

State of California

FINANCIAL CODE

Section 4001

4001. (a) A supervised financial organization or charge card issuer may not charge more than any of the following amounts:

(1) If set forth in the consumer credit or charge card agreement, one of the following fees:

(A) Seven dollars (\$7) with respect to any monthly billing cycle as a late payment charge on the minimum payment due that is not paid within five days after the date the payment is due.

(B) Ten dollars (\$10) with respect to any monthly billing cycle as a late payment charge on the minimum payment due that is not paid within 10 days after the date the payment is due.

(C) Fifteen dollars (\$15) with respect to any monthly billing cycle as a late payment charge on the minimum payment due that is not paid within 15 days after the date the payment is due.

(2) In lieu of the fee permitted by paragraph (1), if the consumer has already incurred two late payment fees during the preceding 12-month period, the fee charged may be no more than ten dollars (\$10) with respect to any monthly billing cycle as a late payment charge on the minimum payment due that is not paid within five days after the date the payment is due.

(3) Ten dollars (\$10) with respect to any charge that causes the outstanding balance to exceed the credit limit by five hundred dollars (\$500) or 120 percent, whichever is less. No overlimit fee may be charged unless the charge causes the outstanding balance to exceed the credit limit by five hundred dollars (\$500) or 120 percent, whichever is less. Not more than one overlimit charge may be assessed with respect to any monthly billing cycle.

(b) In addition to imposing a fee for any late payment or overlimit as authorized by subdivision (a), a supervised financial organization may assess a finance charge at the rates set forth in the consumer credit agreement on the outstanding balance, which may include any late payment or overlimit fee charged on a prior billing statement.

(c) Whenever a consumer fails to make a minimum payment on or before the due date specified in the billing statement, plus the applicable late payment grace period, a late payment fee may be assessed by the supervised financial organization or charge card issuer. A supervised financial organization or charge card issuer may impose no more than one late payment fee with respect to any monthly billing cycle. All payments by the consumer shall be applied by a supervised financial organization to satisfaction of scheduled payments in the order that they become due. A charge card issuer shall

apply all payments made by the consumer to satisfaction of unpaid amounts in the order that they become due.

(d) A supervised financial organization shall provide a minimum number of days between the monthly billing statement date and the date upon which the minimum payment is due, exclusive of the applicable late payment grace period provided for in paragraph (1) of subdivision (a), and a charge card issuer shall provide a minimum number of days between the monthly billing statement date and the date upon which the applicable late payment grace period provided for in paragraph (1) of subdivision (a) begins to run, of at least:

(1) Twenty-three days, on an average basis over a calendar year or other consecutive 12-month period, for any organization or issuer charging the fee authorized by subparagraph (A) of paragraph (1) of subdivision (a).

(2) Twenty days, on an average basis over a calendar year or other consecutive 12-month period, for any organization or issuer charging the fee authorized by subparagraph (B) or (C) of paragraph (1) of subdivision (a).

(e) (1) The applicable late payment grace period and fee shall be disclosed in the consumer credit agreement. The late payment grace period shall be disclosed in the consumer credit or charge card agreement but need not be disclosed in any monthly or other billing statement. The amount and conditions for imposition of any fee for overlimit activity shall also be disclosed in the consumer credit or charge card agreement.

(2) If a consumer credit or charge card agreement contains a provision for a late payment fee or overlimit fee, each monthly or other billing statement shall disclose the amount of the late payment and overlimit fee and the date the minimum payment is due.

(Added by Stats. 1994, Ch. 1079, Sec. 1. Effective January 1, 1995.)