

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Karen E. Spilka

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to protect consumers who hold credit cards.

PETITION OF:

NAME:

Karen E. Spilka

DISTRICT/ADDRESS:

Second Middlesex and Norfolk

The Commonwealth of Massachusetts

In the Year Two Thousand and 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 hereby
2 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 is not
5 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 consumers who
9 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 terms of
12 credit card contracts between out-of-state credit card issuers and Massachusetts consumers;

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

15 2. Purpose

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

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

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

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

30 “Commissioner”, the commissioner of banks.

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

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

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

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

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

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

49 SECTION 5. Credit Card Issuer Grading

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

53 (A) The rubric shall rely upon the following criteria, considering generally the bulk of an
54 issuer's contracts, correspondences, transactions, advertisements, and solicitations
55 and all of an issuer's credit card programs, if the issuer offers several, within
56 Massachusetts:

- 57 (1) The issuer's overall compliance with disclosure law;
- 58 (2) The issuer's debt-collection practices;
- 59 (3) The issuer's customer service record;
- 60 (4) The issuer's fees and interest charges as compared with other
61 issuers or credit lenders;
- 62 (5) The understandability of the issuer's credit card contracts,
63 solicitations, and advertisements;
- 64 (6) The extent to which the issuer engages in intentionally misleading
65 practices or disseminates purposely misleading correspondences,
66 advertisements, or solicitations; and
- 67 (7) Any other factors which the office reasonably deems to be in
68 accordance with the purpose and goals of this Act.

69 (B) Said rubric shall be publically disseminated and made available online.

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

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

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

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

80 (ii) No more than 50% of issuers shall receive a B grade.

81 (iii) No more than 50% of issuers shall receive a C grade.

82 (iv) No more than 50% of issuers shall receive a D grade.

83 (v) No more than 15% of issuers shall receive an F grade.

84 (vi) No fewer than 10% of issuers shall receive a grade lower
85 than C.

86 (vii) The office may, five years after this Act goes into effect,
87 discard the percentage requirements contained in provisions
88 (a) through (f) of this subsection if the office finds that the

89 practices of credit card issuers have undergone enough
90 change to merit different curve requirements.

91 (2) The office shall review individual issuer grades annually and update
92 such grades if the issuer's practices have changed, the rubric has
93 changed, or as the office deems necessary. The office may change an
94 issuer's grade before the annual review if the issuer is found to be in
95 violation of this act or if the issuer has committed an extreme deviation
96 from its usual practices.

97 (3) The office shall notify a credit card issuer of a change in grade,
98 whether pursuant to annual review or otherwise.

99 (4) A credit card issuer may appeal its grade to the office. The office shall
100 establish an internal appeals process for this purpose and shall have
101 discretion to determine its own appeals procedure. The office may
102 deny appeals that it reasonably finds lack merit.

103 (5) A credit card issuers may petition to change its individual grade prior
104 to the next annual review if the issuer's practices have changed or if
105 office of credit card information services has updated the rubric in
106 such a way that may potentially impact the issuer's grade. The office
107 shall establish an internal system for reviewing such petitions and shall
108 have discretion to determine its petition review procedure. The office
109 may deny petitions that it reasonably finds lack merit.

110 (6) Each credit card issuer shall print the grade that it is assigned by the
111 Massachusetts office of credit card information services in the upper
112 left corner of the front or only page of any still advertisement it
113 disseminates within the Commonwealth, including but not limited to
114 fliers, magazine pages, pamphlets, bill boards, floor stands, window
115 hangings, posters, post cards, and cardboard cut outs, and on any
116 letter, pamphlet, booklet, flier, postcard or other printed material
117 solicitation that is sent by mail to any individual person or household,
118 named or unnamed, within the state of Massachusetts.

119 (i) If such mailing contains multiple, separate pamphlets,
120 letters, booklets or other print material solicitation, the
121 issuer shall print its grade at the top left corner of the
122 front or only page of each such solicitation.

123 (ii) The grade shall be printed in red ink inside of a white
124 box. The white box shall be no smaller than five
125 percent of the surface area of the largest page contained
126 within the solicitation or advertisement. The grade
127 shall be printed to fit exactly inside the white box.

128 (iii) There shall be nothing printed directly above or to the
129 left of the grade. Directly beneath each grade box shall
130 be printed in red ink the words "rating by the
131 Massachusetts office of credit card information

132 services” on blank, white space in size ten font or
133 larger.

134 (iv) In the event that an advertisement or solicitation is
135 irregularly shaped and does not have an upper left
136 corner, the grade box shall be printed within the top
137 twenty percent of the page subject to all other
138 provisions for regularly shaped pages.

139 (7) Radio credit card advertisements broadcast within Massachusetts shall
140 verbally disclose the issuer’s grade by clearly stating, “[name of
141 issuer] is rated [grade] by the Massachusetts office of credit card
142 information services” at a normal talking speed.

143 (8) Televised credit card advertisements broadcast within Massachusetts
144 shall verbally disclose the issuer’s grade by clearly stating, “[name of
145 issuer] is rated [grade] by the Massachusetts office of credit card
146 information services” at a normal talking speed and display the grade
147 in red against a white screen for the duration of the verbal disclosure.
148 The white space shall cover the entire screen and the grade shall be
149 framed to an exact fit with the screen.

150 SECTION 6. Misleading Information

151 No credit card issuer shall refer to a print material disseminated within Massachusetts as a
152 “questionnaire,” “survey,” or a synonym therefore unless the issuer intends to use that print
153 material specifically and exclusively for its own information gathering purposes. A

154 questionnaire or survey may not be printed on the same page as nor affixed to a document that
155 signifies a consumer's assent to any new contract terms, the purchase of any new product or
156 service, or payment of a new charge or fee.

157 SECTION 7. Targeting of consumers

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

163 SECTION 8. Services

164 (A) The office of credit card information services shall take reasonable action to inform
165 the public of the services that it provides.

166 (B) The office of credit card information services shall conduct regular public
167 information sessions at high schools, colleges, community centers, and other places of
168 public gathering throughout the state. Public information sessions shall be conducted
169 in such a way to meet the following goals:

170 (1) Increasing financial literacy;

171 (2) Addressing the questions of individuals regarding their specific credit card
172 contracts;

173 (3) Aiding individuals to develop debt management skills;

174 (4) Helping consumers to choose the right credit card for their individual needs.

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

181 (D) The office shall collect and disseminate information regarding various debt
182 counseling agencies that operate within the state of Massachusetts. The office shall
183 rate such agencies based on the extent to which they respond to the needs of indebted
184 consumers and promulgate a list of approved and unapproved debt counseling
185 agencies, to be made available on its website. The office shall refer indebted
186 consumers to debt counseling agencies based on these ratings and shall only refer
187 consumers to those agencies that it has approved.

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

189 (1) Regularly pressures consumers into debt repayment plans they cannot afford;

190 (2) Is affiliated with or funded by creditors or acts as a debt collection service;

191 (3) Claims to be able to positively alter a consumer's credit report for a fee;

192 (4) Regularly misrepresent the terms of debt consolidation loans.