



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB5294

Introduced 1/25/2006, by Rep. Rosemary Mulligan

SYNOPSIS AS INTRODUCED:

815 ILCS 205/4.2

from Ch. 17, par. 6407

815 ILCS 205/4.2b new

Amends the Interest Act. Provides limitations for the increase in the annual percentage rate of interest for credit card accounts under revolving credit arrangements until after the listed time periods for the required notices. Provides that, in the case of any credit card account under a revolving credit arrangement, no fee, including any annual fee, late payment fee, or over-the-limit fee, may be imposed on the account before the end of the 30-day period beginning on the date the obligor receives a specific notice of the imposition of the fee. Provides that, in the case of any credit card account under a revolving credit arrangement containing a universal default provision, no increase in any annual percentage rate of interest due to universal default, applicable to the account, or any portion of any outstanding balance on the account may take effect or apply to any outstanding balance of credit under the plan until the beginning of the billing cycle that begins not less than 30 days after the obligor receives a specific notice of the increase. Requires the notice to be mailed or emailed, if the consumer has requested to receive such notices electronically, to the obligor separately from any statement or other notice and without any advertising or other disclosures. Provides that the notice must have highlighted in a clear and conspicuous manner and in bold and capitalized print any changes to the customers current policy. Provides that in case of a fee, the notice shall include an explanation of how, when, and why a fee will be imposed and what options the obligor may have for addressing the imposition of the fee or any reason for the imposition, including the prevention of any future imposition of the fee. Requires the Department of Financial and Professional Regulation to establish a State-wide data collection of universal default information and rules for the collection of universal default information. Establishes reporting requirements for lenders of revolving credit accounts containing universal default provisions. Requires the Department to file a written report with the General Assembly no later than July 1, 2007, and no later than every July 1 thereafter concerning the universal default information collection. Effective immediately.

LRB094 16482 LCT 51742 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning business.

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

4 Section 5. The Interest Act is amended by changing Section
5 4.2 and by adding 4.2b as follows:

6 (815 ILCS 205/4.2) (from Ch. 17, par. 6407)

7 Sec. 4.2. Revolving credit; billing statements;
8 disclosures. On a revolving credit which complies with
9 subparagraphs (a), (b), (b-3), (b-5), (b-7), (c), (d) and (e)
10 of this Section 4.2, it is lawful for any bank that has its
11 main office or, after May 31, 1997, a branch in this State, a
12 state or federal savings and loan association with its main
13 office in this State, a state or federal credit union with its
14 main office in this State, or a lender licensed under the
15 Consumer Finance Act, the Consumer Installment Loan Act or the
16 Sales Finance Agency Act, as such Acts are now and hereafter
17 amended, to receive or contract to receive and collect interest
18 in any amount or at any rate agreed upon by the parties to the
19 revolving credit arrangement. It is lawful for any other lender
20 to receive or contract to receive and collect interest in an
21 amount not in excess of 1 1/2% per month of either the average
22 daily unpaid balance of the principal of the debt during the
23 billing cycle, or of the unpaid balance of the debt on
24 approximately the same day of the billing cycle. If a lender
25 under a revolving credit arrangement notifies the debtor at
26 least 30 days in advance of any lawful increase in the amount
27 or rate of interest to be charged under the revolving credit
28 arrangement, and the debtor, after the effective date of such
29 notice, incurs new debt pursuant to the revolving credit
30 arrangement, the increased interest amount or rate may be
31 applied only to any such new debt incurred under the revolving
32 credit arrangement. For purposes of determining the balances to

1 which the increased interest rate applies, all payments and
2 other credits may be deemed to be applied to the balance
3 existing prior to the change in rate until that balance is paid
4 in full. The face amount of the drafts, items, orders for the
5 payment of money, evidences of debt, or similar written
6 instruments received by the lender in connection with the
7 revolving credit, less the amounts applicable to principal from
8 time to time paid thereon by the debtor, are the unpaid balance
9 of the debt upon which the interest is computed. If the billing
10 cycle is not monthly, the maximum interest rate for the billing
11 cycle is the percentage which bears the same relation to the
12 monthly percentage provided for in the preceding sentence as
13 the number of days in the billing cycle bears to 30. For the
14 purposes of the foregoing computation, a "month" is deemed to
15 be any time of 30 consecutive days. In addition to the interest
16 charge provided for, it is lawful to receive, contract for or
17 collect a charge not exceeding 25 cents for each transaction in
18 which a loan or advance is made under the revolving credit or
19 in lieu of this additional charge an annual fee for the
20 privilege of receiving and using the revolving credit in an
21 amount not exceeding \$20. In addition, with respect to
22 revolving credit secured by an interest in real estate, it is
23 also lawful to receive, contract for or collect fees lawfully
24 paid to any public officer or agency to record, file or release
25 the security, and costs and disbursements actually incurred for
26 any title insurance, title examination, abstract of title,
27 survey, appraisal, escrow fees, and fees paid to a trustee in
28 connection with a trust deed.

29 (a) At or before the date a bill or statement is first
30 rendered to the debtor under a revolving credit arrangement,
31 the lender must mail or deliver to the debtor a written
32 description of the conditions under which a charge for interest
33 may be made and the method, including the rate, of computing
34 these interest charges. The rate of interest must be expressed
35 as an annual percentage rate.

36 (b) If during any billing cycle any debit or credit entry

1 is made to a debtor's revolving credit account, and if at the
2 end of that billing cycle there is an unpaid balance owing to
3 the lender from the debtor, the lender must give to the debtor
4 the following information within a reasonable time after the
5 end of the billing cycle:

6 (i) the unpaid balance at the beginning of the billing
7 cycle;

8 (ii) the date and amount of all loans or advances made
9 during the billing cycle, which information may be supplied
10 by enclosing a copy of the drafts, items, orders for the
11 payment of money, evidences of debt or similar written
12 instruments presented to the lender during the billing
13 cycle;

14 (iii) the payments by the debtor to the lender and any
15 other credits to the debtor during the billing cycle;

16 (iv) the amount of interest and other charges, if any,
17 charged to the debtor's account during the billing cycle;

18 (v) the amount which must be currently paid by the
19 debtor and the date on which that amount must be paid in
20 order to avoid delinquency;

21 (vi) the total amount remaining unpaid at the end of
22 the billing cycle and the right of the debtor to prepay
23 that amount in full without penalty; and

24 (vii) information required by (iv), (v) and (vi) must
25 be set forth in type of equal size and equal
26 conspicuousness.

27 (b-3) In the case of any credit card account under
28 revolving credit arrangement containing a universal default
29 provision, no increase in any annual percentage rate of
30 interest, other than an increase due to the expiration of any
31 introductory percentage rate of interest, applicable to the
32 account, or any portion of any outstanding balance on the
33 account:

34 (1) may take effect before the beginning of the billing
35 cycle that begins not less than:

36 (i) 30 days after the obligor receives a specific

1 notice of the increase in accordance with subsection
2 (b-7) of this Section, in the case of any change in any
3 annual percentage rate that is due solely to a change
4 in another rate of interest to which the rate is
5 indexed; or

6 (ii) 60 days after the obligor receives a specific
7 notice of the increase in accordance with subsection
8 (b-7) of this Section, in the case of any change in any
9 annual percentage rate that is not described in item
10 (i) of this Section; and

11 (2) may, in the case of any change in any annual
12 percentage rate that is not described in item (1) of this
13 subsection, apply to any outstanding balance of credit
14 under the plan as of the date of the notice of the increase
15 required under item (1) of this subsection.

16 (b-5) In the case of any credit card account under a
17 revolving credit arrangement, no fee, including any annual fee,
18 late payment fee, or over-the-limit fee, may be imposed on the
19 account before the end of the 30-day period beginning on the
20 date the obligor receives a specific notice of the imposition
21 of the fee in accordance with subsection (b-7) of this Section.

22 (b-7) Any notice required under subsection (b-3) or (b-5)
23 of this Section shall be mailed or emailed, if the consumer has
24 requested to receive such notices electronically, to the
25 obligor separately from any statement or other notice and
26 without any advertising or other disclosures.

27 The notice must have highlighted in a clear and conspicuous
28 manner and in bold and capitalized print any changes to the
29 customers current policy.

30 In the case of any notice pursuant to subsection (b-5) of
31 this Section, the notice shall include an explanation of how,
32 when, and why a fee will be imposed and what options the
33 obligor may have for addressing the imposition of the fee or
34 any reason for the imposition, including the prevention of any
35 future imposition of the fee.

36 (c) The revolving credit arrangement may provide for the

1 payment by the debtor and receipt by the lender of all costs
2 and disbursements, including reasonable attorney's fees,
3 incurred by the lender in legal proceedings to collect or
4 enforce the debt in the event of delinquency by the debtor or
5 in the event of a breach of any obligation of the debtor under
6 the arrangement.

7 (d) The lender under a revolving credit arrangement may
8 provide credit life insurance or credit accident and health
9 insurance, or both, with respect to the debtor and may charge
10 the debtor therefor. Credit life insurance and credit accident
11 and health insurance, and any charge therefor made to the
12 debtor, shall comply with Article IX 1/2 of the Illinois
13 Insurance Code, as now or hereafter amended, and all lawful
14 requirements of the Director of Insurance related thereto. This
15 insurance is in force with respect to each loan or advance made
16 under a revolving credit arrangement as soon as the loan or
17 advance is made. The purchase of this insurance from an agent,
18 broker or insurer specified by the lender may not be a
19 condition precedent to the revolving credit arrangement or to
20 the making of any loan or advance thereunder.

21 (e) Whenever interest is contracted for or received under
22 this Section, no amount in addition to the charges authorized
23 by this Act may be directly or indirectly charged, contracted
24 for or received whether as interest, service charges, costs of
25 investigations or enforcements or otherwise.

26 (f) The lender under a revolving credit arrangement must
27 compute at year end the total amount charged to the debtor's
28 account during the year, including service charges, finance
29 charges, late charges and any other charges authorized by this
30 Act, and upon request must furnish such information to the
31 debtor within 30 days after the end of the year, or if the
32 account has been terminated during such year, may give such
33 requested information within 30 days after such termination.
34 The lender shall annually inform the debtor of his right to
35 obtain such information.

36 (g) A lender who complies with the federal Truth in Lending

1 Act, amendments thereto, and any regulations issued or which
2 may be issued thereunder, shall be deemed to be in compliance
3 with the provisions of subparagraphs (a) and (b) of this
4 Section.

5 (h) Anything in this Section 4.2 to the contrary
6 notwithstanding, if the Congress of the United States or any
7 federal agency authorizes any class of lenders to enter, within
8 limitations, into a revolving credit arrangement secured by a
9 mortgage or deed of trust on residential real property, any
10 person, firm, corporation or other entity, not otherwise
11 prohibited by the Congress of the United States or any federal
12 agency from entering into revolving credit arrangements
13 secured by a mortgage or deed of trust on residential real
14 property, may enter into such arrangements within the same
15 limitations.

16 (Source: P.A. 89-208, eff. 9-29-95.)

17 (815 ILCS 205/4.2b new)

18 Sec. 4.2b. Universal default on revolving credit accounts;
19 annual reporting.

20 (a) In the case of any credit card account under a
21 revolving credit arrangement, no increase in any annual
22 percentage rate of interest due to universal default,
23 applicable to the account, or any portion of any outstanding
24 balance on the account, may take effect or apply to any
25 outstanding balance of credit under the plan until the
26 beginning of the billing cycle that begins not less than 30
27 days after the obligor receives a specific notice of the
28 increase.

29 The notice shall be mailed or emailed, if the consumer has
30 requested to receive such notices electronically, to the
31 obligor separately from any statement or other notice and
32 without any advertising or other disclosures at least twice
33 yearly.

34 The notice must have highlighted in a clear and conspicuous
35 manner and in bold and capitalized print any changes to the

1 customers current policy.

2 (b) The Department shall establish a State-wide data
3 collection of universal default information and rules for the
4 collection of the universal default information. The
5 information shall include:

6 (1) the number of times each lender or issuer of any
7 revolving credit accounts increased the annual percentage
8 rate of interest each year under its universal default
9 provisions;

10 (2) the specific reason for each increase in the annual
11 percentage rate of interest due to universal default; and

12 (3) the total number of accounts and the zip code of
13 associated with each account affected by the increase in
14 the annual percentage rate of interest due to universal
15 default.

16 (c) Each lender under a revolving credit arrangement that
17 contains universal default provisions shall report to the
18 Department the information contained in subsection (b) of this
19 Section according to the rules established by the Department.

20 (d) No later than July 1, 2007, and no later than July 1 of
21 each year thereafter, the Department shall prepare a written
22 report and shall submit that report to the General Assembly
23 containing the data collection information on universal
24 default required under subsection (b) of this Section.

25 (e) For purposes of this Section:

26 "Department" means the Department of Financial and
27 Professional Regulation.

28 "Universal default" means a credit card policy that allows
29 a creditor to increase interest rates due to changes in payment
30 history or credit status.

31 Section 99. Effective date. This Act takes effect upon
32 becoming law.