



SBLC WEEKLY

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A MATTER OF PERSPECTIVE

I have had an opportunity to give a few speeches since Congress passed and the President signed into law the Credit Card Accountability, Responsibility, and Disclosure Act. A discussion of the new law is not what I consider a scintillating topic so it is not something I bring up. However, the topic has come up more than once in the Questions and Answers periods. Having fielded thousands of questions from small business owners over the years, I would have bet 100 I would never get a question on that law. Go figure.

The first time it did come up, I was more than a little surprised by the way the question was phrased and it put me into a minor panic that I had missed something about the new law. The question went like this, "I understand that I have lost protections for the credit cards I, as a small business owner, use under this new law. How could Congress do that?" As the question was being asked, I am thinking, "Holy cow, how did that one get by me, I thought I was following that thing closely!"

With some back and forth, I was able to deduce the actual nature of the story. As I reported during the debate on the bill, Senators Mary Landrieu (D-LA) and Olympia Snowe (R-ME) had proposed an amendment to would require credit card issuers to provide the same *NEW* protections that would

now be offered to consumer on their credit card accounts to cards issued to small businesses. The amendment was withdrawn with the promise they would be given another chance during this Congress.

Further to my surprise, the question came up in Questions and Answers after a couple more speeches. It was always phrased the same way, "small business loses protection under the new credit card bill." Thank you, Internet.

With increasing frequency now, I can tell when something takes hold on the Internet and goes "viral." Even in congressional offices I will hear phrases and words repeated. After the passage of the new consumer protection law for children's products, I heard the same phrases about "zippers" on home crafted apparel. Congress got pounded by the self-employed who mobilized themselves on the Internet. It was an impressive display of true grassroots. And a lesson in grassroots organizing (see Weekly 02-02-09, "Internet Based Lobbying"). But I digress. Back to the credit card story.

I checked out my favorite dominant Internet search engine (did you hear the one about the new Administration bringing back antitrust enforcement?) for "small business loses protection for credit cards." Sure enough, that is what is happening. The spin is "we lost something." The facts are Congress decided not to give small business

these new protections, not that they took away protections.

Like most in the small business community I do not have any particular sympathy for these large credit card companies and large banks (I do appreciate our community banks though! They are still rank higher in my book for lending to their local businesses in these tough times) so on balance I consider the new protections as reasonable restraints in a transaction in which one side has all the leverage. Nevertheless, my initial reaction was "We should be more accurate in how we portray the facts of the matter." Then I said to myself, "What a minute, if this thing just passed two weeks ago, and I am hearing about this in every Q&A, maybe we are on to something here, and if Congress starts getting nervous that small business thinks it lost some protections, maybe we got a chance here!"

Senators Landrieu and Snowe are planning to introduce a free-standing bill that would extend the protection to the credit cards that small businesses use and will be looking to use their positions as the Chair and Ranking Republican on the Committee on Small Business to move the bill forward.

What are the protections provided to *consumers* ☺ in the new law?

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The Truth in Lending Act, as amended by Public Law 111-24, the Credit Card Accountability, Responsibility, and Disclosure Act, now:

- Prohibits arbitrary interest rate increases and universal default on existing balances
- Requires a credit card issuer who increases a cardholder's interest rate to periodically review and decrease the rate if indicated by the review
- Prohibits credit card issuers from increasing rates on a cardholder in the first year after a credit card account is opened
- Requires promotional rates to last at least 6 months
- Prohibits issuers from charging a fee to pay a credit card debt, whether by mail, telephone, or electronic transfer, except for live services to make expedited payments
- Prohibits issuers from charging over-limit fees unless the cardholder elects to allow the issuer to complete over-limit transactions, and also limits over-limit fees on electing cardholder

- Requires penalty fees to be reasonable and proportional to the omission or violation
- Enhances protections against excessive fees on low-credit, high-fee credit cards
- Requires payments in excess of the minimum to be applied first to the credit card balance with the highest rate of interest
- Prohibits issuers from setting early morning deadlines for credit card payments
- Requires credit card statements to be mailed 21 days before the bill is due rather than the current 14 days
- Prohibits interest charges on debt paid on time (double-cycle billing ban)
- Prohibits late fees if the card issuer delayed crediting the payment
- Requires that payment at local branches be credited same-day
- Requires credit card companies to consider a consumer's ability to pay when issuing credit cards or increasing credit limits

- Requires cardholders to be given 45 days notice of interest rate, fee and finance charge increases
- Requires issuers to provide disclosures to consumers upon card renewal when the card terms have changed
- Requires issuers to provide individual consumer account information and to disclose the period of time and total interest it will take to pay off the card balance if only minimum monthly payments are made
- Requires full disclosure in billing statements of payment due dates and applicable late payment penalties.