



LD 1119 *An Act to Limit Credit Card Fees by Requiring Monthly Credit Card Billing*
Testimony in Opposition to LD 1119

Senator Sanborn, Representative Tepler and members of the Health Coverage, Insurance & Financial Services Committee. My name is Kathy Keneborus, and I am a resident of Hollis. I am Vice President of Government Relations at the Maine Bankers Association (MBA), a state-wide trade association representing Maine's 28 retail banks and their 9000 employees.

MBA is testifying in opposition to LD 1119 because we believe Maine's Truth-in-Lending Act (TILA) and the federal Truth-in-Lending Act already address statement scheduling and payment due dates to protect customers. Both the federal and state TILA mandate that the periodic statements be mailed or delivered at least 21 days before the payment due date. Also, they require that the payment due date for credit cards be the same day of the month for billing cycles (see attached Ex. I).

Maine is one of roughly five states with their own Truth-in-Lending Act. The Maine law applies to state-chartered banks, but it does not apply to federal or national chartered banks. Federal or national chartered banks follow the federal Truth-in-Lending Act.

Maine TILA (Title 9A §8-503) conforms with the federal TILA (12 Code of Federal Regulations, Section 1026.1). Federal TILA is very specific regarding periodic statements and when statements are not required. Federal TILA does not require statements for several reasons, including the following:

- If the end of cycle balance is less than \$1 and no finance charge has been imposed on the account for that cycle.
- If a statement was returned as undeliverable with no knowledge of a new address.
- If the creditor has charged off the account in accordance with loan-loss provisions and will not charge any additional fees or interest on the account.

LD 1119 does not provide exceptions for not sending statements, so we feel the bill conflicts with both Maine and the federal TILA.

LD 1119 will not impact federal or national chartered institutions due to 12 CFR § 7.4008 (4) - lending by national banks. A national bank may make non-real estate loans without regard to state law limitations concerning the terms of credit, including the schedule for repayment of principal and interest (see attached Ex. II).

We urge you to vote ought-not-to-pass on LD 1119 for the following reasons:

- Both state and federal Truth-in-Lending Acts already address statement scheduling and payment due dates to protect customers.
- The bill conflicts with Maine and federal TILA regarding statement requirements in certain situations.
- The bill would only impact state-chartered banks and not federal/national chartered banks.

Thank you for allowing me to provide testimony today regarding LD 1119. I would be glad to answer questions now or at the work session for this bill.

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Maine Bankers Association
Testimony Handout to LD 1119 *An Act to Limit Credit Card Fees by Requiring Monthly Credit Card*
Billing
Ex. I

12 CFR Part § 1026.5 (b)(2) Periodic Statements

§ 1026.5 (b)(2) (i) Statement required. The creditor shall mail or deliver a periodic statement as required by § [1026.7](#) for each billing cycle at the end of which an account has a debit or credit balance of more than \$1 or on which a finance charge has been imposed. A periodic statement need not be sent for an account if the creditor deems it uncollectible, if delinquency collection proceedings have been instituted, if the creditor has charged off the account in accordance with loan-loss provisions and will not charge any additional fees or interest on the account, or if furnishing the statement would violate Federal law.

Additional Comments: 5(b)(2) Periodic Statements <https://www.consumerfinance.gov/rules-policy/regulations/1026/Interp-5/#5-b-1-iv-Interp-4>

5(b)(2)(i) Statement Required.

1. Periodic statements not required. Periodic statements need not be sent in the following cases:

i. If the creditor adjusts an account balance so that at the end of the cycle the balance is less than \$1 - so long as no finance charge has been imposed on the account for that cycle.

ii. If a statement was returned as undeliverable. If a new address is provided, however, within a reasonable time before the creditor must send a statement, the creditor must resume sending statements. Receiving the address at least 20 days before the end of a cycle would be a reasonable amount of time to prepare the statement for that cycle. For example, if an address is received 22 days before the end of the June cycle, the creditor must send the periodic statement for the June cycle. (See § 1026.13(a)(7).)

[12 CFR Part 1026.5\(b\)\(2\)\(ii\) Timing requirements](#)

(A) Credit card accounts under an open-end (not home-secured) consumer credit plan. For credit card accounts under an open-end (not home-secured) consumer credit plan, a card issuer must adopt reasonable procedures designed to ensure that:

(1) Periodic statements are mailed or delivered at least **21 days prior to the payment due** date disclosed on the statement pursuant to § 1026.7(b)(11)(i)(A); and

(2) The card issuer does not treat as late for any purpose a required minimum periodic payment received by the card issuer within 21 days after mailing or delivery of the periodic statement disclosing the due date for that payment.

12 CFR Part 10267(b)(11) **Due date; late payment costs.**

(i) Except as provided in paragraph (b)(11)(ii) of this section and in accordance with the format requirements in paragraph (b)(13) of this section, for a credit card account under an open-end (not home-secured) consumer credit plan, a card issuer must provide on each periodic statement:

(A) The due date for a payment. The due date disclosed pursuant to this paragraph shall be the same day of the month for each billing cycle.

(ii) Exception. The requirements of paragraph (b)(11)(i) of this section do not apply to the following:

(A) Periodic statements provided solely for charge card accounts, other than covered separate credit features that are charge card accounts accessible by hybrid prepaid-credit cards as defined in § 1026.61; and

(B) Periodic statements provided for a charged-off account where payment of the entire account balance is due immediately.

12 CFR § 7.4008 - Lending by national banks.

- [CFR](#)
 - [Table of Popular Names](#)
-

[prev](#) | [next](#)

§ 7.4008 Lending by national banks.

(a) Authority of national banks. A national [bank](#) may make, sell, purchase, participate in, or otherwise deal in loans and interests in loans that are not secured by liens on, or interests in, real estate, subject to such terms, conditions, and limitations prescribed by the Comptroller of the Currency and any other applicable Federal law.

(b) Standards for loans. A national [bank](#) shall not make a consumer loan subject to this [§ 7.4008](#) based predominantly on the [bank](#)'s realization of the foreclosure or liquidation value of the borrower's collateral, without regard to the borrower's ability to repay the loan according to its terms. A [bank](#) may use any reasonable method to determine a borrower's ability to repay, including, for example, the borrower's current and expected income, current and expected cash flows, net worth, other relevant financial resources, current financial [obligations](#), employment status, credit history, or other relevant factors.

(c) Unfair and deceptive practices. A national [bank](#) shall not engage in unfair or deceptive practices within the meaning of section 5 of the [Federal Trade Commission Act](#), [15 U.S.C. 45\(a\)\(1\)](#), and regulations promulgated thereunder in connection with loans made under this § 7.4008.

(d) Applicability of state law. A national [bank](#) may make non-real estate loans without regard to state law limitations concerning:

- (1)** Licensing, registration (except for purposes of service of process), filings, or [reports](#) by creditors;
- (2)** The ability of a creditor to require or obtain insurance for collateral or other credit enhancements or risk mitigants, in furtherance of safe and sound banking practices;
- (3)** Loan-to-value ratios;

(4) The terms of credit, including the schedule for repayment of principal and interest, amortization of loans, balance, payments due, minimum payments, or term to maturity of the loan, including the circumstances under which a loan may be called due and payable upon the passage of time or a specified event external to the loan;

(5) Escrow accounts, impound accounts, and similar accounts;

(6) Security property, including leaseholds;

(7) Access to, and use of, credit [reports](#);

(8) Disclosure and advertising, including laws requiring specific statements, information, or other content to be included in credit application forms, credit solicitations, [billing statements](#), credit contracts, or other credit-related documents;

(9) Disbursements and repayments; and

(10) Rates of interest on loans. ⁶

⁶ The limitations on charges that comprise rates of interest on loans by national [banks](#) are determined under Federal law. See [12 U.S.C. 85](#); [12 CFR 7.4001](#). [State laws](#) purporting to regulate national [bank](#) fees and charges that do not constitute interest are addressed in [12 CFR 7.4002](#).