restrictions on application of payments and methods of charging interest

## Billing

- Issuers must mail bills no less than 21 days before the payment due date.
- There must be a consistent due date every month (e.g., the 15th or the last day of the month).
- The payment cut-off time cannot be earlier than 5 p.m. on the due date.
- If your payment due date is on a weekend or holiday, you will have until the following business day to pay.

## The bill must disclose ...

- how long it will take you to pay off your entire balance by making only the minimum payments.
- how much you would have to pay every month in order to pay off the whole balance in three years.
- how much in total you would end up paying over those timespans.

## Example disclosure for \$3,000 balance at 14.4%

New balance	\$3,000.00
Minimum payment due	\$90.00
Payment due date	4/20/12

**Late Payment Warning:** If we do not receive your minimum payment by the date listed above, you may have to pay a \$35 late fee and your APRs may be increased up to the Penalty APR of 28.99%.

**Minimum Payment Warning:** If you make only the minimum payment each period, you will pay more in interest and it will take you longer to pay off your balance. For example:

If you make no additional charges using this card and each month you pay. . .	You will pay off the balance shown on this statement in about. . .	And you will end up paying an estimated total of. . .
Only the minimum payment	11 years	\$4,745
\$103	3 years	\$3,712 (Savings = \$1,033)

### Credit CARD Act of 2009

## Changes in terms: Notice

- Issuers must give 45-day notice of significant changes to terms. This includes:
  - interest rate hikes
  - changes to annual fees, late fees, and cash advance fees



## Changes in terms: Choice

- **Opt-out:** Issuers must provide the choice to cancel the account before changes go into effect.
  - If the consumer cancels, the issuer may, subject to limitations, increase your monthly payments.
  - Issuers may, e.g., require consumers to pay the balance off in five years, or they can double the percentage of the balance used to calculate the minimum payment.

## Opt-in for over-the-limit transactions.

- You must tell your credit card company that you want it to allow transactions that will take you over your credit limit. Otherwise, if a transaction would take you over your limit, it may be turned down. If you do not opt-in to over-the-limit transactions and your credit card company allows one to go through, it cannot charge you an over-the-limit fee.
- If you opt-in to allowing transactions that take you over your credit limit, your credit card company can impose only one fee per billing cycle. You can revoke your opt-in at any time.

#### Credit CARD Act of 2009

### Highlights of substantive restrictions:

- No interest rate increases for the first year.
- Increased rates apply only to new charges.
- Over-the limit charges limited to once per cycle.
- Caps on high-fee cards.
- Restrictions for underage consumers.
- Reasonable penalty fees.

#### Credit CARD Act of 2009

### Caps on high-fee cards

- If your credit card company requires you to pay fees (such as an annual fee or application fee), those fees cannot total more than 25% of the initial credit limit. For example, if your initial credit limit is \$500, the fees for the first year cannot be more than \$125. This limit does not apply to penalty fees, such as penalties for late payments.

## Restrictions for underage consumers

- If you are under 21, you will need to show that you are able to make payments, or you will need a cosigner, in order to open a credit card account.
- If you are under age 21 and have a card with a cosigner and want an increase in the credit limit, your cosigner must agree in writing to the increase.

## No interest rate increases for the first year

- Your credit card company cannot increase your rate for the first 12 months after you open an account.  
Exceptions:
  - If your card has a variable interest rate tied to an index; your rate can go up whenever the index goes up.
  - If there is an introductory rate, it must be in place for at least 6 months; after that your rate can revert to the "go-to" rate the company disclosed when you got the card.
  - If you are more than 60 days late in paying your bill, your rate can go up.
  - If you are in a workout agreement and you don't make your payments as agreed, your rate can go up.

Credit CARD Act of 2009

## Increased rates apply only to new charges

- If your credit card company does raise your interest rate after the first year, the new rate will apply only to new charges you make.
- If you have a balance, your old interest rate will apply to that balance.

Credit CARD Act of 2009

## Payments directed to highest interest balances first

- If you make more than the minimum payment on your credit card bill, your credit card company must apply the excess amount to the balance with the highest interest rate.
- There is an exception:
  - If you made a purchase under a deferred interest plan (for example, "no interest if paid in full by March 2012"), the credit card company may let you choose to apply extra amounts to the deferred interest balance before other balances. Otherwise, for two billing cycles prior to the end of the deferred interest period, the credit card company must apply your entire payment to the deferred interest-rate balance first.

## Reasonable penalty fees

- Your credit card company cannot charge you a fee of more than \$25 unless:
- One of your last six payments was late, in which case your fee may be up to \$35; or
- Your credit card company can show that the costs it incurs as a result of late payments justify a higher fee.
- In addition, your credit card company cannot charge a late payment fee that is greater than your minimum payment.

## Additional fee protections

- No inactivity fees.
- One-fee limit. No more than one fee for a single event or transaction that violates the cardholder agreement.

## Explanation and re-evaluation of rate increases

- If the credit card company increases the card's APR, it must tell state why.
- If the credit card company increases the APR, it must re-evaluate that rate increase every six months. If appropriate, it must reduce the rate within 45 days after completing the evaluation.

## Main themes of Credit CARD Act:

- Abetting free market
  - Disclosures
  - Choices
- Restraining market
  - Capping fees
  - Restricting credit to minors
  - Giving consumer the best of offered interest rates



## Sources

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