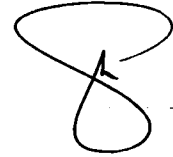


NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)

25 JAN 27 2011

SENATE

S. No. 2952



Introduced by Senator Jinggoy Ejercito Estrada

**AN ACT
PROHIBITING THE ISSUANCE OF PRE-APPROVED CREDIT CARDS WITHOUT
THE CONSENT OF THE CONSUMER AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

Article XVI, Section 9 of the 1987 Constitution states that, "The State shall protect consumers from trade malpractices and from substandard hazardous products."

Republic Act No. 7394, otherwise known as the Consumer Act of the Philippines, provides in its declaration of basic policy that, "it is the policy of the state to protect the interests of the consumer, promote his general welfare and to establish standards of conduct for business and industry. Towards this end, the State shall implement measures to achieve the following objectives: x x x; (b) protection against deceptive, unfair, and unconscionable sales, acts and practices; (c) provision of information and education to facilitate sound choice and the proper exercise of rights by the consumer; and (d) provision of adequate rights and means of redress: x x x."

Pre-approved credit card refers to unsolicited credit cards issued by credit card issuers to consumers who have not applied for such credit cards. The issuance of such was prohibited by the Bangko Sentral ng Pilipinas Circulars No. 702 dated December 15, 2010 and Circular No. 845 dated August 15, 2014. Despite the issuances of BSP

Circulars, pre-approved credit cards continued to be issued to unsuspecting consumers.

This proposed measure seeks to strengthen the prohibition on the issuance of pre-approved credit cards to consumers and provide for heavier penalties for violations of this Act. The credit card provider must prove that its client read and consented to the terms and conditions governing the credit card's use. Failure to prove consent means that the client cannot be bound by the terms and conditions of the credit card.

In this light, the immediate passage of this bill is recommended.



JINGGOY EJERCITO ESTRADA

NINETEENTH CONGRESS OF THE)
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25 JAN 27 P2:00

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REC. FILE



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AN ACT
PROHIBITING THE ISSUANCE OF PRE-APPROVED CREDIT CARDS WITHOUT
THE CONSENT OF THE CONSUMER AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

1 Section 1. *Short Title* - This Act shall be known as the "*Pre-approved Credit*
2 *Card Prohibition Act*".

3 Sec. 2. *Declaration of Policy*. - Article XVI, Section 9 of the 1987 Constitution
4 states that "The State shall protect consumers from trade malpractices and from
5 substandard hazardous products."

6 Furthermore, Article 2 of Republic Act No. 7394, otherwise known as the
7 Consumer Act of the Philippines, declares that, "It is the policy of the state to protect
8 the interests of the consumer, promote his general welfare and to establish standards
9 of conduct for business and industry. Towards this end, the State shall implement
10 measures to achieve the following objectives: x x x; (b) protection against deceptive,
11 unfair, and unconscionable sales, acts and practices; (c) provision of information and
12 education to facilitate sound choice and the proper exercise of rights by the consumer;
13 and (d) provision of adequate rights and means of redress; x x x."

14 Sec. 3. *Definition of Terms*. —

15 a) *Credit Card* - Any card, plate, coupon book or other credit device existing
16 for the purpose of obtaining money, property, labor or services on credit;

- 1 b) *Credit Card Application* - A documented request of the credit card applicant
2 to a credit card issuer for the availment of a credit card;
- 3 c) *Credit Card Holder* - A person who owns and benefits from the use of a
4 credit card;
- 5 d) *Credit Card Issuer* - A bank, quasi-bank, and/or its subsidiary or affiliate, or
6 any entity that offers the use of its credit card facilities; and
- 7 e) *Pre-approved Credit Card* - Unsolicited credit card issued by a credit card
8 issuer to a consumer who has not applied for such credit card.

9 *Sec. 4. Prohibition on the Issuance of Pre-approved Credit Cards Not Applied*
10 *For.* - Banks, quasi-banks, and/or its subsidiaries or affiliates, or any entity authorized
11 to be a credit card issuer shall not issue pre-approved credit cards to customers who
12 have not applied for them.

13 *Sec. 5. Acts Tantamount to Issuing Pre-approved Credit Cards.* - The following
14 acts shall be tantamount to the issuance of a preapproved credit card which are
15 violative of Section 4 hereof:

- 16 a) Sending of credit cards to consumers with no prior application, written
17 request and supporting documents required for prudent credit card
18 evaluation;
- 19 b) Sending of unsolicited supplementary cards and other cards with added
20 features which are not in replacement or a substitute of an existing
21 cardholder's initial credit card;
- 22 c) Unsolicited calls by credit card issuers requesting updated information from
23 selected clients in order to be entitled to receive a credit card as a reward
24 for his or her continued patronage of the credit card issuer's other financial
25 products;
- 26 d) Unsolicited calls by the credit card issuer to its depositors informing them
27 that they already have a credit card from the card issuer's Credit Card
28 Department due to good standing as a depositor;
- 29 e) Sending of mails with credit card enclosed which will be deemed accepted
30 upon the receipt of such card by a receiver, whether authorized or not;

1 f) Sending to a consumer an unsolicited credit card which is deemed accepted
2 unless a request for termination is promptly instructed by the cardholder to
3 the credit card issuer; and

4 g) Sending of credit cards as free offers to consumers who availed themselves
5 of the credit card issuer's other financial products.

6 *Sec. 6. Harassment by Credit Card Collection Companies.* — Credit card
7 collection agents shall be prohibited from engaging in any unethical collection activities
8 or any form of harassment against consumers who use pre-approved credit cards.

9 *Sec. 7. Duty of Credit Card Issuers.* - Banks, quasi-banks, and/or its subsidiaries
10 or affiliates, or any entity issuing credit cards must exercise, in accordance with the
11 Manual of Regulations for Banks (MROB) and the Manual of Regulations for Non-Bank
12 Financial Institutions (MORNBFI), proper diligence by ascertaining that applicants
13 possess good credit standing and are financially capable of fulfilling their credit
14 obligations.

15 *Sec. 8. Penalties.* - The penalty for violating any of the prohibited acts under
16 this Act shall be:

17 a) First Offense: Censure for the directors and officers of the credit card issuer
18 responsible for the violation and a fine of Three hundred thousand pesos
19 (PhP 300,000.00).

20 b) Second Offense: Suspension of the credit card issuer concerned from the
21 credit facilities of the Bangko Sentral ng Pilipinas (BSP) and a fine of Five
22 hundred thousand pesos (PhP 500,000.00).

23 c) Third Offense: Revocation of the license to engage in the credit card
24 business and a fine of Eight hundred thousand pesos (PhP 800,000.00).

25 In addition to the Plan, the bed capacity of POC shall be increased from seven
26 hundred (700) to one thousand (1,000) hospital beds.

27 *Sec. 9. Implementing Rules and Regulations.* - Within ninety (90) days from
28 effectivity of this Act, the BSP shall formulate rules and regulations necessary for the
29 effective implementation of this Act.

30 *Sec. 10. Separability Clause.* – Should any provision or part of this Act be
31 declared unconstitutional or invalid, the other provisions and parts hereof, insofar as
32 they are separable from the invalid ones, shall remain in full force and effect.

1 Sec. 11. *Repealing Clause.* – All laws, decrees, executive orders, proclamation,
2 rules and regulations, and other issuances or parts thereof which are inconsistent with
3 this Act are hereby repealed, amended, or modified accordingly.

4 Sec. 12. *Effectivity.* – This Act shall take effect fifteen (15) days after its
5 publication in the *Official Gazette* or in at least two (2) newspapers of general
6 circulation.

Approved,