

SENATE No. 177

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to protect consumers who hold credit cards..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 26 of the General Laws as appearing in the 2006 official edition is
2 hereby amended by adding after section 5A the following new section:

3 Section 5B Consumer Credit Card Protection

4 1. Whereas the Annual Percentage Rate established by the federal Truth in Lending Act
5 is not alone a sufficient vehicle for comparison between credit card contracts; and

6 Whereas disclosure law is not sufficient to eliminate all predatory lending and solicitation
7 practices in the issuance of credit cards; and

8 Whereas regulation of debt counseling agencies has not prevented abuses against
9 consumers who have acquired significant credit card debt; and

10 Whereas the use of credit cards is common among consumers nation-wide; and

11 Whereas the Commonwealth is barred by federal law from regulating many substantive
12 terms of credit card contracts between out-of-state credit card issuers and Massachusetts
13 consumers;

14 Therefore, it is the intent of the General Court to increase consumer education within the
15 Commonwealth regarding the practices of credit card issuers and to enhance consumer choice.

16 2. Purpose

17 It is the intent of the General Court to develop an effective system for enabling
18 Massachusetts consumers to make informed decisions regarding the acceptance of credit card
19 contracts and the acquisition and management of credit card debt. This system shall include the
20 creation of a rubric and grading mechanism for credit card issuers and their contracts, rely on
21 enhanced disclosure requirements in credit card advertisements and solicitation materials,
22 involve the development of state consumer counseling services for holders of credit cards,
23 promote competition between credit card issuers, and increase the availability of credit-card
24 alternatives.

25 3. Definitions. The following words and phrases when used in this section shall
26 have the following meanings:--

27 “Card holder”, any person to whom a credit card is issued or any person who has agreed
28 with the card issuer to pay obligations arising from the issuance of a credit card to another
29 person.

30 “Card issuer” or “issuer”, any bank, retailer, corporate entity, bank holding company, or
31 other financial or commercial institution, or any individual who issues a credit card, or the agent
32 of such person with respect to such card.

33 “Commissioner”, the commissioner of banks.

34 “Consumer”, A natural person whose money, property, or services are the subject of
35 transactions.

36 “Credit”, the right granted by a creditor to a debtor to defer payment of debt or to incur
37 debt and defer its payment.

38 “Credit card”, any card, plate, coupon book, or other credit device existing for the
39 purpose of obtaining money, property, labor, or services on credit, including temporary credit
40 cards, such as paper slips containing an account number, issued for use while a permanent credit
41 card is manufactured.

42 SECTION 4. Creation of the office of credit card information services

43 There shall be an office of credit card information services, in this chapter called the
44 office, and a director of credit card information services who shall have and shall exercise
45 supervision and control of the office. The commissioner of banks shall appoint, with the
46 approval of the governor, the director of credit card information services, who shall serve at the
47 pleasure of the commissioner and may be removed by the commissioner at any time, subject to
48 approval by the governor. The director shall appoint and may remove such agents and
49 subordinate officers as the director may deem necessary.

50 The office of credit card information services shall have the power to enforce the
51 provisions of this Act, and to levy fines and other civil or criminal penalties against violators of
52 this Act.

53 SECTION 5. Credit Card Issuer Grading

54 The office of credit card information services shall establish a rubric for grading the
55 lending practices of credit card issuers that contract with credit card holders and solicit
56 consumers in the Commonwealth.

57 The rubric shall rely upon the following criteria, considering generally the bulk of an
58 issuer's contracts, correspondences, transactions, advertisements, and solicitations and all of an
59 issuer's credit card programs, if the issuer offers several, within Massachusetts:

60 The issuer's overall compliance with disclosure law;

61 The issuer's debt-collection practices;

62 The issuer's customer service record;

63 The issuer's fees and interest charges as compared with other issuers or credit lenders;

64 The understandability of the issuer's credit card contracts, solicitations, and
65 advertisements;

66 The extent to which the issuer engages in intentionally misleading practices or
67 disseminates purposely misleading correspondences, advertisements, or solicitations; and

68 Any other factors which the office reasonably deems to be in accordance with the
69 purpose and goals of this Act.

70 Said rubric shall be publically disseminated and made available online.

71 The office shall review the rubric at least once annually and shall update the rubric as is
72 necessary to respond to the changing needs of Massachusetts consumers.

73 The office shall give any credit card issuer which contracts with or solicits consumers in
74 the Commonwealth an A, B, C, D or F grade corresponding to the issuer's placement on the
75 rubric.

76 Issuer grades shall be given on a curve to ensure that the rubric and grading system are a
77 vehicle for comparing issuers to one another rather than to a static set of criteria.

78 No more than 15% and no fewer than 5% of issuers shall receive an A grade.

79 No more than 50% of issuers shall receive a B grade.

80 No more than 50% of issuers shall receive a C grade.

81 No more than 50% of issuers shall receive a D grade.

82 No more than 15% of issuers shall receive an F grade.

83 No fewer than 10% of issuers shall receive a grade lower than C.

84 The office may, five years after this Act goes into effect, discard the percentage
85 requirements contained in provisions (a) through (f) of this subsection if the office finds that the
86 practices of credit card issuers have undergone enough change to merit different curve
87 requirements.

88 The office shall review individual issuer grades annually and update such grades if the
89 issuer’s practices have changed, the rubric has changed, or as the office deems necessary. The
90 office may change an issuer’s grade before the annual review if the issuer is found to be in
91 violation of this act or if the issuer has committed an extreme deviation from its usual practices.

92 The office shall notify a credit card issuer of a change in grade, whether pursuant to
93 annual review or otherwise.

94 A credit card issuer may appeal its grade to the office. The office shall establish an
95 internal appeals process for this purpose and shall have discretion to determine its own appeals
96 procedure. The office may deny appeals that it reasonably finds lack merit.

97 A credit card issuers may petition to change its individual grade prior to the next annual
98 review if the issuer’s practices have changed or if office of credit card information services has
99 updated the rubric in such a way that may potentially impact the issuer’s grade. The office shall
100 establish an internal system for reviewing such petitions and shall have discretion to determine
101 its petition review procedure. The office may deny petitions that it reasonably finds lack merit.

102 Each credit card issuer shall print the grade that it is assigned by the Massachusetts office
103 of credit card information services in the upper left corner of the front or only page of any still
104 advertisement it disseminates within the Commonwealth, including but not limited to fliers,
105 magazine pages, pamphlets, bill boards, floor stands, window hangings, posters, post cards, and
106 cardboard cut outs, and on any letter, pamphlet, booklet, flier, postcard or other printed material
107 solicitation that is sent by mail to any individual person or household, named or unnamed, within
108 the state of Massachusetts.

109 If such mailing contains multiple, separate pamphlets, letters, booklets or other print
110 material solicitation, the issuer shall print its grade at the top left corner of the front or only page
111 of each such solicitation.

112 The grade shall be printed in red ink inside of a white box. The white box shall be no
113 smaller than five percent of the surface area of the largest page contained within the solicitation
114 or advertisement. The grade shall be printed to fit exactly inside the white box.

115 There shall be nothing printed directly above or to the left of the grade. Directly beneath
116 each grade box shall be printed in red ink the words “rating by the Massachusetts office of credit
117 card information services” on blank, white space in size ten font or larger.

118 In the event that an advertisement or solicitation is irregularly shaped and does not have
119 an upper left corner, the grade box shall be printed within the top twenty percent of the page
120 subject to all other provisions for regularly shaped pages.

121 Radio credit card advertisements broadcast within Massachusetts shall verbally disclose
122 the issuer’s grade by clearly stating, “[name of issuer] is rated [grade] by the Massachusetts
123 office of credit card information services” at a normal talking speed.

124 Televised credit card advertisements broadcast within Massachusetts shall verbally
125 disclose the issuer’s grade by clearly stating, “[name of issuer] is rated [grade] by the
126 Massachusetts office of credit card information services” at a normal talking speed and display
127 the grade in red against a white screen for the duration of the verbal disclosure. The white space
128 shall cover the entire screen and the grade shall be framed to an exact fit with the screen.

129 SECTION 6. Misleading Information

130 No credit card issuer shall refer to a print material disseminated within Massachusetts as
131 a “questionnaire,” “survey,” or a synonym therefore unless the issuer intends to use that print
132 material specifically and exclusively for its own information gathering purposes. A
133 questionnaire or survey may not be printed on the same page as nor affixed to a document that
134 signifies a consumer’s assent to any new contract terms, the purchase of any new product or
135 service, or payment of a new charge or fee.

136 SECTION 7. Targeting of consumers

137 Credit card issuers may not specifically target or concentrate advertising or solicitations
138 in low-income neighborhoods, localities with low English-literacy, or localities where large
139 percentages of the population have not completed high school. The office of credit card
140 information shall promulgate standards for determining when a credit card issuer is singling out
141 such areas for advertising or solicitation and shall issue regulations curbing these practices.

142 SECTION 8. Services

143 The office of credit card information services shall take reasonable action to inform the
144 public of the services that it provides.

145 The office of credit card information services shall conduct regular public information
146 sessions at high schools, colleges, community centers, and other places of public gathering
147 throughout the state. Public information sessions shall be conducted in such a way to meet the
148 following goals:

149 Increasing financial literacy;

150 Addressing the questions of individuals regarding their specific credit card contracts;

151 Aiding individuals to develop debt management skills;

152 Helping consumers to choose the right credit card for their individual needs.

153 The office of credit card information services shall offer an online help service to address
154 individuals' questions about credit cards, the terms of their own credit card contracts and debt
155 management. Such online help service may involve a public e-mail address, blogging, forums or
156 message boards, real time chat, or any other electronic methods the office chooses to employ.
157 The office shall also consider making available a telephone hotline.

158 The office shall collect and disseminate information regarding various debt counseling
159 agencies that operate within the state of Massachusetts. The office shall rate such agencies based
160 on the extent to which they respond to the needs of indebted consumers and promulgate a list of
161 approved and unapproved debt counseling agencies, to be made available on its website. The
162 office shall refer indebted consumers to debt counseling agencies based on these ratings and shall
163 only refer consumers to those agencies that it has approved.

164 The office shall not approve a debt counseling agency that:

165 Regularly pressures consumers into debt repayment plans they cannot afford;

166 Is affiliated with or funded by creditors or acts as a debt collection service;

167 Claims to be able to positively alter a consumer's credit report for a fee;

168 Regularly misrepresent the terms of debt consolidation loans.