Public Law 100-583
100th Congress

An Act

Nov. 3, 1988
[H.R. 515]

To provide for more detailed and uniform disclosure by credit and charge card issuers with respect to information relating to interest rates and other fees which may be incurred by consumers through the use of any credit or charge card.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Fair Credit and Charge Card Disclosure Act of 1988.
15 USC 1601 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Credit and Charge Card Disclosure Act of 1988".

SEC. 2. CREDIT AND CHARGE CARD DISCLOSURE REQUIREMENTS.

(a) DISCLOSURE IN CONNECTION WITH CREDIT CARD AND CHARGE CARD APPLICATIONS AND SOLICITATIONS.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end thereof the following new subsections:

"(c) DISCLOSURE IN CREDIT AND CHARGE CARD APPLICATIONS AND SOLICITATIONS.—

"(1) DIRECT MAIL APPLICATIONS AND SOLICITATIONS.—

"(A) INFORMATION IN TABULAR FORMAT.—Any application to open a credit card account for any person under an open end consumer credit plan, or a solicitation to open such an account without requiring an application, that is mailed to consumers shall disclose the following information, subject to subsection (e) and section 122(c):

"(i) ANNUAL PERCENTAGE RATES.—

"(I) Each annual percentage rate applicable to extensions of credit under such credit plan.

"(II) Where an extension of credit is subject to a variable rate, the fact that the rate is variable, the annual percentage rate in effect at the time of the mailing, and how the rate is determined.

"(III) Where more than one rate applies, the range of balances to which each rate applies.

"(ii) ANNUAL AND OTHER FEES.—

"(I) Any annual fee, other periodic fee, or membership fee imposed for the issuance or availability of a credit card, including any account maintenance fee or other charge imposed based on activity or inactivity for the account during the billing cycle.

"(II) Any minimum finance charge imposed for each period during which any extension of credit which is subject to a finance charge is outstanding.

"(III) Any transaction charge imposed in connection with use of the card to purchase goods or services.

"(iii) GRACE PERIOD.—

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"(I) The date by which or the period within which any credit extended under such credit plan for purchases of goods or services must be repaid to avoid incurring a finance charge, and, if no such period is offered, such fact shall be clearly stated.

"(II) If the length of such 'grace period' varies, the card issuer may disclose the range of days in the grace period, the minimum number of days in the grace period, or the average number of days in the grace period, if the disclosure is identified as such.

"(iv) BALANCE CALCULATION METHOD.—

"(I) The name of the balance calculation method used in determining the balance on which the finance charge is computed if the method used has been defined by the Board, or a detailed explanation of the balance calculation method used if the method has not been so defined.

"(II) In prescribing regulations to carry out this clause, the Board shall define and name not more than the 5 balance calculation methods determined by the Board to be the most commonly used methods.

"(B) OTHER INFORMATION.—In addition to the information required to be disclosed under subparagraph (A), each application or solicitation to which such subparagraph applies shall disclose clearly and conspicuously the following information, subject to subsections (e) and (f):

"(i) CASH ADVANCE FEE.—Any fee imposed for an extension of credit in the form of cash.

"(ii) LATE FEE.—Any fee imposed for a late payment.

"(iii) OVER-THE-LIMIT FEE.—Any fee imposed in connection with an extension of credit in excess of the amount of credit authorized to be extended with respect to such account.

"(2) TELEPHONE SOLICITATIONS.—

"(A) IN GENERAL.—In any telephone solicitation to open a credit card account for any person under an open end consumer credit plan, the person making the solicitation shall orally disclose the information described in paragraph (1)(A).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any telephone solicitation if—

"(i) the credit card issuer—

"(I) does not impose any fee described in paragraph (1)(A)(ii)(I); or

"(II) does not impose any fee in connection with telephone solicitations unless the consumer signifies acceptance by using the card;

"(ii) the card issuer discloses clearly and conspicuously in writing the information described in paragraph (1) within 30 days after the consumer requests the card, but in no event later than the date of delivery of the card; and

"(iii) the card issuer discloses clearly and conspicuously that the consumer is not obligated to accept the card or account and the consumer will not be obligated

to pay any of the fees or charges disclosed unless the consumer elects to accept the card or account by using the card.

"(3) APPLICATIONS AND SOLICITATIONS BY OTHER MEANS.—

"(A) IN GENERAL.—Any application to open a credit card account for any person under an open end consumer credit plan, and any solicitation to open such an account without requiring an application, that is made available to the public or contained in catalogs, magazines, or other publications shall meet the disclosure requirements of subparagraph (B), (C), or (D).

"(B) SPECIFIC INFORMATION.—An application or solicitation described in subparagraph (A) meets the requirement of this subparagraph if such application or solicitation contains—

"(i) the information—

"(I) described in paragraph (1)(A) in the form required under section 122(c) of this chapter, subject to subsection (e), and

"(II) described in paragraph (1)(B) in a clear and conspicuous form, subject to subsections (e) and (f);

"(ii) a statement, in a conspicuous and prominent location on the application or solicitation, that—

"(I) the information is accurate as of the date the application or solicitation was printed;

"(II) the information contained in the application or solicitation is subject to change after such date; and

"(III) the applicant should contact the creditor for information on any change in the information contained in the application or solicitation since it was printed;

"(iii) a clear and conspicuous disclosure of the date the application or solicitation was printed; and

"(iv) a disclosure, in a conspicuous and prominent location on the application or solicitation, of a toll free telephone number or a mailing address at which the applicant may contact the creditor to obtain any change in the information provided in the application or solicitation since it was printed.

"(C) GENERAL INFORMATION WITHOUT ANY SPECIFIC TERM.—An application or solicitation described in subparagraph (A) meets the requirement of this subparagraph if such application or solicitation—

"(i) contains a statement, in a conspicuous and prominent location on the application or solicitation, that—

"(I) there are costs associated with the use of credit cards; and

"(II) the applicant may contact the creditor to request disclosure of specific information of such costs by calling a toll free telephone number or by writing to an address, specified in the application;

"(ii) contains a disclosure, in a conspicuous and prominent location on the application or solicitation, of a toll free telephone number and a mailing address at

which the applicant may contact the creditor to obtain such information; and

"(iii) does not contain any of the items described in paragraph (1).

"(D) APPLICATIONS OR SOLICITATIONS CONTAINING SUBSECTION (a) DISCLOSURES.—An application or solicitation meets the requirement of this subparagraph if it contains, or is accompanied by—

"(i) the disclosures required by paragraphs (1) through (6) of subsection (a);

"(ii) the disclosures required by subparagraphs (A) and (B) of paragraph (1) of this subsection included clearly and conspiciously (except that the provisions of section 122(c) shall not apply); and

"(iii) a toll free telephone number or a mailing address at which the applicant may contact the creditor to obtain any change in the information provided.

"(E) PROMPT RESPONSE TO INFORMATION REQUESTS.—Upon receipt of a request for any of the information referred to in subparagraph (B), (C), or (D), the card issuer or the agent of such issuer shall promptly disclose all of the information described in paragraph (1).

"(4) CHARGE CARD APPLICATIONS AND SOLICITATIONS.—

"(A) IN GENERAL.—Any application or solicitation to open a charge card account shall disclose clearly and conspicuously the following information in the form required by section 122(c) of this chapter, subject to subsection (e):

"(i) Any annual fee, other periodic fee, or membership fee imposed for the issuance or availability of the charge card, including any account maintenance fee or other charge imposed based on activity or inactivity for the account during the billing cycle.

"(ii) Any transaction charge imposed in connection with use of the card to purchase goods or services.

"(iii) A statement that charges incurred by use of the charge card are due and payable upon receipt of a periodic statement rendered for such charge card account.

"(B) OTHER INFORMATION.—In addition to the information required to be disclosed under subparagraph (A), each written application or solicitation to which such subparagraph applies shall disclose clearly and conspicuously the following information, subject to subsections (e) and (f):

"(i) CASH ADVANCE FEE.—Any fee imposed for an extension of credit in the form of cash.

"(ii) LATE FEE.—Any fee imposed for a late payment.

"(iii) OVER-THE-LIMIT FEE.—Any fee imposed in connection with an extension of credit in excess of the amount of credit authorized to be extended with respect to such account.

"(C) APPLICATIONS AND SOLICITATIONS BY OTHER MEANS.—Any application to open a charge card account, and any solicitation to open such an account without requiring an application, that is made available to the public or contained in catalogs, magazines, or other publications shall contain—

"(i) the information—

"(I) described in subparagraph (A) in the form required under section 122(c) of this chapter, subject to subsection (e), and

"(II) described in subparagraph (B) in a clear and conspicuous form, subject to subsections (e) and (f);

"(ii) a statement, in a conspicuous and prominent location on the application or solicitation, that—

"(I) the information is accurate as of the date the application or solicitation was printed;

"(II) the information contained in the application or solicitation is subject to change after such date; and

"(III) the applicant should contact the creditor for information on any change in the information contained in the application or solicitation since it was printed;

"(iii) a clear and conspicuous disclosure of the date the application or solicitation was printed; and

"(iv) a disclosure, in a conspicuous and prominent location on the application or solicitation, of a toll free telephone number or a mailing address at which the applicant may contact the creditor to obtain any change in the information provided in the application or solicitation since it was printed.

"(D) ISSUERS OF CHARGE CARDS WHICH PROVIDE ACCESS TO OPEN END CONSUMER CREDIT PLANS.—If a charge card permits the card holder to receive an extension of credit under an open end consumer credit plan, which is not maintained by the charge card issuer, the charge card issuer may provide the information described in subparagraphs (A) and (B) in the form required by such subparagraphs in lieu of the information required to be provided under paragraph (1), (2), or (3) with respect to any credit extended under such plan, if the charge card issuer discloses clearly and conspicuously to the consumer in the application or solicitation that—

"(i) the charge card issuer will make an independent decision as to whether to issue the card;

"(ii) the charge card may arrive before the decision is made with respect to an extension of credit under an open end consumer credit plan; and

"(iii) approval by the charge card issuer does not constitute approval by the issuer of the extension of credit.

The information required to be disclosed under paragraph (1) shall be provided to the charge card holder by the creditor which maintains such open end consumer credit plan before the first extension of credit under such plan.

"(E) CHARGE CARD DEFINED.—For the purposes of this subsection, the term 'charge card' means a card, plate, or other single credit device that may be used from time to time to obtain credit which is not subject to a finance charge.

"(5) REGULATORY AUTHORITY OF THE BOARD.—The Board may, by regulation, require the disclosure of information in addition to that otherwise required by this subsection or subsection (d), and modify any disclosure of information required by this

subsection or subsection (d), in any application to open a credit card account for any person under an open end consumer credit plan or any application to open a charge card account for any person, or a solicitation to open any such account without requiring an application, if the Board determines that such action is necessary to carry out the purposes of, or prevent evasions of, any paragraph of this subsection.

"(d) DISCLOSURE PRIOR TO RENEWAL.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a card issuer that imposes any fee described in subsection (c)(1)(A)(ii)(I) or (c)(4)(A)(i) shall transmit to a consumer at least 30 days prior to the scheduled renewal date of the consumer's credit or charge card account a clear and conspicuous disclosure of—

"(A) the date by which, the month by which, or the billing period at the close of which, the account will expire if not renewed;

"(B) the information described in subsection (c)(1)(A) or (c)(4)(A) that would apply if the account were renewed, subject to subsection (e); and

"(C) the method by which the consumer may terminate continued credit availability under the account.

"(2) SPECIAL RULE FOR CERTAIN DISCLOSURES.—

"(A) IN GENERAL.—The disclosures required by this subsection may be provided—

"(i) prior to posting a fee described in subsection (c)(1)(A)(ii)(I) or (c)(4)(A)(i) to the account, or

"(ii) with the periodic billing statement first disclosing that the fee has been posted to the account.

"(B) LIMITATION ON USE OF SPECIAL RULE.—Disclosures may be provided under subparagraph (A) only if—

"(i) the consumer is given a 30-day period to avoid payment of the fee or to have the fee recredited to the account in any case where the consumer does not wish to continue the availability of the credit; and

"(ii) the consumer is permitted to use the card during such period without incurring an obligation to pay such fee.

"(3) SHORT-TERM RENEWALS.—The Board may by regulation provide for fewer disclosures than are required by paragraph (1) in the case of an account which is renewable for a period of less than 6 months.

"(e) OTHER RULES FOR DISCLOSURES UNDER SUBSECTIONS (c) AND (d).—

"(1) FEES DETERMINED ON THE BASIS OF A PERCENTAGE.—If the amount of any fee required to be disclosed under subsection (c) or (d) is determined on the basis of a percentage of another amount, the percentage used in making such determination and the identification of the amount against which such percentage is applied shall be disclosed in lieu of the amount of such fee.

"(2) DISCLOSURE ONLY OF FEES ACTUALLY IMPOSED.—If a credit or charge card issuer does not impose any fee required to be disclosed under any provision of subsection (c) or (d), such provision shall not apply with respect to such issuer.

"(f) DISCLOSURE OF RANGE OF CERTAIN FEES WHICH VARY BY STATE ALLOWED.—If the amount of any fee required to be disclosed by a credit or charge card issuer under paragraph (1)(B), (3)(B)(i)(II), (4)(B), or (4)(C)(i)(II) of subsection (c) varies from State to State, the

card issuer may disclose the range of such fees for purposes of subsection (c) in lieu of the amount for each applicable State, if such disclosure includes a statement that the amount of such fee varies from State to State.".

(b) CERTAIN INFORMATION REQUIRED TO BE DISCLOSED IN TABULAR FORM.—Section 122 of the Truth in Lending Act (15 U.S.C. 1632) is amended—

(1) in the third sentence of subsection (a), by striking out "Regulations" and inserting in lieu thereof "Except as provided in subsection (c), regulations"; and

(2) by adding at the end thereof the following new subsection:

"(c) TABULAR FORMAT REQUIRED FOR CERTAIN DISCLOSURES UNDER SECTION 127(c).—

"(1) IN GENERAL.—The information described in paragraphs (1)(A), (3)(B)(i)(I), (4)(A), and (4)(C)(i)(I) of section 127(c) shall be—

Regulations.

"(A) disclosed in the form and manner which the Board shall prescribe by regulations; and

"(B) placed in a conspicuous and prominent location on or with any written application, solicitation, or other document or paper with respect to which such disclosure is required.

"(2) TABULAR FORMAT.—

"(A) FORM OF TABLE TO BE PRESCRIBED.—In the regulations prescribed under paragraph (1)(A) of this subsection, the Board shall require that the disclosure of such information shall, to the extent the Board determines to be practicable and appropriate, be in the form of a table which—

"(i) contains clear and concise headings for each item of such information; and

"(ii) provides a clear and concise form for stating each item of information required to be disclosed under each such heading.

"(B) BOARD DISCRETION IN PRESCRIBING ORDER AND WORDING OF TABLE.—In prescribing the form of the table under subparagraph (A), the Board may—

"(i) list the items required to be included in the table in a different order than the order in which such items are set forth in paragraph (1)(A) or (4)(A) of section 127(c); and

"(ii) subject to subparagraph (C), employ terminology which is different than the terminology which is employed in section 127(c) if such terminology conveys substantially the same meaning.

"(C) GRACE PERIOD.—Either the heading or the statement under the heading which relates to the time period referred to in section 127(c)(1)(A)(iii) shall contain the term 'grace period'.".

SEC. 3. CIVIL LIABILITY.

Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640) is amended—

(1) by striking out "in section 127" in the third sentence and inserting in lieu thereof "in subsections (a) and (b) of section 127"; and

(2) by inserting after the third sentence the following: "In connection with the disclosures referred to in subsection (c) or (d) of section 127, a card issuer shall have a liability under this

section only to a cardholder who pays a fee described in section 127(c)(1)(A)(ii)(I) or section 127(c)(4)(A)(i) or who uses the credit card or charge card.".

SEC. 4. COORDINATION WITH OTHER LAWS.

State and local governments.

Section 111 of the Truth in Lending Act (15 U.S.C. 1610) is amended—

(1) in subsection (a)(1), by striking out "Chapters 1, 2, and 3" and inserting in lieu thereof "Except as provided in subsection (e), chapters 1, 2, and 3"; and

(2) by adding at the end thereof the following new subsection:

"(e) CERTAIN CREDIT AND CHARGE CARD APPLICATION AND SOLICITATION DISCLOSURE PROVISIONS.—The provisions of subsection (c) of section 122 and subsections (c), (d), (e), and (f) of section 127 shall supersede any provision of the law of any State relating to the disclosure of information in any credit or charge card application or solicitation which is subject to the requirements of section 127(c) or any renewal notice which is subject to the requirements of section 127(d), except that any State may employ or establish State laws for the purpose of enforcing the requirements of such sections.".

SEC. 5. REPORTING TO THE BOARD OF GOVERNORS.

Section 136 of the Truth in Lending Act (15 U.S.C. 1646) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection:

"(b) CREDIT CARD PRICE AND AVAILABILITY INFORMATION.—

Banks and banking.

"(1) COLLECTION REQUIRED.—The Board shall collect, on a semiannual basis, credit card price and availability information, including the information required to be disclosed under section 127(c) of this chapter, 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 Board 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 Board in accordance with such regulations or orders as the Board may prescribe.

"(4) PUBLIC AVAILABILITY OF COLLECTED INFORMATION, REPORT TO CONGRESS.—The Board shall—

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

"(B) report such information semiannually to Congress."; and

(3) by striking out "subsection (a)" in subsection (c), as redesignated, and inserting in lieu thereof "subsections (a) and (b)".

SEC. 6. INSURANCE PROVIDED IN CONNECTION WITH CERTAIN OPEN END CREDIT CARD PLANS.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by inserting after subsection (f) (as added by section 2(a) of this Act) the following new subsection:

"(g) INSURANCE IN CONNECTION WITH CERTAIN OPEN END CREDIT CARD PLANS.—

"(1) CHANGE IN INSURANCE CARRIER.—Whenever a card issuer that offers any guarantee or insurance for repayment of all or part of the outstanding balance of an open end credit card plan proposes to change the person providing that guarantee or insurance, the card issuer shall send each insured consumer written notice of the proposed change not less than 30 days prior to the change, including notice of any increase in the rate or substantial decrease in coverage or service which will result from such change. Such notice may be included on or with the monthly statement provided to the consumer prior to the month in which the proposed change would take effect.

"(2) NOTICE OF NEW INSURANCE COVERAGE.—In any case in which a proposed change described in paragraph (1) occurs, the insured consumer shall be given the name and address of the new guarantor or insurer and a copy of the policy or group certificate containing the basic terms and conditions, including the premium rate to be charged.

"(3) RIGHT TO DISCONTINUE GUARANTEE OR INSURANCE.—The notices required under paragraphs (1) and (2) shall each include a statement that the consumer has the option to discontinue the insurance or guarantee.

"(4) NO PREEMPTION OF STATE LAW.—No provision of this subsection shall be construed as superseding any provision of State law which is applicable to the regulation of insurance.

"(5) BOARD DEFINITION OF SUBSTANTIAL DECREASE IN COVERAGE OR SERVICE.—The Board shall define, in regulations, what constitutes a 'substantial decrease in coverage or service' for purposes of paragraph (1).".

15 USC 1637 note.

SEC. 7. EFFECTIVE DATE.

Any regulation required to be prescribed by the Board under the amendments made by section 2 shall—

(1) take effect not later than the end of the 150-day period beginning on the date of the enactment of this Act; and

(2) apply only with respect to applications, solicitations, and other material distributed after the end of the 150-day period beginning after the end of the period referred to in paragraph (1), except that—

(A) in the case of applications and solicitations subject to paragraph (3) or (4)(C) of section 127(c) of the Truth in Lending Act (as added by section 2), such period shall be 240 days; and

(B) any card issuer may, at its option, comply with the requirements of the amendments made by this Act prior to the applicable effective date, in which case the amendments made by this Act shall be fully applicable to such card issuer.

SEC. 8. REPORTS TO THE CONGRESS.

15 USC 1637 note.

Not later than 1 year after the regulations prescribed under section 7 of this Act become effective and annually thereafter, the Board of Governors of the Federal Reserve System shall transmit to the Congress a report containing an assessment by the Board of the profitability of credit card operations of depository institutions, including an analysis of any impact of the amendments made by this Act on such profitability.

Approved November 3, 1988.

LEGISLATIVE HISTORY—H.R. 515:

HOUSE REPORTS: No. 100-323 (Comm. on Banking, Finance and Urban Affairs) and No. 100-1069 (Comm. of Conference).
SENATE REPORTS: No. 100-259 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 28, considered and passed House.
Dec. 21, considered and passed Senate, amended.
Vol. 134 (1988): Oct. 11, Senate agreed to conference report.
Oct. 19, House agreed to conference report.