

Chapter 723

(Senate Bill 527)

AN ACT concerning

Credit Regulation – Unsecured Open End Credit Plans – Fees and Charges

FOR the purpose of providing that certain fees and charges permitted to be imposed on a certain consumer borrower under a certain unsecured open end credit plan, when combined with any interest charged under the plan, may not exceed a certain effective rate of interest; making a conforming change; and generally relating to the regulation of fees and charges under unsecured open end credit plans.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 12–905
Annotated Code of Maryland
(2013 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Commercial Law

12–905.

(a) With respect to an unsecured open end credit plan, fees or charges may not be imposed on a consumer borrower in addition to interest or finance charges as permitted by this subtitle, except as follows:

(1) If the plan is offered by a seller of goods or services, or both, and may be used only for the purchase or lease of the seller's goods and services, the seller may charge one of the following fees:

(i) An annual charge in any amount the agreement provides for the privileges made available to the consumer borrower under the plan;

(ii) A transaction charge or charges in such amount or amounts as the agreement may provide for each separate purchase under the plan; or

(iii) A minimum charge for each scheduled billing period under the plan during any portion of which there is an outstanding unpaid indebtedness under the plan.

(2) If the plan is offered by any other credit grantor, the credit grantor may impose any or all of the following fees:

(i) An annual charge in any amount the agreement provides for the privileges made available to the consumer borrower under the plan;

(ii) A transaction charge or charges in such amount or amounts as the agreement may provide for each separate purchase or loan under the plan; and

(iii) A minimum charge for each scheduled billing period under the plan during any portion of which there is an outstanding unpaid indebtedness under the plan.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, if the credit agreement provides, a credit union may make loans or extend credit to its members incorporating the same terms and conditions as a federal credit union is permitted under federal law and regulations relating to:

(i) An over the limit fee assessed on a credit card account; and

(ii) Fees for ancillary and administrative services requested by the member, including:

1. Researching account records;

2. Providing duplicate statements and other documents; and

3. Expedited issuance of a duplicate or original credit card or device.

(b) (1) Except as provided in subsection (f) of this section, with respect to a secured open end credit plan, fees or charges may not be imposed on a consumer borrower in addition to interest or finance charges except for actual and verifiable fees incurred by the credit grantor and not retained by the credit grantor for the following:

(i) Attorney's fees for services rendered in connection with the preparation, closing, or disbursement of the loan;

(ii) Any expense, tax, or charge paid to a governmental agency;

(iii) Examination of title, appraisal, or other costs necessary or appropriate to the security of the loan; and

(iv) Premiums for any insurance coverage permitted under this subtitle.

(2) The additional fees or charges permitted under this subsection may be imposed, charged, and collected at any time.

(c) If a plan is established for a consumer borrower, a fee or charge may not be charged or collected unless the agreement concerning the plan permits the fee to be charged.

(d) If a plan is established for a nonconsumer borrower, the nonconsumer borrower and credit grantor may agree upon any terms concerning charges and fees.

(e) **(1)** For purposes of this section, the additional charges listed in subsections [(a)] **(A)(1) AND (3)**, (b), and (f) of this section are not interest or finance charges with respect to a plan.

(2) ANY FEES OR CHARGES PERMITTED UNDER SUBSECTION (A)(2) OF THIS SECTION, WHEN COMBINED WITH ANY INTEREST CHARGED, MAY NOT EXCEED AN EFFECTIVE RATE OF 33% PER ANNUM SIMPLE INTEREST.

(f) (1) Subject to the provisions of paragraphs (2) through (8) of this subsection, a credit grantor of an open end credit plan that is secured by a deposit, savings, passbook, or other similar account or certificate of deposit may impose:

(i) An application fee not to exceed \$35; and

(ii) An annual charge not to exceed \$35 for the privileges made available to the consumer borrower under the plan.

(2) If an application to the plan is approved, the credit grantor shall credit the application fee:

(i) To the initial annual charge; and

(ii) If there is no annual charge, to the interest or finance charges under the plan.

(3) If an application to the plan is rejected, the credit grantor shall return the application fee to the applicant.

(4) Within 45 days after the receipt of the application, the credit grantor shall:

(i) Accept the application; or

(ii) Reject the application and return the application fee to the applicant.

(5) Any such plan shall have a credit limit of no less than the amount of the deposit, savings, passbook, or other similar account or certificate of deposit required as security.

(6) The application shall state the amount of:

- (i) The minimum required security; and
- (ii) The application fee.

(7) The agreement shall state the amount of the annual charge.

(8) If an annual charge is imposed, the credit grantor shall pay interest on the deposit, savings, passbook, or other similar account or certificate of deposit required as security in the greater of:

- (i) A rate of 4 percent per annum simple interest; or
- (ii) The rate of interest regularly paid on regular passbook savings accounts by the lending institution that issued the deposit, savings, passbook, or other similar account or certificate of deposit required as security.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 25, 2017.