

1 State of Arkansas *As Engrossed: H4/2/13 S4/12/13*

2 89th General Assembly

A Bill

3 Regular Session, 2013

HOUSE BILL 2028

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5 By: Representative Vines

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For An Act To Be Entitled

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AN ACT TO REGULATE THE PRACTICES OF CREDIT CARD

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ISSUERS; AND TO ESTABLISH THE TERMS TO BE USED IN

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CREDIT CARD TRANSACTIONS; AND FOR OTHER PURPOSES.

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Subtitle

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TO REGULATE THE PRACTICES OF CREDIT CARD

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ISSUERS; AND TO ESTABLISH THE TERMS TO BE

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USED IN CREDIT CARD TRANSACTIONS.

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 *SECTION 1. Arkansas Code § 4-107-302 is amended to read as follows:*

22 *4-107-302. ~~“Credit card” defined~~ Definitions.*

23 *As used in this subchapter, ~~“credit card” means:~~*

24 *(1) ~~Any instrument or device, whether known as a credit card,~~*
25 *~~charge card, credit plate, courtesy card, or identification card, or by any~~*
26 *~~other name, that is issued with or without fee by an issuer for the use of~~*
27 *~~the cardholder in obtaining money, goods, services, or anything else of~~*
28 *~~value, either on credit or in possession or in consideration of any~~*
29 *~~undertaking or guaranty by the issuer of the payment of a check drawn by the~~*
30 *~~cardholder, on a promise to pay in part or in full therefor at a future time,~~*
31 *~~whether or not all or any part of the indebtedness that is represented by the~~*
32 *~~promise to make deferred payment is secured or unsecured~~ “Authorized user”*
33 *means a person granted express, implied, or apparent authority to use a*
34 *cardholder’s credit card or credit card number;*

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(2) ~~A debit card, electronic benefit transfer card, or other~~

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1 ~~or other authorized signatory on the deposit account, that draws funds from a~~
2 ~~deposit account in order to obtain money, goods, services, or anything else~~
3 ~~of value~~ "Cardholder" means the named credit card account member and co-
4 applicant who applies for or accepts the terms and conditions of a credit
5 card account;

6 (3) ~~A stored value card, smart card, or other instrument or~~
7 ~~device that enables a person to obtain goods, services, or anything else of~~
8 ~~value through the use of value stored on the card, instrument, or device~~
9 "Charges" means purchases, cash advances, annual membership fees, delinquent
10 payment fees, insufficient fund fees, over-the-limit credit fees, or other
11 amounts incurred through the use of the credit card; and

12 (4) ~~The number that is assigned to the card, instrument, or~~
13 ~~device described in subdivisions (1), (2), or (3) of this section, even if~~
14 ~~the physical card, instrument, or device is not used or presented.~~ "Credit
15 card" means an instrument or device, whether known as a credit card, charge
16 card, credit plate, courtesy card, identification card, or by any other name,
17 that:

18 (A) Is issued by a credit card issuer with or without a
19 fee;

20 (B) Has an assigned account number; and

21 (C) Is for the use of the cardholder to obtain money,
22 goods, services, or anything of monetary value, on credit, in possession, or
23 in consideration of an undertaking or guaranty by the credit card issuer of
24 the payment of a check drawn by the cardholder on a promise to pay in part or
25 in full at a future time whether or not any part of the indebtedness that is
26 represented by the promise to make a deferred payment is secured or
27 unsecured;

28 (5) "Credit card account" means a line of credit offered by a
29 credit card issuer to a cardholder for the use of a credit card;

30 (6) "Credit card agreement" means the terms and conditions
31 governing the use of the credit card account;

32 (7) "Credit card issuer" means a person who issues a credit card
33 or the agent of a person with respect to a credit card;

34 (8) "Creditor" means a person, business, financial institution,
35 or commercial enterprise that owns the credit card account;

36 (9) "Data" means the information maintained on the cardholder's

1 account by the original creditor, credit card issuer, or succeeding creditor
2 in the regular course of business and transferred as part of an assignment or
3 sales agreement to the present creditor or owner of the account
4 electronically or otherwise from which information the present creditor or
5 owner has compiled;

6 (10) "Financial institution" means:

7 (A) A banking institution that may issue credit cards
8 under any state or federal law;

9 (B) A banking subsidiary owned by a bank holding company
10 as defined in 12 U.S.C. § 1841, or by a savings and loan holding company as
11 defined in 12 U.S.C. § 1467a(a)(1)(D); or

12 (C) Any federally regulated banking institution;

13 (11) "Interest" means a payment to compensate a creditor or
14 prospective creditor for making an extension of credit, making available a
15 line of credit, or for a borrower's default or breach of a condition on which
16 credit was extended; and

17 (12) "Terms and conditions" means the general and special
18 arrangements, provisions, requirements, rules, specifications, and standards
19 that form an integral part of a credit card agreement between the credit card
20 issuer and the cardholder.

21
22 SECTION 2. Arkansas Code Title 4, Chapter 107, Subchapter 3, is
23 amended to add additional sections to read as follows:

24 4-107-304. Acceptance of credit card agreement.

25 The acceptance of the terms and conditions of a credit card account by
26 a cardholder may be established as binding and enforceable by:

27 (1) The written or electronic signature or other electronic
28 record of acceptance by the cardholder; or

29 (2) The use of the credit card account by the named credit card
30 account member, any co-applicant, or any authorized user if the credit card
31 agreement provides that any use of the credit card account constitutes an
32 acceptance of the terms and conditions of the credit card agreement if the
33 time prescribed in 12 C.F.R. § 202.12(b) has expired.

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35 4-107-305. Liability.

36 (a) A cardholder is personally liable for charges and interest

1 incurred by the named credit card account member, any co-applicant, or any
2 authorized user on the credit card account of the cardholder.

3 (b) A cardholder is not liable for charges and interest incurred on
4 the credit card account as a result of fraudulent activity by another person.

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6 4-107-306. Amount owed.

7 (a) A creditor may establish a presumption of correctness of its
8 ownership of the credit card account and the amount of the charges and
9 interest that is owed on a credit card account by:

10 (1) Filing a copy of the credit card issuer's final billing
11 statement or charge off statement; or

12 (2) Filing a compilation of the data maintained by the original
13 creditor, credit card issuer, or succeeding creditor in the regular course of
14 business.

15 (b) The cardholder may dispute the presumption with any credible
16 evidence as allowed by state or federal law.

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18 4-107-307. Interest rate.

19 A creditor may establish the contracted interest rate for a credit card
20 account by:

21 (1) Documenting the acceptance of the terms and conditions that
22 contain a stated or variable interest rate by a cardholder of the credit card
23 account; or

24 (2) Any billing statement generated by the credit card issuer
25 that contains a stated or variable interest rate.

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27 /s/Vines

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30 **APPROVED: 04/22/2013**