

# 56:8-153 to 56:8-156

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2004 **CHAPTER:** 159

**NJSA:** 56:8-153 to 56:8-156 (Prohibits delivery of unsolicited credit cards)

**BILL NO:** A969 (Substituted for S622)

**SPONSOR(S):** Chatzidakis and others

**DATE INTRODUCED:** Pre-filed

**COMMITTEE:** **ASSEMBLY:** Consumer Affairs  
**SENATE:** Commerce

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:** **ASSEMBLY:** October 7, 2004

**SENATE:** June 21, 2004

**DATE OF APPROVAL:** November 22, 2004

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) 2nd reprint enacted

**A969**

**[SPONSOR'S STATEMENT:](#)** (Begins on page 2 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** **[ASSEMBLY:](#)** [Yes](#)

**[SENATE:](#)** [Yes](#)

**[FLOOR AMENDMENT STATEMENT:](#)** [Yes](#)

**LEGISLATIVE FISCAL ESTIMATE:** No

**S622**

**[SPONSOR'S STATEMENT:](#)** (Begins on page 2 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** **[ASSEMBLY:](#)** No

**[SENATE:](#)** [Yes](#)

**[FLOOR AMENDMENT STATEMENT:](#)** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

No

P.L. 2004, CHAPTER 159, *approved November 22, 2004*  
Assembly, No. 969 (*Second Reprint*)

1 AN ACT prohibiting the delivery of unsolicited credit cards and  
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. As used in this act:

8 <sup>2</sup>"Check" means a demand draft drawn on or payable through an  
9 office of a depository institution located in the United States that has  
10 imprinted on it the account holder's name and the depository  
11 institution's name, location and routing number.<sup>2</sup>

12 "Credit card" means any <sup>1</sup>[tangible or intangible instrument or  
13 device issued with or without fee by an issuer that can be used, alone  
14 or in connection with another means of account access, in obtaining  
15 money, goods, services or anything else of value on credit, including  
16 credit cards, credit plates, account numbers, or any other means of  
17 account access] card, plate, coupon book, or other single credit device  
18 that may be used from time to time to obtain credit<sup>1</sup>.

19 <sup>2</sup>"Unsolicited check" means any check mailed or otherwise  
20 delivered to a person for the purpose of drawing on an existing  
21 account that is an extension of credit or activating an account to  
22 obtain credit other than:

23 (1) in response to a request or application for a check or account;  
24 or

25 (2) as a substitute for a check or account previously issued to the  
26 person to whom the check is mailed or otherwise delivered.<sup>2</sup>

27 "Unsolicited credit card" means any credit card mailed or otherwise  
28 delivered to a person other than:

29 (1) in response to a request or application for a credit card; or

30 (2) as a renewal or substitute for a credit card previously issued  
31 to the person to whom the credit card is mailed or otherwise delivered.

32

33 2. It shall be an unlawful practice for any person to mail or  
34 otherwise deliver an unsolicited credit card to a person in this State.

35

36 3. No person in whose name an unsolicited credit card is issued  
37 shall be liable for any amount resulting from use of that card, from

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Assembly floor amendments adopted February 23, 2004.

<sup>2</sup> Senate SCM committee amendments adopted June 14, 2004.

1 which that person or a member of that person's family or household  
2 derives no benefit, unless the person has accepted the card by  
3 activating the card or using the card, or by authorizing use of the card  
4 by another person. Failure to destroy or return an unsolicited credit  
5 card shall not constitute acceptance of the card.

6  
7 <sup>2</sup>4. No person in whose name an unsolicited check is issued shall  
8 be liable for any amount resulting from use of that check or account,  
9 unless the person who is the holder of the account upon which the  
10 check is to be drawn, or who is the payee on the check, as the case  
11 may be, has accepted the check or account by using the check or  
12 account. Failure to destroy or return an unsolicited check shall not  
13 constitute acceptance of the check or account.<sup>2</sup>

14  
15 <sup>2</sup>[4.] 5.<sup>2</sup> This act shall take effect on the first day of the third  
16 month following enactment.

17

18

19

20

21 Prohibits delivery of unsolicited credit cards and limits recipients'  
22 liability for unauthorized use of unsolicited credit cards or checks.

# ASSEMBLY, No. 969

## STATE OF NEW JERSEY 211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

**Sponsored by:**

**Assemblyman LARRY CHATZIDAKIS**

**District 8 (Burlington)**

**Assemblyman FRANCIS L. BODINE**

**District 8 (Burlington)**

**Co-Sponsored by:**

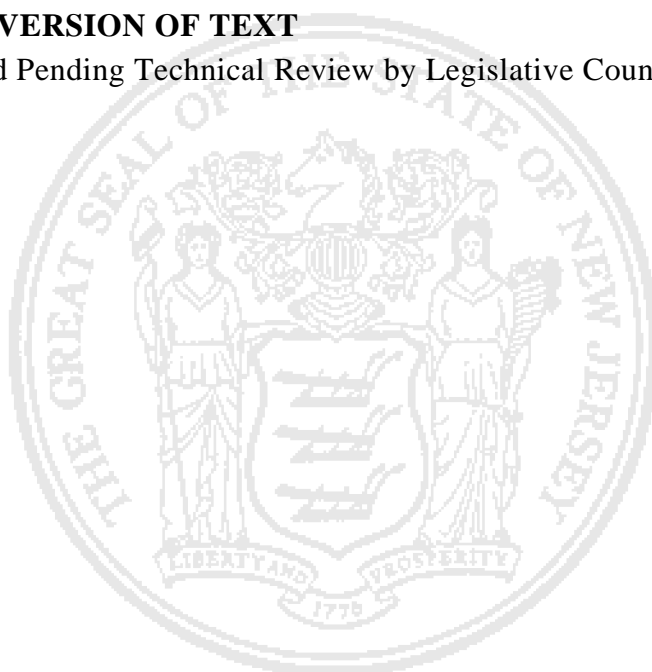
**Assemblywoman Previte, Assemblymen Chivukula, Connors and Gusciora**

**SYNOPSIS**

Prohibits delivery of unsolicited credit cards and limits recipients' liability for unauthorized use.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



A969 CHATZIDAKIS, BODINE

2

1 AN ACT prohibiting the delivery of unsolicited credit cards and  
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. As used in this act:

8 "Credit card" means any tangible or intangible instrument or device  
9 issued with or without fee by an issuer that can be used, alone or in  
10 connection with another means of account access, in obtaining money,  
11 goods, services or anything else of value on credit, including credit  
12 cards, credit plates, account numbers, or any other means of account  
13 access.

14 "Unsolicited credit card" means any credit card mailed or otherwise  
15 delivered to a person other than:

16 (1) in response to a request or application for a credit card; or

17 (2) as a renewal or substitute for a credit card previously issued to  
18 the person to whom the credit card is mailed or otherwise delivered.

19

20 2. It shall be an unlawful practice for any person to mail or  
21 otherwise deliver an unsolicited credit card to a person in this State.

22

23 3. No person in whose name an unsolicited credit card is issued  
24 shall be liable for any amount resulting from use of that card, from  
25 which that person or a member of that person's family or household  
26 derives no benefit, unless the person has accepted the card by  
27 activating the card or using the card, or by authorizing use of the card  
28 by another person. Failure to destroy or return an unsolicited credit  
29 card shall not constitute acceptance of the card.

30

31 4. This act shall take effect on the first day of the third month  
32 following enactment.

33

34

STATEMENT

35

36 This bill supplements the Consumer Fraud Act, P.L.1960. c.39  
37 (C.56:8-1 et seq.) to make it an unlawful practice for anyone to mail  
38 or otherwise deliver an unsolicited credit card to a person in this State.  
39 An "unsolicited credit card" is defined in the bill as any credit card  
40 other than (1) a card that has been requested, (2) a card for which an  
41 application has been submitted, or (3) a card that is a renewal or  
42 substitute for a previously issued card.

43 The bill also exempts a person from liability for unauthorized use  
44 of an unsolicited credit card issued in that person's name if the person  
45 has not accepted the card and the person or that person's family or  
46 household derive no benefit from its unauthorized use.

**A969 CHATZIDAKIS, BODINE**

1       An unlawful practice under the Consumer Fraud Act is punishable  
2 by a monetary penalty of not more than \$10,000 for a first offense and  
3 not more than \$20,000 for any subsequent offense. In addition, a  
4 violation can result in cease and desist orders issued by the Attorney  
5 General, the assessment of punitive damages and the awarding of  
6 treble damages and costs to the injured party.

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 969**

**STATE OF NEW JERSEY**

DATED: JANUARY 22, 2004

The Assembly Consumer Affairs Committee reports favorably Assembly Bill No. 969.

Assembly Bill No. 969 supplements the Consumer Fraud Act, P.L.1960. c.39 (C.56:8-1 et seq.) to make it an unlawful practice for anyone to mail or otherwise deliver an unsolicited credit card to a person in this State. An "unsolicited credit card" is defined in the bill as any credit card other than (1) a card that has been requested, (2) a card for which an application has been submitted, or (3) a card that is a renewal or substitute for a previously issued card.

The bill also exempts a person from liability for unauthorized use of an unsolicited credit card issued in that person's name if the person has not accepted the card and the person or that person's family or household derive no benefit from its unauthorized use.

An unlawful practice under the Consumer Fraud Act is punishable by a monetary penalty of not more than \$10,000 for a first offense and not more than \$20,000 for any subsequent offense. In addition, a violation can result in cease and desist orders issued by the Attorney General, the assessment of punitive damages and the awarding of treble damages and costs to the injured party.

This bill was pre-filed for introduction in the 2004 legislative session pending technical review. As reported, the bill includes the changes required by technical review which has been preformed.



# SENATE COMMERCE COMMITTEE

## STATEMENT TO

[First Reprint]

### **ASSEMBLY, No. 969**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 14, 2004

The Senate Commerce Committee reports favorably and with committee amendments Assembly Bill No. 969 (1R).

As amended, this bill prohibits the delivery of unsolicited credit cards and limits a recipient's liability for the unauthorized use of an unsolicited credit card or an unsolicited check.

This bill supplements the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.) to make it an unlawful practice for anyone to mail or otherwise deliver an unsolicited credit card to a person in this State. An "unsolicited credit card" is defined in the bill as any credit card other than (1) a card that has been requested, (2) a card for which an application has been submitted, or (3) a card that is a renewal or substitute for a previously issued card.

As amended, the bill adds the definitions of "check" and "unsolicited check" and also provides that a person in whose name an unsolicited check is issued and who is the holder of the account upon which the check is to be drawn, or who is the payee on the check, as the case may be, shall not be liable for any amount resulting from the use of that check or account unless the person has accepted the check or account by using the check or account.

The bill also exempts a person from liability for unauthorized use of an unsolicited credit card issued in that person's name if the person has not accepted the card and the person or that person's family or household derive no benefit from its unauthorized use.

An unlawful practice under the consumer fraud act is punishable by a monetary penalty of not more than \$10,000 for a first offense and not more than \$20,000 for any subsequent offense. In addition, a violation can result in cease and desist orders issued by the Attorney General, the assessment of punitive damages and the awarding of treble damages and costs to the injured party.

The committee amended the bill to add the definition of "check" and "unsolicited check" and to provide that a person in whose name an unsolicited check is issued and who is the holder of the account upon which the check is to be drawn, or who is the payee on the check, as

the case may be, shall not be liable for any amount resulting from the use of that check or account unless that person has accepted the check or account by using the check or account.

As amended, the bill is identical to Senate Bill No. 622 (1R), as amended and reported by the committee today.

STATEMENT TO  
**ASSEMBLY, No. 969**

with Assembly Floor Amendments  
(Proposed By Assemblymen CHATZIDAKIS and BODINE)

ADOPTED: FEBRUARY 23, 2004

This Assembly amendment changes the definition of "credit card" in the bill to make in conform to the federal definition.

Assembly Bill No. 969 is designed to complement the "Federal Truth in Lending Act" (15 U.S.C. Section 1601 et seq.). Changing the definition of "credit card" to conform with the federal definition will make the bill consistent with the federal law its sponsors have designed it to complement.

**SENATE, No. 622**

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**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

**Sponsored by:**

**Senator DIANE ALLEN**

**District 7 (Burlington and Camden)**

**SYNOPSIS**

Prohibits delivery of unsolicited credit cards or checks and limits recipients' liability for unauthorized use.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT prohibiting the delivery of unsolicited credit cards or checks  
2 and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. As used in this act:

8 "Check" means any draft or other form of negotiable instrument,  
9 issued with or without fee by an issuer that can be used, alone or in  
10 connection with another means of account access, including a credit  
11 card previously issued to the person to whom a check is mailed or  
12 otherwise delivered, in obtaining money, goods, services or anything  
13 else of value on credit.

14 "Credit card" means any tangible or intangible instrument or device,  
15 other than a check, issued with or without fee by an issuer that can be  
16 used, alone or in connection with another means of account access, in  
17 obtaining money, goods, services or anything else of value on credit,  
18 including credit cards, credit plates, account numbers, or any other  
19 means of account access.

20 "Unsolicited check" means any check mailed or otherwise delivered  
21 to a person other than:

22 (1) in response to a request or application for a check or account;  
23 or

24 (2) as a substitute for a check or account previously issued to the  
25 person to whom the check is mailed or otherwise delivered.

26 "Unsolicited credit card" means any credit card mailed or otherwise  
27 delivered to a person other than:

28 (1) in response to a request or application for a credit card; or

29 (2) as a renewal or substitute for a credit card previously issued to  
30 the person to whom the credit card is mailed or otherwise delivered.

31

32 2. It shall be an unlawful practice for any person to mail or  
33 otherwise deliver an unsolicited credit card or unsolicited check to a  
34 person in this State.

35

36 3. No person in whose name an unsolicited credit card is issued  
37 shall be liable for any amount resulting from use of that card, from  
38 which that person or a member of that person's family or household  
39 derives no benefit, unless the person has accepted the card by  
40 activating the card or using the card, or by authorizing use of the card  
41 by another person. Failure to destroy or return an unsolicited credit  
42 card shall not constitute acceptance of the card.

43

44 4. No person in whose name an unsolicited check is issued shall be  
45 liable for any amount resulting from use of that check or account, from  
46 which that person or a member of that person's family or household

1 derives no benefit, unless the person has accepted the check or  
2 account by using the check or account, or by authorizing use of the  
3 check or account by another person. Failure to destroy or return an  
4 unsolicited check shall not constitute acceptance of the check or  
5 account.

6

7 5. This act shall take effect on the 60th day following enactment.

8

9

10

STATEMENT

11

12 This bill makes the mailing or delivery of an unsolicited credit card  
13 or check an unlawful practice under the consumer fraud law, P.L.1960,  
14 c.39 (C.56:8-1 et seq.). The bill defines "unsolicited credit card" as  
15 any credit card other than a card that has been requested, a card for  
16 which an application has been submitted, or a card that is a renewal or  
17 substitute for a previously issued card. The bill defines "unsolicited  
18 check" as any check other than a check or account that has been  
19 requested, a check or account for which an application has been  
20 submitted, or a check or account that is a substitute for a previously  
21 issued check or account.

22 Additionally, the bill exempts a person from liability for  
23 unauthorized use of an unsolicited credit card or check issued in that  
24 person's name, if the person has not accepted the card or check and the  
25 person or that person's family or household derives no benefit from its  
26 unauthorized use.

27 Anyone who commits an unlawful practice by violating a provision  
28 of this bill would be subject to a fine of not more than \$10,000 for a  
29 first offense and not more than \$20,000 for each subsequent offense  
30 and possibly be subject to injunctive relief and triple damages.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### **SENATE, No. 622**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 14, 2004

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 622.

As amended, this bill prohibits the delivery of unsolicited credit cards and limits a recipient's liability for the unauthorized use of the card or an unsolicited check.

This bill makes the mailing or delivery of an unsolicited credit card an unlawful practice under the consumer fraud law, section 1 of P.L.1960, c.39 (C.56:8-1 et seq.). As amended, the bill defines "credit card" to mirror the definition of credit card used in the "Federal Truth in Lending Act" and defines "check" to mirror the definition of check used in P.L.1991, c.281 (C.56:11-20). An "unsolicited credit card" is defined in the bill as any credit card other than (1) a card that has been requested, (2) a card for which an application has been submitted, or (3) a card that is a renewal or substitute for a previously issued card.

Finally, the bill, as amended, provides that a person in whose name an unsolicited check is issued and who is the holder of the account upon which the check is to be drawn, or who is the payee on the check, as the case may be, shall not be liable for any amount resulting from the use of that check or account unless that person has accepted the check or account by using the check or account.

Under the consumer fraud act, anyone who commits an unlawful practice by violating a provision of this bill would be subject to a fine of not more than \$10,000 for a first offense and not more than \$20,000 for each subsequent offense and possibly be subject to injunctive relief and triple damages.

The committee amended the bill to conform the definition of "credit card" to the definition of credit card used in the "Federal Truth in Lending Act" and the definition of "check" to the definition of check used in section 1 of P.L.1991, c.281 (C.56:11-20); to amend the definition of "unsolicited check;" to eliminate the provision making the mailing or delivery of an unsolicited check an unlawful practice; and to provide that a person in whose name an unsolicited check is issued and who is the holder of the account upon which the check is to be

drawn, or who is the payee on the check, as the case may be, shall not be liable for any amount resulting from the use of that check or account unless that person has accepted the check or account by using the check or account.

As amended, this bill is identical to Assembly Bill No. 969 (2R), as amended and reported by the committee today.