

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
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As Engrossed: H4/2/13 S4/12/13

A Bill

HOUSE BILL 2028

By: Representative Vines

For An Act To Be Entitled

AN ACT TO REGULATE THE PRACTICES OF CREDIT CARD ISSUERS; AND TO ESTABLISH THE TERMS TO BE USED IN CREDIT CARD TRANSACTIONS; AND FOR OTHER PURPOSES.

Subtitle

TO REGULATE THE PRACTICES OF CREDIT CARD ISSUERS; AND TO ESTABLISH THE TERMS TO BE USED IN CREDIT CARD TRANSACTIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 4-107-302 is amended to read as follows:

4-107-302. ~~“Credit card” defined~~ Definitions.

As used in this subchapter, ~~“credit card” means:~~

(1) ~~Any instrument or device, whether known as a credit card, charge card, credit plate, courtesy card, or identification card, or by any other name, that is issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value, either on credit or in possession or in consideration of any undertaking or guaranty by the issuer of the payment of a check drawn by the cardholder, on a promise to pay in part or in full therefor at a future time, whether or not all or any part of the indebtedness that is represented by the promise to make deferred payment is secured or unsecured~~ “Authorized user” means a person granted express, implied, or apparent authority to use a cardholder’s credit card or credit card number;

(2) ~~A debit card, electronic benefit transfer card, or other access instrument or device, other than a check that is signed by the holder~~



~~or other authorized signatory on the deposit account, that draws funds from a deposit account in order to obtain money, goods, services, or anything else of value~~ "Cardholder" means the named credit card account member and co-applicant who applies for or accepts the terms and conditions of a credit card account;

~~(3) A stored value card, smart card, or other instrument or device that enables a person to obtain goods, services, or anything else of value through the use of value stored on the card, instrument, or device~~ "Charges" means purchases, cash advances, annual membership fees, delinquent payment fees, insufficient fund fees, over-the-limit credit fees, or other amounts incurred through the use of the credit card; and

~~(4) The number that is assigned to the card, instrument, or device described in subdivisions (1), (2), or (3) of this section, even if the physical card, instrument, or device is not used or presented.~~ "Credit card" means an instrument or device, whether known as a credit card, charge card, credit plate, courtesy card, identification card, or by any other name, that:

(A) Is issued by a credit card issuer with or without a fee;

(B) Has an assigned account number; and

(C) Is for the use of the cardholder to obtain money, goods, services, or anything of monetary value, on credit, in possession, or in consideration of an undertaking or guaranty by the credit card issuer of the payment of a check drawn by the cardholder on a promise to pay in part or in full at a future time whether or not any part of the indebtedness that is represented by the promise to make a deferred payment is secured or unsecured;

(5) "Credit card account" means a line of credit offered by a credit card issuer to a cardholder for the use of a credit card;

(6) "Credit card agreement" means the terms and conditions governing the use of the credit card account;

(7) "Credit card issuer" means a person who issues a credit card or the agent of a person with respect to a credit card;

(8) "Creditor" means a person, business, financial institution, or commercial enterprise that owns the credit card account;

(9) "Data" means the information maintained on the cardholder's

account by the original creditor, credit card issuer, or succeeding creditor in the regular course of business and transferred as part of an assignment or sales agreement to the present creditor or owner of the account electronically or otherwise from which information the present creditor or owner has compiled;

(10) "Financial institution" means:

(A) A banking institution that may issue credit cards under any state or federal law;

(B) A banking subsidiary owned by a bank holding company as defined in 12 U.S.C. § 1841, or by a savings and loan holding company as defined in 12 U.S.C. § 1467a(a)(1)(D); or

(C) Any federally regulated banking institution;

(11) "Interest" means a payment to compensate a creditor or prospective creditor for making an extension of credit, making available a line of credit, or for a borrower's default or breach of a condition on which credit was extended; and

(12) "Terms and conditions" means the general and special arrangements, provisions, requirements, rules, specifications, and standards that form an integral part of a credit card agreement between the credit card issuer and the cardholder.

SECTION 2. Arkansas Code Title 4, Chapter 107, Subchapter 3, is amended to add additional sections to read as follows:

4-107-304. Acceptance of credit card agreement.

The acceptance of the terms and conditions of a credit card account by a cardholder may be established as binding and enforceable by:

(1) The written or electronic signature or other electronic record of acceptance by the cardholder; or

(2) The use of the credit card account by the named credit card account member, any co-applicant, or any authorized user if the credit card agreement provides that any use of the credit card account constitutes an acceptance of the terms and conditions of the credit card agreement if the time prescribed in 12 C.F.R. § 202.12(b) has expired.

4-107-305. Liability.

(a) A cardholder is personally liable for charges and interest

incurred by the named credit card account member, any co-applicant, or any authorized user on the credit card account of the cardholder.

(b) A cardholder is not liable for charges and interest incurred on the credit card account as a result of fraudulent activity by another person.

4-107-306. Amount owed.

(a) A creditor may establish a presumption of correctness of its ownership of the credit card account and the amount of the charges and interest that is owed on a credit card account by:

(1) Filing a copy of the credit card issuer's final billing statement or charge off statement; or

(2) Filing a compilation of the data maintained by the original creditor, credit card issuer, or succeeding creditor in the regular course of business.

(b) The cardholder may dispute the presumption with any credible evidence as allowed by state or federal law.

4-107-307. Interest rate.

A creditor may establish the contracted interest rate for a credit card account by:

(1) Documenting the acceptance of the terms and conditions that contain a stated or variable interest rate by a cardholder of the credit card account; or

(2) Any billing statement generated by the credit card issuer that contains a stated or variable interest rate.

/s/Vines