

1 district, territory or possession of the United States, or any foreign country), or a government or
2 governmental subdivision or agency of a credit card device.

3 (4) “Credit card plan” or “plan” shall mean any arrangement or plan between a borrower
4 and a credit card lender for open-end, revolving extensions of credit made available through a
5 credit card device. Provided, however, the terms “credit card plan” or “plan” do not include an
6 extension of credit, the prepayment of which is secured by real property.

7 **6-26.1-2. Authorization to make loans -- Usury.** -- Any credit card lender may, subject
8 to any limitations on lending authorities contained in its charter or otherwise imposed by law,
9 offer and extend credit to a borrower and in connection therewith may charge and collect interest,
10 interest fees and charges, and other charges permitted by this chapter and may take such security
11 as collateral in connection therewith as may be acceptable to the credit card lender.

12 **6-26.1-3. Variable rates.** -- If the agreement governing a credit card plan so provides,
13 the periodic percentage rate or rates of interest under such plan may vary in accordance with a
14 schedule or formula. Such periodic rate or rates may vary from time to time as the rate
15 determined in accordance with such schedule or formula varies and such periodic rate or rates, as
16 so varied, may be made applicable to all or any part of outstanding unpaid indebtedness under the
17 plan on or after the first day of the billing cycle that contains the effective date of such variation,
18 including any such indebtedness arising out of purchases made or loans obtained prior to such
19 variation in the periodic percentage rate or rates. Without limitation, a permissible schedule or
20 formula hereunder may include provisions in the agreement governing the plan for a change in
21 the periodic percentage rate or rates of interest applicable to all or any part of outstanding unpaid
22 indebtedness, whether by variation of the then applicable periodic percentage rate or rates of
23 interest, variation of an index or margin or otherwise, contingent upon the happening of any event
24 or circumstance specified in the plan, which event or circumstance may include, but not be
25 limited to, the failure of the borrower to perform in accordance with the terms of the plan.

26 **6-26.1-4. Interest.** -- A credit card lender may charge and collect interest under a credit
27 card plan on outstanding unpaid indebtedness in the borrower’s account under the plan at such
28 daily, weekly, monthly, annual or other periodic percentage rate or rates as the agreement
29 governing the plan provides or as established in the manner provided in the agreement governing
30 the plan. If the agreement governing the plan so provides, the outstanding unpaid indebtedness
31 may include the amount of any interest, interest fees and charges, and other charges outstanding.
32 Interest may be calculated using an average daily balance, two-cycle average daily balance,
33 adjusted balance or previous balance method or using any other balance computation method
34 provided for in the agreement governing the plan. Credit card transactions may be included in the

1 outstanding unpaid indebtedness as of such time as may be specified in the agreement governing
2 the plan. Periodic billing cycles may be established in such manner and shall have the duration as
3 may be specified in the agreement governing the plan.

4 **6-26.1-5. Interest fees and charges.** -- (a) In addition to or in lieu of interest at a
5 periodic percentage rate or rates as provided in section 6-26.1-4, a credit card lender may, if the
6 agreement governing the credit card plan so provides, charge and collect, as interest, in such
7 manner or form as the plan may provide, one or more of the following:

8 (1) Daily, weekly, monthly, annual or other periodic charges in such amount or amounts
9 as the agreement may provide for the privileges made available to the borrower under the plan;

10 (2) A transaction charge or charges in such amount or amounts as the agreement may
11 provide for each separate purchase, loan, or other transaction under the plan;

12 (3) A minimum charge for each daily, weekly, monthly, annual or other scheduled
13 billing period under the plan during any portion of which there is an outstanding unpaid
14 indebtedness under the plan;

15 (4) Reasonable fees for services rendered or for reimbursement of expenses incurred in
16 good faith by the credit card lender or its agents in connection with the plan, or other reasonable
17 fees incident to the application for and the opening, administration and termination of a plan
18 including, without limitation, commitment, application and processing fees, official fees and
19 taxes, costs incurred by reason of examination of title, inspection, appraisal, recording, mortgage
20 satisfaction or other formal acts necessary or appropriate to the security for the plan, and filing
21 fees;

22 (5) Returned payment charges or charges imposed for the return of a draft or check
23 drawn on a credit card plan evidencing an extension of credit under such plan;

24 (6) Documentary evidence charges;

25 (7) Stop payment fees;

26 (8) Overlimit charges;

27 (9) Automated teller machine charges or other electronic or interchange fees or charges;

28 and

29 (10) Subject to any limitations contained in this chapter, such other fees and charges as
30 are set forth in the agreement governing the plan.

31 (b) No charges assessed in accordance with this section shall be deemed void as a
32 penalty or otherwise unenforceable under any statute or the common law.

33 **6-26.1-6. Omitted installments.** -- A credit card lender may at any time and from time
34 to time unilaterally extend to a borrower under a credit card plan the option of omitting monthly

1 installments.

2 **6-26.1-7. Delinquent installments.** -- (a) If the agreement governing a credit card plan
3 so provides, a credit card lender may impose, as interest, a late or delinquency charge upon any
4 outstanding unpaid installment payments or portions thereof under the plan which are in default.
5 Nothing contained in this section shall limit, restrict or otherwise affect the right of a credit card
6 lender to change the percentage rate or rates of interest applicable to the credit plan between the
7 credit card lender and a borrower upon the occurrence of a delinquency or default or other failure
8 of the borrower to perform in accordance with the terms of the plan.

9 (b) No charges assessed by a credit card lender in accordance with this section shall be
10 deemed void as a penalty or otherwise unenforceable under any statute or the common law.

11 **6-26.1-8. Amendment of agreement.** -- Unless the agreement governing a credit card
12 plan otherwise provides: (1) a credit card lender may at any time and from time to time amend the
13 terms of such agreement in any respect; and (2) any amendment may, on and after the date upon
14 which it becomes effective as to a particular borrower, apply to all the outstanding unpaid
15 indebtedness in the borrower's account under the plan, including any such indebtedness that arose
16 prior to the effective date of the amendment. An agreement governing to a credit card plan may
17 become effective as determined by the credit card lender, subject to compliance by the credit card
18 lender with any applicable notice requirements under the truth in lending act (15 U.S.C. sections
19 1601 et seq.), and the regulations promulgated thereunder, as in effect from time to time.

20 **6-26.1-9. Materiality of terms.** -- All terms, conditions and other provisions of and
21 relating to a credit card plan as contained in this chapter or any other applicable chapter, or in the
22 agreement governing the plan (other than those which are interest fees and charges under this
23 chapter), including, without limitation, provisions relating to the method of determining the
24 outstanding unpaid indebtedness on which interest is applied, time periods within which interest
25 or interest fees and charges may be avoided, reasons for default and the right to cure any default,
26 right to accelerate, account cancellation, choice of law, change in terms requirements, right to
27 charge and collect attorneys' fees, court and collection costs and the compounding of interest or
28 interest fees and charges, shall be and hereby are deemed to be material to the determination of
29 interest applicable to a plan under Rhode Island law, under the most favored lender doctrine, and
30 under section 85 of the national bank act (12 U.S.C. section 85) or section 521 of the depository
31 institutions deregulation and monetary control act of 1980 (12 U.S.C. section 1831d).

32 **6-26.1-10. Applicable law.** -- An agreement governing a credit card plan shall be
33 governed solely by applicable federal law and the laws of the state of Rhode Island unless
34 otherwise expressly agreed in writing by the parties.

1 SECTION 2. Section 6-26-2 of the General Laws in Chapter 6-26 entitled "Interest and
2 Usury" is hereby amended to read as follows:

3 **6-26-2. Maximum rate of interest.** -- (a) Subject to the provisions of title 19, no person,
4 partnership, association, or corporation loaning money to or negotiating the loan of money for
5 another, except duly licensed pawnbrokers shall, directly or indirectly, reserve, charge, or take
6 interest on a loan, whether before or after maturity, at a rate which shall exceed the greater of
7 twenty-one percent (21%) per annum or the alternate rate specified in subsection (b) of this
8 section of the unpaid principal balance of the net proceeds of the loan not compounded, nor taken
9 in advance, nor added on to the amount of the loan.

10 (b) The alternate rate shall mean the rate per annum which is equal to nine percentage
11 points (9%) plus an index which is the domestic Prime Rate as published in the Money Rates
12 section of The Wall Street Journal on the last business day of each month preceding the later of
13 the date of the debtor's agreement or the date on which the interest rate is redetermined in
14 accordance with the terms of the debtor's agreement. If the Wall Street Journal ceases publication
15 of the Prime Rate, the Director of Business Regulation shall designate a substantially equivalent
16 index. In the event an index is published as a range of rates, then the lowest rate shall be the
17 index.

18 (c) For purposes of this section, interest shall not be construed to include charges
19 pursuant to chapters 30 and 31 of title 27; premiums for insurance in an amount not exceeding the
20 reasonable value of property offered as security for a loan against any substantial risk of loss,
21 liability, damage, or destruction in conformity with the insurance laws of this state; premiums for
22 insurance providing loss of income or involuntary unemployment coverage if the coverage is not
23 a factor in the approval by the lender of the extension of credit and the debtor gives specific
24 written indication that the cost of this coverage has been conspicuously disclosed to the debtor,
25 that the debtor realizes that the coverage is not a condition for the extension of credit, and that the
26 debtor voluntarily desires the coverage; commercial loan commitment or availability fees to
27 assure the availability of a specified amount of credit for a specified period of time or, at the
28 borrower's option, compensating balances in lieu of the fees; reasonable attorney's fees
29 customarily charged for the preparation of loan, security, or mortgage documents and for the
30 collection of defaulted loans; fees for title examination or title insurance; other customary and
31 reasonable costs incident to the closing, supervision, and collection of loans in this state; and
32 consideration received for the redemption, sale, transfer, or other disposition of equity securities
33 by a small business investment company licensed under the provisions of the United States
34 "Small Business Investment Act of 1958" [15 U.S.C. section 631 et seq.], as amended, or an

1 entity which would qualify for regulation as a business development company under the
2 provisions of the "Investment Company Act of 1940" [15 U.S.C. section 80a-1 et seq.], as
3 amended, whether or not the equity securities were acquired by such small business investment
4 company or business development company in connection with or as an incident to the extension
5 of credit. Any of the foregoing charges, if paid or advanced by the lender, may be considered part
6 of the net proceeds of the loan, and if paid by the debtor, shall not be deducted from the net
7 proceeds of the loan.

8 (d) Notwithstanding anything to the contrary in this chapter or in any other provision of
9 Rhode Island law, ~~with respect to credit card transactions: (1) the provisions of subsection (a) of~~
10 ~~this section shall not be applicable; (2) the interest rate shall be as agreed upon between lender~~
11 ~~and debtor; and (3) the following fees shall be construed as interest: fees for late payment, cash~~
12 ~~advance fees, overlimit fees, returned check fees and annual membership fees. the provisions of~~
13 this chapter shall not be applicable with respect to credit card transactions as defined in chapter 6-
14 26.1. Said chapter 6-26.1 only shall apply to all such transactions.

15 (e) Notwithstanding the provisions of subsection (a) of this section and/or any other
16 provision in this chapter to the contrary, there is no limitation on the rate of interest which may be
17 legally charged for the loan to, or use of money by, a commercial entity, where the amount of
18 money loaned exceeds the sum of one million dollars (\$1,000,000) and where repayment of the
19 loan is not secured by a mortgage against the principal residence of any borrower; provided, that
20 the commercial entity has first obtained a pro forma methods analysis performed by a certified
21 public accountant licensed in the state of Rhode Island indicating that the loan is capable of being
22 repaid.

23 SECTION 3. This act shall take effect upon passage and shall apply retroactively to
24 January 1, 2002.

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LC02406/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CREDIT CARD LENDING

1 This act would establish provisions governing the terms, conditions and obligations under
2 which a bank credit card plan may operate.

3 This act would take effect on passage and would apply retroactively to January 1, 2002.

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LC02406/SUB A
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