

The Attorney General's

Guide to Consumer Credit

Commonwealth of Massachusetts
**Office of Attorney General
Martha Coakley**



October 2007

Dear Consumer,



In today's world of increased expenses, nearly every adult in the country possesses at least one credit card. Credit, whether it be in the form of a credit card or other monies owed, can be a valuable tool that permits a consumer to obtain goods and services that they might not otherwise be able to afford, such as a home or new car.

Because poor choices by debtors and unfair practices by some creditors can cause financial difficulties and emotional stress, there are many laws protecting consumers in the area of credit, including those that govern truth in lending, billing rights, fair credit reporting, and debt collection. The information in this booklet addresses these credit concerns, as well as what is often referred to as the "hidden price of plastic," to educate you, the consumer, on how costly debt can be.

I hope that you find this material helpful in understanding the laws surrounding credit. While our office cannot offer legal advice, if you believe that you are in a situation in which you are being harmed by a creditor or if you have additional questions please contact our Consumer Complaint and Information Hotline at (617) 727-8400.

Cordially,

A handwritten signature in black ink that reads "Martha Coakley". The signature is written in a cursive, flowing style.

Martha Coakley
Massachusetts Attorney General

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I. Truth In Lending

Both state and federal truth in lending laws require creditors to inform consumers about the costs of the credit transactions they are entering. By examining these costs, and comparing offers from more than one creditor on any proposed credit transaction, consumers can shop around for the best credit deal, just as they shop around for the best price on the purchase they are contemplating.

Regulation Z is the federal truth in lending statute governing disclosures for both “closed end” and “open end” credit transactions. In a “closed end” transaction, credit is extended just once, for instance, in the form of a car loan. In an “open end” transaction, credit is extended in an on-going way. A credit card agreement is a form of open end credit.



A. Closed End Credit

A creditor offering closed end credit must make certain disclosures before the transaction is consummated, clearly and conspicuously, in writing, and in a form the consumer may keep. The disclosures must appear in a table, and the table may not contain other information not directly related to the required disclosures.

Disclosures required include:

- ❖ the identity of the creditor
- ❖ the dollar amount being financed (the principal of the loan)
- ❖ the finance charge (the dollar amount that the credit will cost you)
- ❖ the annual percentage rate (the interest rate)
- ❖ the payment schedule (the number, amounts, and timing of payments)

- ❖ the total of payments (the dollar amount you will have paid when all payments are made)
- ❖ the total sale price (down payment, plus amount being financed, plus finance charge)
- ❖ any prepayment penalty (a fee charged if the consumer pays off the loan early)
- ❖ any charge for late payments

If the annual percentage rate may increase, the creditor must also disclose the circumstances under which the rate may increase, any limitations on the increase, the effect of an increase, and an example of the payment terms that would result from an increase. If the creditor reserves the right to demand repayment of the loan under certain circumstances, that must also be disclosed. The creditor's disclosures must include a statement that directs the consumer to the appropriate contract document for certain other information about the terms of the credit being extended.

The creditor must give the consumer a written itemization of the amount financed, including: the amount of any funds being distributed directly to the consumer; any amount credited to the consumer's account with the creditor; and any amounts being distributed to other persons (or creditors) on the consumer's behalf. These persons must be identified, either by name, or by such descriptions as "public officials or government agencies," "credit reporting agencies," "appraisers," or "insurance companies."



B. Open End Credit

In an "open end" credit transaction, the creditor must also make certain disclosures, clearly and conspicuously, in writing, in a form the consumer may keep. For a credit card solicitation or application to

open a credit card account, the required disclosures must be made with the application or solicitation, in a table format.

The card issuer must disclose:

- ❖ the annual percentage rate of interest (If more than one rate may apply, the range of balances to which each rate is applicable must also be disclosed. If the account has a variable rate, the card issuer must also disclose the fact that the rate may vary, and how the rate is determined.)
- ❖ any annual or other periodic fee for the card, including any fee based on account activity or inactivity
- ❖ any minimum or fixed finance charge that could be imposed during a billing cycle
- ❖ any transaction charges imposed for the use of the card for purchases
- ❖ any cash advance fee
- ❖ any late payment fee
- ❖ any fee for charging over one's credit limit
- ❖ any "grace period" during which any credit used for purchases may be repaid without incurring a finance charge (If the length of the grace period varies, the card issuer must disclose the range of days, the minimum number of days, or the average number of days in the grace period.)

The card issuer must identify the method used to calculate the outstanding balance on the card. Examples include "average daily balance, including new purchases," and "two-cycle average daily balances, including new purchases." (This second method results in significantly higher finance charges.)

A credit card issuer must send the consumer a statement each billing cycle, which must state:

- ❖ the previous balance, if any, outstanding at the beginning of the billing cycle
- ❖ each credit transaction
- ❖ the date of the transaction or the date the consumer's account was debited
- ❖ credits to the account during the billing cycle, including the amount and date of crediting
- ❖ each interest rate used to compute the finance charge
- ❖ the balance on which each part of the finance charge is computed
- ❖ the amount of the finance charge and any other charges
- ❖ the closing date of the billing cycle
- ❖ the account balance outstanding on the closing date of the billing cycle

The card issuer must include an address to be used for notice of billing errors, and any grace period during which payment must be received to avoid additional finance charges.

II. Billing Rights

If you as the debtor believe that there is an error on your credit statement, or you otherwise wish to dispute information on your credit card bill, you have 60 days to send the creditor a written notice.

This written notice must include:

- ❖ Your name and account number

- ❖ Your belief that the statement contains a billing error
- ❖ The amount of the error
- ❖ The reasons you believe that the statement contains a billing error

While you do not have to pay the disputed amount on the bill, you do have to pay any undisputed amount on the bill.

The creditor has 30 days to send a written acknowledgement of your dispute, and may not take action to collect the disputed amount or close your account in the meanwhile. The creditor has two complete billing cycles after the receipt of your written notice to investigate your dispute and send you a written response, either correcting the bill and crediting your account, or explaining to you why there is no error in the bill.

If the creditor determines that there is no mistake in the bill, you may request copies of the creditor's documentary evidence of the debt, e.g., a copy of a signed charge slip for a purchase you do not believe you made. If you claim that you have been billed for goods that were not delivered, the creditor must determine that the goods actually were delivered, and provide you with a written statement to that effect.

Once the creditor has investigated your claim of a billing error and notified you of its belief that you still owe all or part of the disputed amount, it has no further obligation to investigate. The creditor must notify you of the amount of time you have to pay the amount due without incurring further charges.



If you believe there is an error on your credit statement, you have 60 days to send the creditor a written notice.

If you notify a creditor that you believe there are billing errors in your statement, the creditor may neither report nor threaten to report your failure to pay the disputed amount to any credit reporting agency until the creditor has investigated your claim of a billing error and notified you of the amount of time you have to pay the amount due before incurring further charges. If you still do not pay the bill, the creditor may report you to a credit reporting agency, but must inform you of the agency to which it has sent this information. Also, if you continue to dispute the bill, the creditor must report that fact to the agency, and must correct any information given to the agency if the bill is subsequently resolved.

If you lose your card, or it is stolen, and someone makes use of your credit card number without your permission, you will owe \$50 or the actual amount the unauthorized person has spent with it prior to your alerting your credit card issuer, whichever is less.

If you have authorized someone to use your card in the past, you may not be able to convince your credit card company that the person no longer has permission to use the card.

For additional information regarding identity theft, visit the Attorney General's Office website at www.mass.gov/ago, and view our publication entitled, "Identity Theft: It Could Happen to You!"

III. Credit Card Costs

There are a number of considerations to be aware of when dealing with credit cards.

The Difference Between a Debit Card and a Credit Card

Payment for purchases made with debit cards are deducted directly from your checking account. Therefore, unlike credit cards, you are

not charged interest for debit card transactions. Debit cards provide you the ease of cash-less buying without incurring financing costs, but remember, you must have the money in your checking account when you make the purchase. Also, unlike credit cards, you may not have the right to dispute problem purchases.

Reading the Annual Disclosure Statement

Many lenders offer well-advertised attractive benefits, such as travel discounts or extra protection if an item is lost or stolen, to encourage you to get their credit card. However, you should read your annual disclosure statement closely to determine if the very benefits which enticed you to get the card aren't quietly discontinued over time.



Linking a Credit Card with Checking or Savings Accounts

If you have a checking or savings account with the same bank from which you have a credit card, when you signed for your credit card you may have authorized the bank to automatically withdraw funds from your savings or checking account if you are delinquent in paying your credit card bill. If you are unsure, contact your bank. To avoid automatic funds withdrawal, pay your bill on time, or get a credit card from a different lender, or contact your bank and ask about de-linking the accounts.

Annual fees and finance charges can significantly increase your credit costs.

Fees and Interest Rates

Annual fees and finance charges can significantly increase your credit costs. Annual fees are set by the card issuer and interest rates may vary in accordance with the prime lending rate. To obtain lower fees and interest rates, shop around for lenders who don't require an annual fee or offer lower annual fees and interest rates. Rates and fees may be particularly competitive when transferring balances.

Backdated Interest

Generally, when you charge an item to your credit card, the credit card company doesn't pay the merchant for several days. You will pay less interest if the company doesn't begin charging you interest until it pays the merchant, rather than charging you from the day on which you made the purchase, a practice known as backdating. To avoid backdating, you should pay your balance in full every month or find another credit card company which does not backdate interest.

Retroactive Hikes in an Interest Rate

In order to entice you to get a card with them, or transfer existing balances, some lenders offer lower rates, known as "teasers," which are only effective for a limited time period. When the teaser period expires, a significantly higher interest rate may be charged. In some instances, the higher rate is applied retroactively to your existing balance at the time the teaser rate expires. To avoid incurring the retroactive rate hike, you should read the fine print in regards to retroactive rate hikes and avoid such offers. If you find you have already signed up for such a card, you should pay your balance in full or transfer the balance to a lower interest card before the teaser rate expires.

Additional Fees for Cash Advances

In addition to charging purchases on your credit card, you can get cash advances which can easily resolve a cash crisis. However, the financing costs of increasing your cash flow in this way are significant, because most credit card companies charge a transaction fee, as high as 2% of the advance, in addition to interest on the cash advance. Before taking a cash advance, even if your card advertises "no finance charges" on cash advances, find out if a transaction fee is charged.

Monthly Minimum

Lenders often encourage consumers to skip a monthly payment or make minimum monthly payments (as low as 2% of your monthly

balance) without being in default. You may find it tempting to skip a monthly payment, or to pay the minimum of your monthly balance, because it keeps more of your money in your pocket. However, making minimum payments benefits the lender only, because the longer it takes you to pay off your balance, the more money the lender makes in increased finance charges. To avoid higher finance charges, and benefit yourself rather than the lender in the long run, pay as much as possible of your monthly balance. **[See Chart 1 on page 10]**

“Grace Periods”

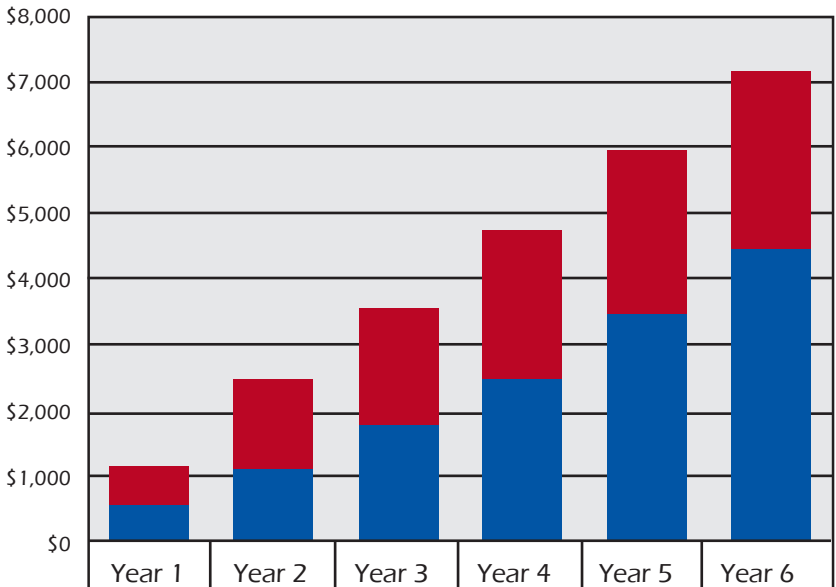
Most credit cards offer “grace periods” during which interest is not charged for new purchases, as long as the new unpaid balance is paid in full each month. However, be aware that credit card terms can be misleading, and not all grace periods are the same. For example, with many cards, consumers will not enjoy any grace period on new purchases if a balance is carried over from month to month. With such cards, you will have to pay the entire balance each month to avoid finance charges on new purchases. Some credit card companies offer no grace periods, regardless of whether the unpaid balance is paid each month. Therefore, before signing up for a credit card, read the grace period terms carefully. Make sure that you ask the credit card company for clarification if you do not understand the terms. If you are unsatisfied with the terms or do not think you can pay your entire balance each month, find a credit card lender who does offer a bona fide grace period under which interest is not charged on new purchases.

Limitations on Interest Rates and Late Charges

National banks may charge all their credit card customers under the interest and late charge laws of their home state, regardless of where their customers live. For example, Massachusetts law generally limits credit card annual interest rates to 18% and late charge penalties to \$10 per payment. However, Massachusetts credit card customers of national banks located in South Dakota, Delaware, or other states

Chart 1

This chart shows the implications of paying only the monthly minimum on a given balance. This chart assumes that the outstanding balance is \$5,000, and that the cardholder is making a consistent monthly minimum payment of \$100 (approximately 2% of the outstanding balance), and that the annual interest rate of the card is fixed at 14%. At the end of Year 6, the cardholder has already paid \$2,200 more than the original balance, and the card is STILL not yet paid off!



	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Cumulative Interest Paid	\$667	\$1,254	\$1,749	\$2,139	\$2,409	\$2,539
Cumulative Balance Paid	\$533	\$1,146	\$1,851	\$2,661	\$3,591	\$4,661
Cumulative Total Paid	\$1,200	\$2,400	\$3,600	\$4,800	\$6,000	\$7,200

may pay considerably higher interest rates and late penalties, because those states allow the higher rates and penalties. Therefore, make sure you are aware of which state the lender is located in and that you understand the credit terms before you take on a new credit card.

Late Payment Penalties and Default Rates

In addition to the interest charges incurred when you carry a balance on your credit card, the costs of credit include late fees and default rates. If you do not carefully manage your account and pay it on time, many credit cards charge large late fees (\$20, \$25, \$35) if they do not receive your payment by the due date. Also, if make late payments twice within a year, many cards trigger “default” rates that you will pay on your balance. These rates may be five or ten points higher than your regular rate, which may result in interest rates of 25%, 28%, 30%, or even higher.



IV. Fair Credit Reporting

There are three major credit reporting agencies in the United States: **TransUnion**, **Experian**, and **Equifax**. These companies collect information and produce reports on individuals’ credit histories, which they may provide to a lender who is considering advancing credit to you.



A. Your Credit Report

Private companies called “credit reporting agencies” collect information related to your access to and use of credit. They make that information available to others under certain circumstances,

in the form of a “credit report.” Your credit report is relied upon by lending institutions, employers, insurance agencies, and future creditors to make decisions about you. For this reason, your credit report is an important document, and the law gives you certain protections against the reporting of incorrect information. Knowing your legal rights and remedies is a first step to resolving any problems associated with your credit report.

Note: Your Credit Report is Free

Under state and federal law, you are entitled to one free copy of your credit report per calendar year from each of the three main credit reporting agencies, which are listed at the end of this brochure. Requesting a copy every year to ensure your report is without errors is worthwhile and recommended.

If you ever apply for and are denied credit, you should immediately obtain a copy of your report to verify that all the information is correct. You have the right to know which credit reporting agency prepared the report that was used in the denial of your credit application. Under state law, you have the right to a free copy of your credit report within 60 days of being denied credit. **M.G.L. c. 93, § 56.**



B. Correcting Your Credit Report

If there is incorrect information in your credit report, you may ask the credit reporting agency to investigate. You must do so in writing and it is recommended you do so by certified mail to ensure that it is received. The credit reporting agency must investigate your claim within 30 business days by asking the creditor in question to review

its records, unless the agency believes that the dispute is “frivolous or irrelevant.” The credit reporting agency is required under state and federal law to correct, complete, or delete any information that is erroneous, incomplete, or unverified. **M.G.L. c. 93, § 58.**

Additionally, negative information that is more than seven years old may not be included in your credit report. There are several exceptions to this rule; the primary one is bankruptcy, which may be reported for up to 10 years. **M.G.L. c. 93, § 52.**

Credit reporting agencies are generally not permitted to include in a credit report adverse information which is more than seven years old on the date of the report, although bankruptcy information may stay on a report for 10 years. These rules do not apply if the credit transaction at issue is for \$50,000 or more, or if the report is being provided in connection with employment in a job that involves an annual salary of \$20,000 or more.

If you disagree with the results of the credit reporting agency’s investigation of the accuracy of an item on your credit report, you have the right to prepare a brief statement that explains your version of the dispute. The credit reporting agency is then required to include this statement with your credit report each time it sends out the report. **M.G.L. c. 93, § 58.**

If the consumer disputes the completeness or accuracy of any item of information in his or her credit report file, the general rule is that the credit reporting agency must investigate the dispute within 30 days, beginning on the date it receives the consumer’s request for a correction. The credit reporting agency may require that consumers’ requests for corrections be in writing. Within five business days



If there is incorrect information in your credit report, you may ask the credit reporting agency to investigate.

of its receipt of a consumer's request, a credit reporting agency must notify the creditor that the consumer is disputing the information.

An agency may refuse to investigate a dispute if it has reasonable grounds to believe that the dispute is frivolous or irrelevant, including failure of the consumer to provide sufficient information, as requested by the agency, to resolve the dispute. An agency must notify the consumer by mail within five business days after it makes its determination that the dispute is frivolous or irrelevant, stating specific reasons for the finding.

If after investigation, a credit reporting agency determines that certain information about a consumer is inaccurate or can no longer be verified, it must delete that information within three business days. If an investigation fails to resolve the dispute, the consumer may submit a statement of no more than 100 words describing the dispute. The credit reporting agency must include a copy of that statement with any credit report it issues on that consumer.

If information is deleted from the consumer's credit report file because it is inaccurate or can not be verified, it may not be reinserted unless the consumer's creditor subsequently verifies that the information is accurate. If deleted information is subsequently reinserted in a credit report, the credit reporting agency must give the consumer a toll-free number to call to request the name, address, and telephone number of the person who directed the agency to reinsert previously deleted information. Within 15 days of receiving such a request, the agency must provide the consumer with that information.

A consumer may elect to have his or her name and address excluded from any list provided by a credit reporting agency to parties who wish to extend a "firm offer of credit" to consumers, such as "pre-screened" credit card offers that are often sent to consumers. The consumer may contact the credit reporting agency by a toll-free number or at the address provided for this purpose.



V. Fair Debt Collection

The **Massachusetts Attorney General's Debt Collection Regulations, 940 CMR 7.00**, prohibit many unfair debt collection practices by creditors, and regulations of the **Massachusetts Division of Banks, 209 CMR 18.00**, prohibit unfair debt collection practices by debt collection agencies.



A. Communication with Creditors and Collection Agencies

When communicating directly with you, creditors and collection agencies may not:

- ❖ Call you at home more than twice for each debt in any seven-day period, or more than twice for each debt in any 30-day period at some place other than your home, such as your place of work.
- ❖ Call you at work if you have requested that they not call. Your oral request that a collector not call you at work is valid for 10 days only. Written requests are valid until you write to the collector removing the restriction.
- ❖ Call you without identifying both the name of the creditor and the name of the person calling. The caller may use a name other than his or her own, but the creditor or collection agency on whose behalf the call is being made must be able to identify that person.
- ❖ Contact you directly, if you have told the creditor or collection agency you are represented by an attorney.
- ❖ Use profane or obscene language.
- ❖ Cause expense to you in the form of long distance calls, express mail charges, wire fees, or other similar charges.
- ❖ Falsely threaten to take legal action that the creditor does not take or reasonably intend to take.

- ❖ Tell anyone (including your friends, neighbors, relatives, or employers) about your debt, without your written consent.
- ❖ Mail to you any printed or written materials that reveal or imply that you owe a debt (for example, by using a postcard to contact you or using a descriptive return address).
- ❖ Solicit post-dated checks from you.
- ❖ Visit your home at times other than your normal waking hours. A collector may not visit you more than once in any 30-day period for each debt, unless you give permission for additional visits.
- ❖ Call you at times other than your normal waking hours. If your waking hours are unknown, then the collector may only call between 8:00 a.m. and 9:00 p.m.



B. Additional Rights

A creditor must allow you or your attorney to inspect any document on which the creditor is relying to prove that you owe the debt being collected, e.g., a credit card application, account statement, promissory note, ledger, account card, or similar record in the creditor's possession, which reflects the date and amount of payments, credits and charges related to the debt. Failure to do so is an unfair or deceptive act or practice under the **Attorney General's Debt Collection Regulations, 940 CMR 7.08**.

Under State and Federal Law, if you want all debt collection contact to stop, and it is a debt collection agency (as opposed to the creditor itself) that is contacting you, you have the right to make a request in writing that all such contact stop. **15 U.S.C. 1692c(c), 209 CMR 18.14(3)**. Once you have made such a written request, the debt

collection agency may not contact you again; however, the agency will still be permitted to sue you to try and collect the debt.

NOTE: Locating a Debtor

Creditors and debt collection agencies are permitted to try to locate a debtor by contacting persons other than the debtor or persons residing in the debtor's household, if the creditor or debt collection agency reasonably believes that it no longer has current information on the debtor's location. However, it may not inform anyone it calls about your debt.



VI. What to Do if You Have Credit Problems

If you are having trouble paying bills, keep careful track of your actual expenses for a month or so, and compare your expenditures to your income. After you have identified where your money is actually going, and how much actual income you have, identify your spending priorities, and cut out all unnecessary purchases.

You should immediately contact your creditors if you are having trouble making payments. Determine a monthly payment that you can and will make. Many creditors will try to work out a suitable payment schedule if they believe you are acting in good faith.

If you are still having serious problems after attempting these steps, another option is to hire a credit counseling service to create a debt repayment plan. In Massachusetts, credit counselors must be non-profit organizations. Be advised that fees vary widely. Shop around and avoid

credit counselors who charge large up-front fees or large monthly fees. Two other methods of dealing with debt problems are consolidating debt through a single loan, and filing for bankruptcy. There are serious consequences associated with both of these options, so consult with a trusted banker about debt consolidation or a competent bankruptcy attorney about bankruptcy before taking any action.

VII. RESOURCES

Credit reporting agencies:

Experian

www.experian.com

1-888-397-3742

National Consumer Assistance Department

P.O. Box 9530

Allen, TX 75013

To report fraud: 1-888-397-3742

TransUnion

www.transunion.com

1-800-916-8800

Fraud Victim Assistance Department

P.O. Box 6790

Fullerton, CA 92834

To report fraud: 1-800-680-7289

Equifax

www.equifax.com

1-800-685-1111

Consumer Fraud Division

P.O. Box 740256

Atlanta, GA 30374

To report fraud: 1-800-525-6285

General information and complaints:

**Office of the Attorney General
Consumer Protection Division**

www.mass.gov/ago

(617) 727-8400 Consumer Complaint and Information Hotline

(617) 727-2200

One Ashburton Place

Boston, MA 02108

Office of Consumer Affairs and Business Regulation

www.mass.gov/ocabr

(888) 283-3757 Consumer Hotline

(617) 973-8787

10 Park Plaza, Suite 5170

Boston, MA 02116

Questions and complaints about credit and collection agencies:

Massachusetts Division of Banks

www.mass.gov/dob

(617) 956-1501 Consumer Line

(617) 956-1500

1 South Station, 3rd Floor

Boston, MA 02110



**Office of Attorney General
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Consumer Protection Division

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