House Engrossed

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

# HOUSE BILL 2664

AN ACT

AMENDING TITLE 44, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 35; RELATING TO CREDIT CARD AGREEMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 44, Arizona Revised Statutes, is amended by adding chapter 35, to read:

CHAPTER 35

CREDIT CARD AGREEMENTS

ARTICLE 1. GENERAL PROVISIONS

44-7801. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "AUTHORIZED USER" MEANS ANY PERSON GRANTED EXPRESS, IMPLIED OR APPARENT AUTHORITY TO USE A CARDHOLDER'S CREDIT CARD OR CREDIT CARD ACCOUNT.

2. "CARDHOLDER" MEANS THE NAMED ACCOUNT MEMBER WHO APPLIES FOR OR ACCEPTS THE CREDIT CARD ACCOUNT.

3. "CHARGES" MEANS PURCHASES, CASH ADVANCES, ANNUAL MEMBERSHIP FEES, DELINQUENT PAYMENT FEES, INSUFFICIENT FUND FEES, OVER LIMIT FEES OR OTHER AMOUNTS INCURRED THROUGH USE OF THE CREDIT CARD.

4. "CREDIT CARD" MEANS 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 HAS AN ACCOUNT NUMBER ASSIGNED BY THE ISSUER AND THAT IS ISSUED WITH OR WITHOUT A 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 AN 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 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.

5. "CREDIT CARD ACCOUNT" MEANS A LINE OF CREDIT OFFERED BY AN 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. "CREDITOR" MEANS THE PERSON, BUSINESS, FINANCIAL INSTITUTION OR COMMERCIAL ENTERPRISE THAT OWNS THE CREDIT CARD ACCOUNT.

8. "FINANCIAL INSTITUTION" MEANS ANY OF THE FOLLOWING:

(a) A BANKING INSTITUTION THAT IS AUTHORIZED TO ISSUE CREDIT CARDS PURSUANT TO FEDERAL OR STATE LAW.

(b) A BANKING SUBSIDIARY OWNED BY A BANK HOLDING COMPANY AS DEFINED IN 12 UNITED STATES CODE SECTION 1841, OR BY A SAVINGS AND LOAN HOLDING COMPANY AS DEFINED IN 12 UNITED STATES CODE SECTION 1467a(a)(1)(D).

(c) ANY OTHER FEDERALLY REGULATED BANKING INSTITUTION.

9. "INTEREST" MEANS ANY PAYMENT TO COMPENSATE A CREDITOR OR PROSPECTIVE CREDITOR FOR MAKING AN EXTENSION OF CREDIT OR MAKING AVAILABLE A LINE OF CREDIT OR FOR A BORROWER'S DEFAULT OR BREACH OF A CONDITION ON WHICH CREDIT WAS EXTENDED.

10. "ISSUER" MEANS A FINANCIAL INSTITUTION OR AN AUTHORIZED AGENT OF A FINANCIAL INSTITUTION THAT ISSUES A CREDIT CARD.

44-7802. Acceptance of credit card agreement

A CARDHOLDER'S ACCEPTANCE OF THE TERMS AND CONDITIONS OF A CREDIT CARD ACCOUNT MAY BE ESTABLISHED AS BINDING AND ENFORCEABLE BY EITHER OF THE FOLLOWING:

1. THE CARDHOLDER'S WRITTEN OR ELECTRONIC SIGNATURE OR BY ANY OTHER ELECTRONIC RECORD ACCEPTANCE AS PROVIDED BY SECTION 44-7007.

2. FOLLOWING THE EXPIRATION OF TIME PRESCRIBED IN 12 CODE OF FEDERAL REGULATIONS SECTION 202.12(b), WITHOUT THE CARDHOLDER'S WRITTEN OR ELECTRONIC SIGNATURE OR WITHOUT ANY OTHER ELECTRONIC RECORD ACCEPTANCE AS PROVIDED BY SECTION 44-7007, IF BOTH OF THE FOLLOWING APPLY:

(a) THE CREDIT CARD AGREEMENT PROVIDES THAT ANY USE OF THE CREDIT CARD ACCOUNT CONSTITUTES ACCEPTANCE OF THE TERMS OF THE CREDIT CARD AGREEMENT.

(b) CARDHOLDER OR AUTHORIZED USER USES THE CREDIT CARD ACCOUNT.

44-7803. Liability for use of a credit card account

A. A CARDHOLDER IS PERSONALLY LIABLE FOR ALL CHARGES AND INTEREST INCURRED ON THE CARDHOLDER'S CREDIT CARD ACCOUNT BY THE CARDHOLDER OR AN AUTHORIZED USER.

B. THE CARDHOLDER IS NOT LIABLE FOR CHARGES AND INTEREST INCURRED ON THE CREDIT CARD ACCOUNT AS A RESULT OF FRAUDULENT ACTIVITY BY ANOTHER.

44-7804. Establishment of amount owed on a credit card account

A. A CREDITOR MAY ESTABLISH A PRESUMPTION OF THE AMOUNT OF THE DEBT THAT IS OWED ON A CREDIT CARD ACCOUNT THROUGH A COPY OF THE ISSUER'S FINAL BILLING STATEMENT OR BY THE ELECTRONIC DATA THAT IS MAINTAINED BY THE ISSUER AND THAT REPRESENTS THE AMOUNT OWED.

B. THE CARDHOLDER MAY CHALLENGE THE PRESUMPTION WITH ANY CREDIBLE EVIDENCE AS ALLOWED BY LAW.

44-7805. Establishment of interest rate

A. SUBJECT TO SECTIONS 44-1205 AND 44-6002, IF APPLICABLE, A CREDITOR MAY ESTABLISH THE CONTRACTED INTEREST RATE FOR A CREDIT CARD ACCOUNT THROUGH EITHER OF THE FOLLOWING:

1. TERMS AND CONDITIONS THAT CONTAIN A STATED OR VARIABLE INTEREST RATE.

2. A BILLING STATEMENT GENERATED BY THE ISSUER THAT CONTAINS A STATED OR VARIABLE INTEREST RATE.