

# RETIREMENT PLANNING SERVICES, INC.



## Advice You Can Use!

### President Signs the Credit Card Accountability Responsibility and Disclosure Act of 2009



On May 22, 2009, President Obama signed the Credit Card Accountability Responsibility and Disclosure Act of 2009 (the Credit CARD Act of 2009).

Amending the Truth in Lending Act, the Credit CARD Act of 2009 requires a creditor on an open end consumer credit plan (credit card) to notify a consumer in writing of any change in the annual percentage rate (APR) on the account at least 45 days prior to the change. The notification shall also inform the consumer of the right to cancel the account before the effective date of the rate increase. If the consumer cancels the account, this action shall not constitute a default on the account, and shall not trigger an obligation to repay the account in full.

Creditors are further prohibited from increasing the annual percentage rate (APR) applicable to an existing balance on an open end consumer credit card account unless specific conditions apply. The APR may be increased only if: (1) the index on which the rate is based changes, (2) it is a promotional rate that has expired, (3) a consumer fails to comply with a hardship workout plan, or (4) the account falls 60 days past due.

What's more, if a rate increase is due to the consumer falling 60 days past due on the account, the creditor must inform the consumer that the rate increase will be terminated (and the rate restored to what it was before the increase) once the creditor receives the minimum payments due in a timely fashion for six months. Other features of the Credit CARD Act of 2009 include:

- If different APRs apply to separate portions of an outstanding balance, the amount of any payment beyond the minimum payment due must be applied to that portion of the balance with the highest APR.
- Creditors are required to send statements to consumers at least 21 calendar days before the due date of the next payment.
- Creditors must provide on each billing statement a written disclosure indicating how many months it will take to repay the existing balance if only the minimum payment due is made each month, and what the total cost (principal and interest) of doing so will be. The disclosure must also indicate the total cost of repaying the existing balance due, including principal and interest costs, over 36 months.
- Payment due dates shall be the same day of each month. If the due date is a date when a creditor does not receive or accept payments by mail (e.g., weekends and holidays), the creditor must not treat a payment received on the next business date as a late payment.
- Creditors are prohibited from charging a consumer an over-the-limit fee unless the consumer authorizes the creditor to complete the transaction that causes the balance to go over the limit (opt-in). The creditor is further prohibited from imposing an over-the-limit fee in a subsequent billing cycle unless the consumer obtains an additional extension of credit in excess of the credit limit during that subsequent cycle.
- Extension of credit to consumers under age 21 is prohibited, unless the consumer demonstrates the independent means of repaying the debt or has a cosigner over 21 capable of repaying the debt. The creditor is required to obtain the approval of any cosigner to increase the credit line of an account for which the cosigner is jointly liable.

- Creditors are prohibited from charging a fee based on the manner in which a payment is made (e.g., on line, by telephone).
- Gift cards and certificates must disclose in writing on the card or certificate any dormancy or inactivity fee information, including the amount of the fee and how often it may be imposed (not more than once a month). What's more, the issuers of such cards or certificates must inform the purchaser of these fees before the purchase. Such fees may not be imposed for the first 12 months after issuance. Such cards or certificates may not have an expiration date before five years after the card or certificate is issued.

The sections of the Credit CARD Act of 2009 about notification requirements concerning rate increases take effect 90 days after the date of enactment. The remaining portions of the Act take effect nine months after enactment.

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