

# Banks and Card Issuers Find Clever Ways Around CARD Act Rules

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Consumers should have seen it coming a mile away. In May, [Congress passed the Credit Card Accountability, Responsibility, and Disclosure \(CARD\) Act of 2009](#), which included lots of new rules designed to protect consumers from predatory practices by banks and credit card companies, such as hidden fees and sky-high interest rates. The new rules, which go into full effect on Feb. 22, threaten to take a big bite out of the \$15 billion in penalties and fees that the industry collects each year.



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So what have banks and card issuers done? They've come up with new fees.

With a full 44% of American households carrying a balance on their credit cards, the CARD Act was designed to protect consumers by forcing banks and credit card companies to eliminate confusing language in their agreements and statements, make the terms of their credit cards easier to understand and be more accountable to consumers and the government.

## Protections That the CARD Act Offers

The legislation weighed in at [1,155 pages of nauseating detail](#) (almost as bad as those confusing credit card agreements.) [Here is a summary of the provisions that are most helpful](#) to consumers:

- No more unfair rate increases - Credit card companies are notorious for increasing the interest rates on your credit cards at any time, for any reason, or for no apparent reason at all. Got yourself a fantastic "introductory rate" on a balance transfer? One late payment or a problem on a different credit card could cause a credit card company to take away that favorable rate and replace it with a sky-high rate. The CARD Act eliminates these practices.
- No "universal default" - Over the years, more and more credit card companies adopted the practice of giving you a high "penalty rate" if you defaulted on any other debt and that default (late payment, non-payment, etc.) was reported to a credit agency. No more. Credit card companies can't penalize you for what's going on with your other debts.
- Keeping favorable interest rates - The interest rate for purchases on a new credit card cannot change for the first year, and any promotional rate offered by a credit card company must last

at least six months. Your rate can't be "retroactively" increased on a promotional rate [until after you've been at least 60 days late with your payment](#).

- Changes to fee calculations - Banks and credit card companies must give consumers consistent payment cycles of at least 21 days, can't automatically charge "over the limit fees," and can't continue to use "double cycle billing" (a way to charge you interest on your balance twice, even if you've paid it off) to calculate interest.
- [Limitations on student credit](#) - The law attempts to protect college students from their own bad behavior by preventing credit card companies from issuing cards to anyone under age 21 without a co-signer. This action sounds nice, but it naturally ruffled a lot of feathers as the age of majority is 18, and at that age young people can enter into legally binding contracts and generally behave like adults... except when it comes to credit cards.
- Plain language - Applications, statements, and other notices about your credit card must use clear wording and readable type, rather than the traditional microscopic "fine print," to explain the terms of your credit card.
- [45 days for changes](#) - If your bank or credit card company wants to change the terms of your agreement to your detriment, they have to give you 45 days' notice of what they're changing. No more sneaking up on consumers with last minute changes. And they have to give consumers the option of closing their accounts if they refuse the changes.

### **Banks and Card Issuers Find a Way to Get Their Fees Anyway**

The rules hit on some of the most abusive (and lucrative) practices used against consumers by banks and credit card companies. So what is a bank or credit card company to do in the face of losing a major revenue source thanks to these new consumer protections? Come up with new ways to charge those fees, of course!

Before the new rules even went into effect, banks and credit card companies were finding new fees to hit consumers with. The first was [a \\$1 "statement fee"](#) for cardholders. [If you believe these statistics from late 2009](#), there are over 630 million credit cards in circulation in the United States. Consider a \$1 monthly fee to each for each of those cards, or \$12 per year. That's more than \$7.5 billion annually that credit card companies could potentially extract from cardholders. Not a bad start at chipping away at the fees the companies lost through the CARD Act. [Credit card companies are also](#) adding or increasing annual fees or reducing the value of "rewards" programs.

[But some of the changes being made by credit card companies and banks are far more sneaky and sinister-sounding:](#)

- Rate rebates -- Since they can't increase rates retroactively anymore (unless you've been two months late with your payment), banks and card issuers are playing new games with interest rates. The companies are experimenting with placing sky-high interest rates on accounts, but offering a "rebate" in the 10% range if you continue to pay on time. They're sucking in consumers with the promise of a lower rate through the rebate, knowing that most consumers will never earn the rebate and will actually pay the higher rate for the entire term of special deal.
- Consenting to over the limit fees -- The CARD Act prohibits over the limit fees unless

consumers consent. In the past, a credit card company would allow you to exceed your credit limit, but then charge you a fee for doing so. Now they have to get your consent to do that, and if they haven't gotten your consent, they must decline the transactions that would put you over the limit. Many consumers don't understand how this works, and are ending up inadvertently "consenting" to being charged an over the limit fee.

- [Converting your fixed rate to a variable rate](#) - Since credit card companies can't proactively increase interest rates at will, the best way to guarantee that consumers' rates will go up anyway is by changing their accounts to variable interest rates. As the prime rate goes up or down, the rate you pay on your credit card will fluctuate as well. But the game gets even better, as some banks are using variable rate that are "up only." Your rate will never go down, even if the prime rate goes down, but every time the prime rate goes up, the rate on your credit card increases too

## How to Protect Yourself

It's clear that banks and credit card companies have teams of people who sit around all day coming up with new ways to get fee revenue out of customers, completely defeating the spirit of the CARD Act. Oh sure, these companies will likely follow the law to the letter. They have to. But there is plenty of room for new and creative ways to get money out of consumers without violating them.

So what can consumers do to protect themselves? Don't be passive about your credit cards. Don't assume that because of this new law, you're automatically protected by the predatory practices of banks and credit card companies. You need to actively monitor your accounts and thoroughly read all of the information they send to you.

[John Ulzheimer](#), the President of [Consumer Education for Credit.com](#) and a credit scoring and credit reporting expert, says that [banks and credit card companies are playing "fee whack-a-mole,"](#) creating new fees to replace whatever is prohibited by the new legislation. Ulzheimer recommends that consumers carefully shop around for the best credit card and pay down their balances as quickly as possible. They need to actively monitor their credit, [especially if their data has been compromised and they are more susceptible to identity theft.](#)

The key for consumers is being proactive about their credit situation, monitoring what is going on with their accounts each month and working to pay down their balances. Credit card companies are notorious for being sneaky and exploitative. Don't let them do it to you. The only way to completely avoid these underhanded tactics is by refusing to do business with them. Let your wallet do the talking, and do everything you can to avoid predatory credit card companies.

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