

Editorial Notes

AMENDMENTS

1974—Pub. L. 93-495 generally reorganized provisions by designating former unlettered paragraph cls. (a) to (f), and as so designated, expanded prohibitions relating to fraudulent use of credit cards, decreased amount required for fraudulent use from a retail value aggregating \$5,000, or more, to enumerated amounts for particular activities, and increased the punishment from a sentence of not more than five years to a sentence of not more than ten years.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-495 effective Oct. 28, 1974, see section 416 of Pub. L. 93-495, set out as an Effective Date note under section 1665a of this title.

EFFECTIVE DATE

Pub. L. 91-508, title V, §503(3), Oct. 26, 1970, 84 Stat. 1127, provided that: "Section 134 of such Act [this section] applies to offenses committed on or after such date of enactment [Oct. 26, 1970]."

§ 1645. Business credit cards; limits on liability of employees

The exemption provided by section 1603(1) of this title does not apply to the provisions of sections 1642, 1643, and 1644 of this title, except that a card issuer and a business or other organization which provides credit cards issued by the same card issuer to ten or more of its employees may by contract agree as to liability of the business or other organization with respect to unauthorized use of such credit cards without regard to the provisions of section 1643 of this title, but in no case may such business or other organization or card issuer impose liability upon any employee with respect to unauthorized use of such a credit card except in accordance with and subject to the limitations of section 1643 of this title.

(Pub. L. 90-321, title I, §135, as added Pub. L. 93-495, title IV, §410(a), Oct. 28, 1974, 88 Stat. 1519.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 28, 1974, see section 416 of Pub. L. 93-495, set out as a note under section 1665a of this title.

§ 1646. Dissemination of annual percentage rates; implementation, etc.**(a) Annual percentage rates**

The Bureau shall collect, publish, and disseminate to the public, on a demonstration basis in a number of standard metropolitan statistical areas to be determined by the Bureau, the annual percentage rates charged for representative types of nonsale credit by creditors in such areas. For the purpose of this section, the Bureau is authorized to require creditors in such areas to furnish information necessary for the Bureau to collect, publish, and disseminate such information.

(b) Credit card price and availability information**(1) Collection required**

The Bureau shall collect, on a semiannual basis, credit card price and availability infor-

mation, including the information required to be disclosed under section 1637(c) of this title, from a broad sample of financial institutions which offer credit card services.

(2) Sample requirements

The broad sample of financial institutions required under paragraph (1) shall include—

(A) the 25 largest issuers of credit cards; and

(B) not less than 125 additional financial institutions selected by the Bureau in a manner that ensures—

(i) an equitable geographical distribution within the sample; and

(ii) the representation of a wide spectrum of institutions within the sample.

(3) Report of information from sample

Each financial institution in the broad sample established pursuant to paragraph (2) shall report the information to the Bureau in accordance with such regulations or orders as the Bureau may prescribe.

(4) Public availability of collected information; report to Congress

The Bureau shall—

(A) make the information collected pursuant to this subsection available to the public upon request; and

(B) report such information semiannually to Congress.

(c) Implementation

The Bureau is authorized to enter into contracts or other arrangements with appropriate persons, organizations, or State agencies to carry out its functions under subsections (a) and (b) and to furnish financial assistance in support thereof.

(Pub. L. 90-321, title I, §136, as added Pub. L. 96-221, title VI, §618(a), Mar. 31, 1980, 94 Stat. 183; amended Pub. L. 100-583, §5, Nov. 3, 1988, 102 Stat. 2967; Pub. L. 111-203, title X, §1100A(2), July 21, 2010, 124 Stat. 2107.)

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2010—Pub. L. 111-203 substituted "Bureau" for "Board" wherever appearing.

1988—Subsecs. (b), (c). Pub. L. 100-583 added subsec. (b), redesignated former subsec. (b) as (c), and substituted "subsections (a) and (b)" for "subsection (a)".

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective on expiration of two years and six months after Mar. 31, 1980, with all regulations, forms, and clauses required to be prescribed to be promulgated at least one year prior to such effective date, and allowing any creditor to comply with any amendments, in accordance with the regulations, forms, and clauses prescribed by the Board prior to such effective date, see section 625 of Pub. L. 96-221, set out as an Effective Date of 1980 Amendment note under section 1602 of this title.

§ 1647. Home equity plans**(a) Index requirement**

In the case of extensions of credit under an open end consumer credit plan which are subject to a variable rate and are secured by a consumer's principal dwelling, the index or other rate of interest to which changes in the annual percentage rate are related shall be based on an index or rate of interest which is publicly available and is not under the control of the creditor.

(b) Grounds for acceleration of outstanding balance

A creditor may not unilaterally terminate any account under an open end consumer credit plan under which extensions of credit are secured by a consumer's principal dwelling and require the immediate repayment of any outstanding balance at such time, except in the case of—

- (1) fraud or material misrepresentation on the part of the consumer in connection with the account;
- (2) failure by the consumer to meet the repayment terms of the agreement for any outstanding balance; or
- (3) any other action or failure to act by the consumer which adversely affects the creditor's security for the account or any right of the creditor in such security.

This subsection does not apply to reverse mortgage transactions.

(c) Change in terms**(1) In general**

No open end consumer credit plan under which extensions of credit are secured by a consumer's principal dwelling may contain a provision which permits a creditor to change unilaterally any term required to be disclosed under section 1637a(a) of this title or any other term, except a change in insignificant terms such as the address of the creditor for billing purposes.

(2) Certain changes not precluded

Notwithstanding the provisions of subsection¹ (1), a creditor may make any of the following changes:

- (A) Change the index and margin applicable to extensions of credit under such plan if the index used by the creditor is no longer available and the substitute index and margin would result in a substantially similar interest rate.
- (B) Prohibit additional extensions of credit or reduce the credit limit applicable to an account under the plan during any period in which the value of the consumer's principal dwelling which secures any outstanding balance is significantly less than the original appraisal value of the dwelling.
- (C) Prohibit additional extensions of credit or reduce the credit limit applicable to the account during any period in which the creditor has reason to believe that the consumer will be unable to comply with the repayment requirements of the account due to a material change in the consumer's financial circumstances.

(D) Prohibit additional extensions of credit or reduce the credit limit applicable to the account during any period in which the consumer is in default with respect to any material obligation of the consumer under the agreement.

(E) Prohibit additional extensions of credit or reduce the credit limit applicable to the account during any period in which—

- (i) the creditor is precluded by government action from imposing the annual percentage rate provided for in the account agreement; or
- (ii) any government action is in effect which adversely affects the priority of the creditor's security interest in the account to the extent that the value of the creditor's secured interest in the property is less than 120 percent of the amount of the credit limit applicable to the account.

(F) Any change that will benefit the consumer.

(3) Material obligations

Upon the request of the consumer and at the time an agreement is entered into by a consumer to open an account under an open end consumer credit plan under which extensions of credit are secured by the consumer's principal dwelling, the consumer shall be given a list of the categories of contract obligations which are deemed by the creditor to be material obligations of the consumer under the agreement for purposes of paragraph (2)(D).

(4) Consumer benefit**(A) In general**

For purposes of paragraph (2)(F), a change shall be deemed to benefit the consumer if the change is unequivocally beneficial to the borrower and the change is beneficial through the entire term of the agreement.

(B) Bureau categorization

The Bureau may, by regulation, determine categories of changes that benefit the consumer.

(d) Terms changed after application

If any term or condition described in section 1637a(a) of this title which is disclosed to a consumer in connection with an application to open an account under an open end consumer credit plan described in such section (other than a variable feature of the plan) changes before the account is opened, and if, as a result of such change, the consumer elects not to enter into the plan agreement, the creditor shall refund all fees paid by the consumer in connection with such application.

(e) Additional requirements relating to refunds and imposition of nonrefundable fees**(1) In general**

No nonrefundable fee may be imposed by a creditor or any other person in connection with any application by a consumer to establish an account under any open end consumer credit plan which provides for extensions of credit which are secured by a consumer's principal dwelling before the end of the 3-day period beginning on the date such consumer re-

¹ So in original. Probably should be "paragraph".