



1 Columbia, the United States or any district, territory or possession of the United States, or any  
2 foreign country), or a government or 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, said “credit card plan” or “plan” does not include an  
6 extension of credit, the repayment 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 billing  
13 period under the plan during any portion of which there is an outstanding unpaid indebtedness  
14 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 drawn  
23 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 (10) Prepayment charges authorized under subsection (b) of this section; and

29 (11) 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) An individual borrower may pay the outstanding unpaid indebtedness charged to the  
32 borrower's account under a plan in full at any time. Except for a charge imposed to terminate a  
33 plan if the agreement governing the plan so provides, a credit card lender may not impose any  
34 prepayment charge in connection with the payment of outstanding unpaid indebtedness in full by

1 an individual borrower. The terms of prepayment of the outstanding unpaid indebtedness relating  
2 to a credit card plan involving a borrower other than an individual borrower shall be as the lender  
3 and the borrower may agree.

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

6 **6-26.1-6. Overdraft accounts.** -- If credit under a credit card plan is offered and  
7 extended in connection with a demand deposit account or other transaction account maintained by  
8 the borrower pursuant to an agreement or arrangement whereby the holder of the deposit account  
9 agrees to honor checks, drafts or other debits to such account, which if paid would create or  
10 increase a negative balance in such account, by making extensions of credit to such borrower  
11 under such credit card plan, any charges customarily imposed under the terms governing such  
12 demand deposit or other transaction account in the absence of any associated credit card plan  
13 (including, without limitation, check charges, monthly maintenance charges, checkbook charges,  
14 charges for checks drawn on funds in excess of an available line of credit and other similar  
15 charges) may continue to be imposed on such account without specific reference thereto or  
16 incorporation thereof by reference in the agreement governing the credit card plan and the amount  
17 of any such charge, to the extent the balance in such demand deposit or other transaction account  
18 is insufficient to pay such a charge, may be charged to the borrower's account under the plan as a  
19 loan thereunder and may be included in outstanding unpaid indebtedness in accordance with the  
20 terms of the agreement governing such credit card plan.

21 **6-26.1-7. Omitted installments.** -- A credit card lender may at any time and from time to  
22 time unilaterally extend to a borrower under a credit card plan the option of omitting monthly  
23 installments.

24 **6-26.1-8. Insurance.** -- (a) A credit card lender may request but not require an individual  
25 borrower to be insured in respect of a credit card plan under a life, health, accident, health and  
26 accident or other credit or other permissible insurance policy or program, whether group or  
27 individual.

28 (b) In the case of a borrower borrowing under a credit card plan for other than personal,  
29 household or family purposes, a credit card lender may require the borrower to obtain insurance,  
30 from an insurer acceptable to the credit card lender, under a life, health, accident, health and  
31 accident or other credit or other permissible insurance policy or program, whether group or  
32 individual.

33 **6-26.1-9. Delinquent installments.** -- (a) If the agreement governing a credit card plan  
34 so provides, a credit card lender may impose, as interest, a late or delinquency charge upon any

1 outstanding unpaid installment payments or portions thereof under the plan which are in default;  
2 provided, however, that no more than one such late or delinquency charge may be imposed in  
3 respect of any single such installment payment or portion there, regardless of the period during  
4 which it remains in default; and provided further, however, that for the purpose only of the  
5 preceding provision all payments by the borrower shall be deemed to be applied to satisfaction of  
6 installment payments in the order in which they become due. Nothing contained in this section  
7 shall limit, restrict or otherwise affect the right of a credit card lender to change the percentage  
8 rate or rates of interest applicable to the credit plan between the credit card lender and a borrower  
9 upon the occurrence of a delinquency or default or other failure of the borrower to perform in  
10 accordance with the terms of the plan.

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

13 **6-26.1-10. Attorneys' fees -- Costs. --** In the event a borrower defaults under the terms  
14 of a plan, the credit card lender may, if the borrower's account is referred to an attorney (not a  
15 regularly salaried employee of the credit card lender) or to a third party for collection and if the  
16 agreement governing the credit card plan so provides, charge and collect from the borrower a  
17 reasonable attorneys' fee. In addition, following a borrower's default, the credit card lender may,  
18 if the agreement governing the plan so provides, recover from the borrower all court, alternative  
19 dispute resolution or other collection costs (including, without limitation, fees and charges of  
20 collection agencies) actually incurred by the credit card lender.

21 **6-26.1-11. Amendment of agreement. --** (a) Unless the agreement governing a credit  
22 card plan otherwise provides, a credit card lender may at any time and from time to time amend  
23 such agreement in any respect, whether or not the amendment or the subject of the amendment  
24 was originally contemplated or addressed by the parties or is integral to the relationship between  
25 the parties. Without limiting the foregoing, such amendment may change terms by the addition  
26 of new terms or by the deletion or modification of existing terms, whether relating to plan  
27 benefits or features, the rate or rates of interest, the manner of calculating interest or outstanding  
28 unpaid indebtedness, variable schedules or formulas, interest fees and charges, fees, collateral  
29 requirements, methods for obtaining or repaying extensions of credit, attorneys' fees, plan  
30 termination, the manner for amending the terms of the agreement, arbitration or other alternative  
31 dispute resolution mechanisms, or other matters of any kind whatsoever. Unless the agreement  
32 governing a credit card plan otherwise expressly provides, any amendment may, on and after the  
33 date upon which it becomes effective as to a particular borrower, apply to all then outstanding  
34 unpaid indebtedness in the borrower's account under the plan, including any such indebtedness

1 that arose prior to the effective date of the amendment. An agreement governing a credit card  
2 plan may be amended pursuant to this section regardless of whether the plan is active or inactive  
3 or whether additional borrowings are available thereunder. Any amendment that does not increase  
4 the rate or rates of interest charged by a credit card lender to a borrower under section 6-26.1-3 or  
5 section 6-26.1-4 of this chapter may become effective as determined by the credit card lender,  
6 subject to compliance by the credit card lender with any applicable notice requirements under the  
7 truth in lending act (15 U.S.C. sections 1601 et seq.), and the regulations promulgated thereunder,  
8 as in effect from time to time. Any notice of an amendment sent by the credit card lender may be  
9 included in the same envelope with a periodic statement or as part of the periodic statement or in  
10 other materials sent to the borrower.

11 (b)(1) If an amendment increases the rate or rates of interest charged by a credit card  
12 lender to a borrower under section 6-26.1-3 or section 6-26.1-4 of this chapter, the credit card  
13 lender shall mail or deliver to the borrower, at least fifteen (15) days before the effective date of  
14 the amendment, a clear and conspicuous written notice that shall describe the amendment and  
15 shall also set forth the effective date thereof and any applicable information required to be  
16 disclosed pursuant to the following provisions of this section.

17 (2) Any amendment that increases the rate or rates of interest charged by a credit card  
18 lender to a borrower under section 6-26.1-3 or section 6-26.1-4 of this chapter may become  
19 effective as to a particular borrower if the borrower does not, within fifteen (15) days of the  
20 earlier mailing or delivery of the written notice of the amendment (or such longer period as may  
21 be established by the credit card lender), furnish written notice to the credit card lender that the  
22 borrower does not agree to accept such amendment. The notice from the credit card lender shall  
23 set forth the address to which a borrower may send notice of the borrower's election not to accept  
24 the amendment and shall include a statement that, absent the furnishing of notice to the credit  
25 card lender of nonacceptance within the referenced fifteen (15) day (or longer) time period, the  
26 amendment will become effective and apply to such borrower. As a condition to the  
27 effectiveness of any notice that a borrower does not accept such amendment, the credit card  
28 lender may require the borrower to return to it all credit devices. If, after fifteen (15) days from  
29 the mailing or delivery by the credit card lender of a notice of an amendment (or such longer  
30 period as may have been established by the credit card lender as referenced above), a borrower  
31 uses a plan by making a purchase or obtaining a loan, notwithstanding that the borrower has prior  
32 to such use furnished the credit card lender notice that the borrower does not accept an  
33 amendment, the amendment may be deemed by the credit card lender to have been accepted and  
34 may become effective as to the borrower as of the date that such amendment would have become

1 effective but for the furnishing of notice by the borrower (or as of any later date selected by the  
2 credit card lender).

3 (3) Any amendment that increases the rate or rates of interest charged by a credit card  
4 lender to a borrower under section 6-26.1-3 or section 6-26.1-4 of this chapter may, in lieu of the  
5 procedure referenced in paragraph (2) of this section, become effective as to a particular borrower  
6 if the borrower uses the plan after a date specified in the written notice of the amendment that is  
7 at least fifteen (15) days after the mailing or delivery of the notice (but that need not be the date  
8 the amendment becomes effective) by making a purchase or obtaining a loan; provided, that the  
9 notice from the credit card lender includes a statement that the described usage after the  
10 reference date will constitute the borrower's acceptance of the amendment.

11 (4) Any borrower who furnishes timely notice electing not to accept an amendment in  
12 accordance with the procedures referenced in paragraph (2) of this section and who does not  
13 subsequently use the plan, or who fails to use such borrower's plan as referenced in paragraph (3)  
14 of this section, shall be permitted to pay the outstanding unpaid indebtedness in such borrower's  
15 account under the plan in accordance with the rate or rates of interest charged by a credit card  
16 lender to a borrower under section 6-26.1-3 or section 6-26.1-4 of this chapter without giving  
17 effect to the amendment; provided, however, that the credit card lender may convert the  
18 borrower's account to a closed end credit account on credit terms substantially similar to those set  
19 forth in the then-existing agreement governing the borrower's plan.

20 (5) Notwithstanding the other provisions of this section, no notice required by this section  
21 of an amendment of an agreement governing a credit card plan shall be required, and any  
22 amendment may become effective as of any date agreed upon between a credit card lender and a  
23 borrower, with respect to any amendment that is agreed upon between the credit card lender and  
24 the borrower, either orally or in writing.

25 (c) For purposes of this section, the following are examples of amendments that shall not  
26 be deemed to increase the rate or rates of interest charged by a credit card lender to a borrower  
27 under section 6-26.1-3 or section 6-26.1-4 of this chapter:

28 (1) A decrease or increase in the required number or amount of periodic installment  
29 payments;

30 (2) Any change to a plan that increases the rate or rates in effect immediately prior to the  
31 change by less than one-quarter (¼) of 1 percentage point per annum; provided that a credit card  
32 lender may not make more than one such change in reliance on this paragraph with respect to a  
33 plan within any twelve (12) month period;

34 (3)(A) A change in the schedule or formula used under a variable rate plan under section

1 6-26.1-3 of this chapter that varies the determination date of the applicable rate, the time period  
2 for which the applicable rate will apply or the effective date of any variation of the rate, or any  
3 other similar change; or

4 (B) Any other change in the schedule or formula used under a variable rate plan under  
5 section 6-26.1-3 of this chapter; provided, that the initial interest rate that would result from any  
6 such change under this paragraph (3), as determined on the effective date of the change or, if the  
7 notice of the change is mailed or delivered to the borrower prior to the effective date, as of any  
8 date within sixty (60) days before mailing or delivery of such notice, will not be an increase from  
9 the rate in effect on such date under the existing schedule or formula.

10 (4) A change from a variable rate plan to a fixed rate, or from a fix rate to a variable rate  
11 plan so long as the initial rate that would result from such a change, as determined on the  
12 effective date of the change, or if the notice of the change is mailed or delivered to the borrower  
13 prior to the effective date, as of any date within sixty (60) days before mailing or delivery of such  
14 notice, will not be an increase from the rate in effect on such date under the existing plan;

15 (5) A change from a daily periodic rate to a periodic rate other than daily or from a  
16 periodic rate other than daily to a daily periodic rate; and

17 (6) A change in the method of determining the outstanding unpaid indebtedness upon  
18 which interest is calculated (including, without limitation, a change with respect to the date by  
19 which or the time period within which a new balance or any portion thereof must be paid to avoid  
20 additional interest).

21 (d) The procedures for amendment by a credit card lender of the terms of a plan to which  
22 a borrower other than an individual borrower is a party may, in lieu of the foregoing provisions of  
23 this section, be as the agreement governing the plan may otherwise provide.

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



1 institutions deregulation and monetary control act of 1980 (12 U.S.C. section 1831d).

2 **6-26.1-13. Applicable law.** -- An agreement governing a credit card plan shall be  
3 governed by the laws of the state of Rhode Island, and any other law of this state limiting the rate  
4 or amount of interest, discounts, points, finance charges, service charges or other charges or fees  
5 shall not apply to extensions of credit under a credit card plan operated in accordance with this  
6 chapter.

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

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

16 (b) The alternate rate means the rate per annum which is equal to nine percentage points  
17 (9%) plus an index which is the domestic prime rate as published in the Money Rates section of  
18 The Wall Street Journal on the last business day of each month preceding the later of the date of  
19 the debtor's agreement or the date on which the interest rate is redetermined in accordance with  
20 the terms of the debtor's agreement. If the Wall Street Journal ceases publication of the prime  
21 rate, the director of business regulation shall designate a substantially equivalent index. In the  
22 event an index is published as a range of rates, then the lowest rate shall be the index.

23 (c) (1) For purposes of this section, interest shall not be construed to include:

24 (i) Charges pursuant to chapters 30 and 31 of title 27;

25 (ii) Premiums for insurance in an amount not exceeding the reasonable value of property  
26 offered as security for a loan against any substantial risk of loss, liability, damage, or destruction  
27 in conformity with the insurance laws of this state;

28 (iii) Premiums for insurance providing loss of income or involuntary unemployment  
29 coverage if the coverage is not a factor in the approval by the lender of the extension of credit and  
30 the debtor gives specific written indication that the cost of this coverage has been conspicuously  
31 disclosed to the debtor, that the debtor realizes that the coverage is not a condition for the  
32 extension of credit, and that the debtor voluntarily desires the coverage;

33 (iv) Commercial loan commitment or availability fees to assure the availability of a  
34 specified amount of credit for a specified period of time or, at the borrower's option,

1 compensating balances in lieu of the fees;

2 (v) Reasonable attorney's fees customarily charged for the preparation of loan, security,  
3 or mortgage documents and for the collection of defaulted loans;

4 (vi) Fees for title examination or title insurance;

5 (vii) Other customary and reasonable costs incident to the closing, supervision, and  
6 collection of loans in this state; and

7 (viii) Consideration received for the redemption, sale, transfer, or other disposition of  
8 equity securities by a small business investment company licensed under the provisions of the  
9 "Small Business Investment Act of 1958", 15 U.S.C. section 631 et seq., as amended, or an entity  
10 which would qualify for regulation as a business development company under the provisions of  
11 the "Investment Company Act of 1940", 15 U.S.C. section 80a-1 et seq., as amended, whether or  
12 not the equity securities were acquired by a small business investment company or business  
13 development company in connection with or as an incident to the extension of credit.

14 (2) Any of the preceding charges, if paid or advanced by the lender, may be considered  
15 part of the net proceeds of the loan, and if paid by the debtor, shall not be deducted from the net  
16 proceeds of the loan.

17 (d) Notwithstanding anything to the contrary in this chapter or in any other provision of  
18 Rhode Island law, ~~with respect to credit card transactions:~~

19 ~~(1) The provisions of subsection (a) of this section shall not be applicable;~~

20 ~~(2) The interest rate shall be as agreed upon between lender and debtor; and~~

21 ~~(3) The following fees shall be construed as interest: fees for late payment, cash advance~~  
22 ~~fees, overlimit fees, returned check fees, and annual membership fees. the provisions of this~~  
23 ~~chapter shall not be applicable with respect to credit card transactions as defined in chapter 6-~~  
24 ~~26.1. Said chapter 6-26.1 shall apply exclusively to all such transactions.~~

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

33 SECTION 3. This act shall take effect on January 1, 2004.

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LC01414/SUB A  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO CREDIT CARD LENDING

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- 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 upon passage.

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LC01414/SUB A  
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