

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Electronic Fund Transfer Act is amended by changing Section 10 and by adding Section 46 as follows:

(205 ILCS 616/10)

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

"Access device" means a card, code, or other means of access to an account, or any combination thereof, that may be used by a customer to initiate an electronic fund transfer at a terminal.

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

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

"Commissioner" means the Secretary of Financial and Professional Regulation or a person authorized by the Secretary, the Division of Banking Act, or this Act to act in the Secretary's stead.

"Division" means the Division of Banking within the Department of Financial and Professional Regulation.

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

"Financial institution" means a bank established under the laws of this or any other state or established under the laws of the United States, a savings and loan association or savings bank established under the laws of this or any other state or established under the laws of the United States, a credit union established under the laws of this or any other state or established under the laws of the United States, or a licensee under the Consumer Installment Loan Act or the Sales Finance Agency Act.

"General use reloadable card" means a card, code, or other access device that is:

(1) issued on a prepaid basis primarily for personal, family, or household purposes to a consumer in a specified amount in exchange for payment;

(2) issued under an agreement containing terms and

conditions that permit funds to be added to the card, code, or other device after the initial purchase or issuance, including a temporary non-reloadable card issued solely in connection with a general use reloadable card, code, or other device;

(3) not marketed or labeled as a gift card or gift certificate; and

(4) redeemable upon presentation at multiple, unaffiliated merchants for goods or services or usable at automated teller machines.

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

"Issuer" means a person that issues a general use reloadable card or that person's agent with respect to the card.

"Marketed or labeled as a gift card or gift certificate" means directly or indirectly offering, advertising, or otherwise suggesting the potential use of a card, code, or other device as a gift for another person.

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

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

"Seller of goods and services" means a business entity

other than a financial institution.

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

"Terminal" means an electronic device through which a consumer may initiate an interchange transaction. This term does not include (1) a telephone, (2) an electronic device located in a personal residence, (3) a personal computer or other electronic device used primarily for personal, family, or household purposes, (4) an electronic device owned or operated by a seller of goods and services unless the device is connected either directly or indirectly to a financial institution and is operated in a manner that provides access to an account by means of a personal and confidential code or other security mechanism (other than signature), (5) an electronic device that is not accessible to persons other than

employees of a financial institution or affiliate of a financial institution, or (6) an electronic device that is established by a financial institution on a proprietary basis that is identified as such and that cannot be accessed by customers of other financial institutions. The Commissioner may issue a written rule that excludes additional electronic devices from the definition of the term "terminal".

(Source: P.A. 96-1365, eff. 7-28-10.)

(205 ILCS 616/46 new)

Sec. 46. Disclosure requirements for general use reloadable cards.

(a) The issuer of a general use reloadable card shall make the disclosures required under this Section in accordance with the following standards:

(1) The disclosures shall be clear and conspicuous. The disclosures may contain commonly accepted or readily understandable abbreviations or symbols.

(2) The disclosures required under items (1), (2), and (3) of subsection (b) of this Section shall be provided to the consumer in written or electronic form. When cards are sold online, the disclosures required by item (1) of subsection (b) of this Section must be clearly and conspicuously accessible on the issuer's Internet website prior to purchase.

(3) For joint accounts, only one set of the required

disclosures shall be provided and may be given to any of the account holders.

(4) Issuers may design their own disclosure format, provided that all fees required to be disclosed under subsection (b) of this Section are included, the amount of each fee is disclosed along with the frequency at which each fee may be assessed, and the substance and clarity of the disclosures are not affected.

(b) The issuer must make the following disclosures:

(1) Before a general use reloadable card is purchased, the issuer shall disclose to the consumer the amount of any:

(A) card purchase fee;

(B) monthly maintenance fee;

(C) cash withdrawal fee at an ATM and cash advance fee at retail locations;

(D) reload fee; and

(E) balance inquiry fee, unless disclosure of the balance is available to the consumer without cost via telephone or Internet access.

The disclosures required in this item (1) must be made on the portion of the card packaging accessible to the consumer prior to purchase for all cards sold at retail locations.

(2) The issuer shall include the following disclosures on the card:

(A) the expiration date of the card, if any; and
(B) a toll-free telephone number and, if one is maintained, an Internet website that a consumer may use to obtain information about fees and to obtain a replacement card after the card expires if the underlying funds may be available thereafter.

(3) The issuer shall disclose with the card the amount of each type of fee not disclosed in item (1) of this subsection (b) that may be imposed in connection with the card after purchase (or, if variable, an explanation of how the fee shall be determined) and the conditions under which the fee may be imposed.

(c) A card, code, or other access device is not a general use reloadable card merely because the issuer or processor is technically able to add functionality that would otherwise enable the card, code, or other access device to be reloaded.

(d) Compliance with the federal Electronic Fund Transfer Act and any regulations issued under that Act regarding general use reloadable card disclosures shall constitute compliance with this Section.

(e) The requirements of this Section shall apply to any general use reloadable card sold to a consumer on or after January 1, 2015.

(f) In this Section, "card" means a general use reloadable card.

Section 99. Effective date. This Act takes effect January

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