

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY**

FAIR TRADING AMENDMENT BILL 2001

EXPLANATORY MEMORANDUM

Circulated by authority of
Dave Rugendyke MLA
Independent

FAIR TRADING AMENDMENT BILL 2001

Explanatory Memorandum

OUTLINE

This is an amending Bill to the *Fair Trading Act 1992*.

This amending Bill inserts a new section relating to the issue of unsolicited credit contracts and increases in credit limits.

The uniform national Consumer Credit Code allows credit providers to increase the credit limit under continuing credit contracts only at the request of the debtor or with the written consent of the debtor. However the code does not require the credit provider to assess whether the debtor has the capacity to repay the increased credit limit.

The *Fair Trading Act 1992* also contains provisions preventing the issue of unsolicited credit and debit cards but this does not include the issue of unsolicited credit card limit extensions.

Credit providers presently utilise a practice of mailing out pre-approved credit extension applications to customers, sometimes in the vicinity of three times the existing limit. The debtor only has to sign the form and the credit provider does not carry out any assessment of the debtor's financial situation before activating the increased limit.

This amending Bill compels credit providers to conduct such an assessment to determine whether the debtor has the capacity to repay the amount of credit offered prior to approving credit limit increases.

FORMAL CLAUSES

Clauses 1, 2 and 3 are formal requirements. They refer to the short title of the Bill, commencement and the Act being amended.

INTERPRETATION

Clause 4 inserts a new definition of credit card to the Principal Act.

UNSOLICITED DEBIT AND CREDIT CARDS

Clause 5 is a consequential omission due to the insertion of a new credit card definition in the interpretation section of the Principal Act.

Clause 6 is consequential renumbering due to the insertion of new section 28A for unsolicited credit contracts and increases in credit limits.

Clause 7 inserts new section 28A relating to unsolicited credit contracts and increases in credit limits.

The new section specifies that credit providers must not enter into credit contracts **or** increase the amount of credit available under a credit contract unless the offer has been accepted in writing by the debtor **and** the credit provider has carried out a satisfactory assessment process.

The new section also sets out definitions for credit contract, credit provider, debtor and satisfactory assessment process to clarify applicable terms.