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09500HB5311ham001

LRB095 18444 LCT 47516 a

1 AMENDMENT TO HOUSE BILL 5311

2 AMENDMENT NO. _____. Amend House Bill 5311 by replacing
3 the title with the following:

4 "An ACT concerning financial regulation."; and

5 by replacing everything after the enacting clause with the
6 following:

7 "Section 5. The Electronic Fund Transfer Act is amended by
8 changing Section 10 and by adding Section 10.1 as follows:

9 (205 ILCS 616/10)

10 Sec. 10. Definitions. For purposes of this Act, the words
11 and phrases defined in this Section shall have the meanings
12 ascribed to them unless the context requires otherwise.
13 Whenever the terms "network" and "switch" are used, they shall
14 be deemed interchangeable unless, from the context and facts,
15 the intention is plain to apply only to one type of entity.

1 "Access device" means a card, code, or other means of
2 access to an account, or any combination thereof, that may be
3 used by a customer to initiate an electronic fund transfer at a
4 terminal. An "access device" contains a magnetic stripe,
5 microprocessor chip, or other means for storage information
6 that includes, but is not limited to, a credit card, debit
7 card, or stored value card.

8 "Account" means a demand deposit, savings deposit, share,
9 member, or other customer asset account held by a financial
10 institution.

11 An "affiliate" of, or a person "affiliated" with, a
12 specified person, means a person that directly, or indirectly
13 through one or more intermediaries, controls, is controlled by,
14 or is under common control with, the person specified.

15 "Breach of the security of the system" has the meaning
16 given in Section 5 of the Personal Information Protection Act.

17 "Card security code" means the 3-digit or 4-digit value
18 printed on an access device or contained in the microprocessor
19 chip or magnetic stripe of an access device that is used to
20 validate access device information during the authorization
21 process.

22 "Commissioner" means the Commissioner of Banks and Real
23 Estate or a person authorized by the Commissioner, the Office
24 of Banks and Real Estate Act, or this Act to act in the
25 Commissioner's stead.

26 "Magnetic stripe data" means data contained in the magnetic

1 strip of an access device.

2 "Microprocessor chip data" means the data contained in the
3 microprocessor chip of an access device.

4 "Electronic fund transfer" means a transfer of funds, other
5 than a transaction originated by check, draft, or similar paper
6 instrument, that is initiated through a terminal for the
7 purpose of ordering, instructing, or authorizing a financial
8 institution to debit or credit an account.

9 "Financial institution" means a bank established under the
10 laws of this or any other state or established under the laws
11 of the United States, a savings and loan association or savings
12 bank established under the laws of this or any other state or
13 established under the laws of the United States, a credit union
14 established under the laws of this or any other state or
15 established under the laws of the United States, or a licensee
16 under the Consumer Installment Loan Act or the Sales Finance
17 Agency Act.

18 "Interchange transaction" means an electronic fund
19 transfer that results in exchange of data and settlement of
20 funds between 2 or more unaffiliated financial institutions.

21 "Network" means an electronic information communication
22 and processing system that processes interchange transactions.

23 "Person" means a natural person, corporation, unit of
24 government or governmental subdivision or agency, trust,
25 estate, partnership, cooperative, or association.

26 "PIN" means a personal identification code that identifies

1 the cardholder.

2 "PIN verification code number" means the data used to
3 verify cardholder identity when a PIN is used in a transaction.

4 "Seller of goods and services" means a business entity
5 other than a financial institution.

6 "Service provider" means a person or entity that stores,
7 processes, or transmits access device data on behalf of another
8 person or entity.

9 "Switch" means an electronic information and communication
10 processing facility that processes interchange transactions on
11 behalf of a network. This term does not include an electronic
12 information and communication processing company (1) that is
13 owned by a bank holding company or an affiliate of a bank
14 holding company and used solely for transmissions among
15 affiliates of the bank holding company or (2) to the extent
16 that the facility, by virtue of a contractual relationship, is
17 used solely for transmissions among affiliates of a bank
18 holding company, regardless of whether the facility is an
19 affiliate of the bank holding company or operates as a switch
20 with respect to one or more networks under an independent
21 contractual relationship.

22 "Terminal" means an electronic device through which a
23 consumer may initiate an interchange transaction. This term
24 does not include (1) a telephone, (2) an electronic device
25 located in a personal residence, (3) a personal computer or
26 other electronic device used primarily for personal, family, or

1 household purposes, (4) an electronic device owned or operated
2 by a seller of goods and services unless the device is
3 connected either directly or indirectly to a financial
4 institution and is operated in a manner that provides access to
5 an account by means of a personal and confidential code or
6 other security mechanism (other than signature), (5) an
7 electronic device that is not accessible to persons other than
8 employees of a financial institution or affiliate of a
9 financial institution, or (6) an electronic device that is
10 established by a financial institution on a proprietary basis
11 that is identified as such and that cannot be accessed by
12 customers of other financial institutions. The Commissioner
13 may issue a written rule that excludes additional electronic
14 devices from the definition of the term "terminal".

15 (Source: P.A. 89-310, eff. 1-1-96; 89-508, eff. 7-3-96.)

16 (205 ILCS 616/10.1 new)

17 Sec. 10.1. Security or identification information, data
18 capture, and storage restrictions and liability.

19 (a) No person or entity conducting business in Illinois
20 that accepts an access device in connection with an electronic
21 fund transfer transaction (whether PIN or signature based)
22 shall: (1) retain the card security code data; (2) retain the
23 PIN verification code number; (3) retain the full contents of
24 any track of magnetic stripe data, subsequent to the
25 authorization of the transaction of in the case of a PIN debit

1 transaction, subsequent to 48 hours after authorization of the
2 transaction on days the issuing bank is open for settlement; or
3 (4) store any payment-related data that is not needed for
4 business purposes. A person or entity is in violation of this
5 Section if its service provider retains such data subsequent to
6 the authorization of the transaction or in the case of a PIN
7 debit transaction, subsequent to 48 hours after authorization
8 of the transaction.

9 (b) Whenever there is a breach of the security of the
10 system of a person or entity that has violated this Section, or
11 that person's or entity's service provider, that person or
12 entity shall reimburse the financial institution that issued
13 any access devices affected by the breach for consequential
14 damages and costs for reasonable actions undertaken by the
15 financial institution as a result of the breach.

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.".