S T A T E O F N E W Y O R K

177

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. PHEFFER -- Multi-Sponsored by -- M. of A. AUBRY, CLARK, CYMBROWITZ, DIAZ, GABRYSZAK, GLICK, GOTTFRIED, JACOBS, V. LOPEZ, MAGEE, McENENY, MILLMAN, ORTIZ, SCARBOROUGH, SEMINERIO, TOWNS, WEINSTEIN -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the personal property law, in relation to prohibiting the application of service charges and annual fees to only those credit card holders or buyers who pay off their balances in full within the grace period allowed for purchases

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative finding and declaration. The legislature finds and declares that the public policy of this state does not countenance the imposition of an annual fee, service charge, or other fee or charge for credit card use which applies or will apply exclusively to only those buyers or credit card holders who repay, or who make it a practice each month or on a regular basis to repay, their balances in full during the applicable grace period. Such fees and charges tend to discourage the full and early repayment of consumer debt, thereby contributing to mounting consumer debt and possibly to an increase in personal bankruptcies. Accordingly, the purpose of this act is to codify the justified existing public policy of this state.

S 2. Section 413 of the personal property law is amended by adding a new subdivision 15 to read as follows:

15. (A) FOR THE PURPOSES OF THIS SUBDIVISION, THE TERM "GRACE PERIOD" MEANS THE PERIOD OF TIME, PROVIDED FOR IN THE ORIGINAL RETAIL INSTALMENT CREDIT AGREEMENT, DURING WHICH THE RETAIL BUYER MAY PAY THE FULL BALANCE WHICH IS ATTRIBUTABLE TO PURCHASES OF GOODS AND SERVICES REFLECTED ON A MONTHLY STATEMENT WITHOUT BEING ASSESSED A SERVICE CHARGE.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, IF A CREDIT CARD IS ISSUED IN CONNECTION WITH A RETAIL INSTALMENT CREDIT AGREEMENT AND SUCH AGREEMENT (OR AN AMENDMENT THERETO) PROVIDES FOR A GRACE PERIOD, AND THE BUYER PAYS THE FULL BALANCE DURING THE APPLICABLE GRACE PERIOD, NO SERVICE CHARGE OR ANNUAL FEE OTHERWISE AUTHORIZED BY THIS SECTION AND NO OTHER CHARGE OR FEE OF ANY KIND SHALL BE IMPOSED.

(C) THE PROVISIONS OF THIS SUBDIVISION SHALL APPLY WHERE THE SERVICE CHARGE, ANNUAL FEE, OR OTHER CHARGE OR FEE IS, BY THE TERMS OF SUCH AGREEMENT OR AMENDMENT OR IN PRACTICE, APPLICABLE ONLY TO BUYERS WHO HAVE PAID, WHO DO PAY, WHO WILL PAY, OR WHO MAKE IT A PRACTICE TO PAY THE FULL BALANCE DURING THE APPLICABLE GRACE PERIOD OR DURING A SPECIFIED SERIES OR NUMBER OF GRACE PERIODS.

(D) THE PROVISIONS OF THIS SUBDIVISION DO NOT APPLY TO BUYERS WHO HAVE PAID, WHO DO PAY, WHO WILL PAY, OR WHO MAKE IT A PRACTICE TO PAY LESS THAN THE FULL BALANCE DURING THE APPLICABLE GRACE PERIOD OR DURING A SPECIFIED SERIES OR NUMBER OF GRACE PERIODS.

S 3. This act applies to existing retail instalment credit agreements as well as to retail instalment credit agreements and amendments thereof which are entered into or made on or after the effective date of this act. If any provision of this act, or its application to any person or circumstance, is found to be invalid by a court of competent jurisdiction, and such finding of invalidity remains sustained after any and all appeals have been exhausted or after the time for bringing any such appeal has expired, such finding shall not invalidate the application of such provision to a different person or circumstance and shall not result in the invalidity of any other provision of this act, and toward that end the provisions of this act are hereby declared severable.

S 4. This act shall take effect on the thirtieth day after it shall have become a law.