Assembly Bill No. 865

CHAPTER 711

An act to add Section 1748.13 to the Civil Code, relating to consumer credit.

[Approved by Governor October 10, 2001. Filed with Secretary of State October 11, 2001.]

LEGISLATIVE COUNSEL’S DIGEST
AB 865, Hertzberg. Credit cards.
Existing law regulates credit card issuers, as specified.
This bill, operative July 1, 2002, except as otherwise specified, and applicable as specified, would require a credit card issuer to provide to the cardholder in each billing statement various statements regarding the length of time it will take, at various payment rates, to pay off the balance due on an open-end credit card account, as well as related information, and a certain table to be developed by the Department of Financial Institutions, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 1748.13 is added to the Civil Code, to read:
1748.13. (a) A credit card issuer shall, with each billing statement provided to a cardholder in this state, provide the following on the front of the first page of the billing statement in in type no smaller than that required for any other required disclosure, but in no case in less than 8-point capitalized type:
(1) A written statement in the following form: “Minimum Payment Warning: Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance.”
(2) Either of the following:
(A) A written statement in the form of and containing the information described in clause (i) or (ii), as applicable, as follows:
(i) A written three-line statement, as follows:
“A one thousand dollar ($1,000) balance will take 17 years and three months to pay off at a total cost of two thousand five hundred ninety dollars and thirty-five cents ($2,590.35).
A two thousand five hundred dollar ($2,500) balance will take 30 years and three months to pay off at a total cost of seven thousand seven hundred thirty-three dollars and forty-nine cents ($7,733.49).
A five thousand dollar ($5,000) balance will take 40 years and two months to pay off at a total cost of sixteen thousand three hundred five dollars and thirty-four cents ($16,305.34). This information is based on an annual percentage rate of 17 percent and a minimum payment of 2 percent or ten dollars ($10), whichever is greater.”

In the alternative, a credit card issuer may provide this information for the three specified amounts at the annual percentage rate and required minimum payment which are applicable to the cardholder’s account. The statement provided shall be immediately preceded by the statement required by paragraph (1).

(ii) Instead of the information required by clause (i), retail credit card issuers shall provide a written three-line statement to read, as follows:

“A two hundred fifty dollar ($250) balance will take two years and eight months to pay off a total cost of three hundred twenty-five dollars and twenty-four cents ($325.24).
A five hundred dollar ($500) balance will take four years and five months to pay off at a total cost of seven hundred nine dollars and ninety cents ($709.90).
A seven hundred fifty dollar ($750) balance will take five years and five months to pay off at a total cost of one thousand ninety-four dollars and forty-nine cents ($1,094.49).
This information is based on an annual percentage rate of 21 percent and a minimum payment of 5 percent or ten dollars ($10), whichever is greater.”

In the alternative, a retail credit card issuer may provide this information for the three specified amounts at the annual percentage rate and required minimum payment which are applicable to the cardholder’s account. The statement provided shall be immediately preceded by the statement required by paragraph (1). A retail credit card issuer is not required to provide this statement if the cardholder has a balance of less than five hundred dollars ($500).

(B) A written statement providing individualized information indicating an estimate of the number of years and months and the approximate total cost to pay off the entire balance due on an open-end credit card account if the cardholder were to pay only the minimum amount due on the open-ended account based upon the terms of the credit agreement. For purposes of this subparagraph only, if the account is subject to a variable rate, the creditor may make disclosures based on the rate for the entire balance as of the date of the disclosure and indicate that
the rate may vary. In addition, the cardholder shall be provided with referrals or, in the alternative, with the “800” telephone number of the National Foundation for Credit Counseling through which the cardholder can be referred, to credit counseling services in, or closest to, the cardholder’s county of residence. The credit counseling service shall be in good standing with the National Foundation for Credit Counseling or accredited by the Council on Accreditation for Children and Family Services. The creditor is required to provide, or continue to provide, the information required by this paragraph only if the cardholder has not paid more than the minimum payment for six consecutive months, after July 1, 2002.

(3) (A) A written statement in the following form: “For an estimate of the time it would take to repay your balance, making only minimum payments, and the total amount of those payments, call this toll-free telephone number: (Insert toll-free telephone number).” This statement shall be provided immediately following the statement required by subparagraph (A) of paragraph (2). A credit card issuer is not required to provide this statement if the disclosure required by subparagraph (B) of paragraph (2) has been provided.

(B) The toll-free telephone number shall be available between the hours of 8 a.m. and 9 p.m., Pacific standard time, seven days a week, and shall provide consumers with the opportunity to speak with a person, rather than a recording, from whom the information described in subparagraph (A) may be obtained.

(C) The Department of Financial Institutions shall establish a detailed table illustrating the approximate number of months that it would take and the approximate total cost to repay an outstanding balance if the consumer pays only the required minimum monthly payments and if no other additional charges or fees are incurred on the account, such as additional extension of credit, voluntary credit insurance, late fees, or dishonored check fees by assuming all of the following:

(i) A significant number of different annual percentage rates.

(ii) A significant number of different account balances, with the difference between sequential examples of balances being no greater than one hundred dollars ($100).

(iii) A significant number of different minimum payment amounts.

(iv) That only minimum monthly payments are made and no additional charges or fees are incurred on the account, such as additional extensions or credit, voluntary credit insurance, late fees, or dishonored check fees.

(D) A creditor that receives a request for information described in subparagraph (A) from a cardholder through the toll-free telephone
number disclosed under subparagraph (A), or who is required to provide the information required by subparagraph (B) of paragraph (2), may satisfy its obligation to disclose an estimate of the time it would take and the approximate total cost to repay the cardholder’s balance by disclosing only the information set forth in the table described in subparagraph (C). Including the full chart along with a billing statement does not satisfy the obligation under this section.

(b) For purposes of this section:
   (1) “Credit card” has the same meaning as in paragraph (2) of subdivision (a) of Section 1748.12.
   (2) “Open-end credit card account” means an account in which consumer credit is granted by a creditor under a plan in which the creditor reasonably contemplates repeated transactions, the creditor may impose a finance charge from time to time on an unpaid balance, and the amount of credit that may be extended to the consumer during the term of the plan is generally made available to the extent that any outstanding balance is repaid and up to any limit set by the creditor.
   (3) “Retail credit card” means a credit card is issued by or on behalf of a retailer, or a private label credit card that is limited to customers of a specific retailer.

(c) (1) This section shall not apply in any billing cycle in which the account agreement requires a minimum payment of at least 10 percent of the outstanding balance.
   (2) This section shall not apply in any billing cycle in which finance charges are not imposed.

SEC. 2. If the federal Bankruptcy Reform Act of 2001, as proposed by H.R. No. 333 of the 107th Congress, is enacted and includes the provisions of Section 1301 (Enhanced Disclosures Under an Open End Credit Plan) as it read on July 17, 2001, credit card issuers and retail credit card issuers shall be exempt from the following provisions of Section 1748.13 of the Civil Code:

   (a) The provisions of paragraph (1) of subdivision (a).
   (b) (1) The provisions of clause (i) of subparagraph (A) of paragraph (2) of subdivision (a) as it relates to that portion of the statement describing the payments made on a balance of one thousand dollars ($1,000). However, the portion of the statement describing the payments made on balances of two thousand five hundred dollars ($2,500) and five thousand dollars ($5,000) shall be inserted immediately after the statement required by Section 1301 (Enhanced Disclosures Under an Open End Credit Plan) of the federal act.
   (2) For retail credit card issuers, the provisions of clause (ii) of subparagraph (A) of paragraph (2) of subdivision (a) as it relates to that portion of the statement describing the payments made on a balance of

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two hundred fifty dollars ($250). However, the portion of the statement describing the payments made on balances of five hundred dollars ($500) and seven hundred fifty dollars ($750) shall be inserted immediately after the statement required by Section 1301 (Enhanced Disclosures Under an Open End Credit Plan) of the federal act.

(c) The provisions of subparagraph (A) of paragraph (3) of subdivision (a).

SEC. 3. Except for the provisions of subparagraph (C) of paragraph (3) of subdivision (a) of Section 1748.13 which shall become operative on January 1, 2002, this act shall become operative on July 1, 2002.