

HOUSE BILL No. 5501

January 27, 1998, Introduced by Reps. Freeman, Wallace, Scott, Prusi, Leland, Ciaramitaro, Hale, Gubow, Vaughn, Parks, Cherry, Martinez, Rison, Curtis, Gire, Kilpatrick, Agee, Dobronski, Baird, Wojno, Brewer, DeHart, Griffin, Stallworth, Olshove, Schermesser, Callahan, Tesanovich, Price, Mathieu, Quarles, Baade, Harder, Palamara, Hanley, Owen, Brater, Emerson, Anthony, Varga, Mans, Willard, Kelly, LaForge, Frank, Gagliardi, Schroer, Hood, Basham and Alley and referred to the Committee on Commerce.

A bill to amend 1978 PA 322, entitled

"An act to authorize financial institutions to make electronic funds transfer terminals available to their customers; to protect the privacy and security of customers; to prohibit unfair discrimination among financial institutions and monopolistic practices in the use and availability of electronic funds transfer terminals; to prescribe remedies; and to prescribe penalties,"

by amending sections 4 and 5 (MCL 488.4 and 488.5) and by adding section 7a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) "Financial institution" means a bank, SAVINGS
2 BANK, savings and loan association, consumer finance company,
3 credit union, and includes a corporation wholly owned by a finan-
4 cial institution or by a holding company parent of any financial
5 institution.

6 (2) "Funds transfer facility" means an electronic funds
7 transfer terminal or a funds transmission facility.

1 (3) "Funds transmission facility" means all devices and
2 equipment, regardless of where located, which are interconnected
3 with an electronic funds transfer terminal and while they are
4 being used to transmit electronic impulses to enable the terminal
5 to perform deposit account functions.

6 (4) "Merchant" means a person primarily engaged in the
7 retail sale of goods or services.

8 Sec. 5. (1) "Person" means an individual, sole proprietor-
9 ship, corporation, partnership, association, joint stock company,
10 trust, ~~or~~ unincorporated organization, OR ANY OTHER LEGAL
11 ENTITY.

12 (2) "Reasonable fees" means transaction, rental, or other
13 periodic charges ~~which~~ THAT are directly related to the cost of
14 furnishing a particular service, and which are proportionate to
15 actual usage of the service by all persons using the service com-
16 peting in the same market area and may include a return on
17 invested capital and an initial entry fee charged for the purpose
18 of recovering noncapitalized development costs. The fees shall
19 be negotiated on a fair and equitable basis between the parties
20 who shall not conspire to set a fee with the purpose of destroy-
21 ing or preventing competition.

22 (3) "SAVINGS BANK" MEANS A SAVINGS BANK ORGANIZED UNDER THE
23 SAVINGS BANK ACT, 1996 PA 354, MCL 487.3101 TO 487.3804, OR A
24 FEDERAL SAVINGS BANK ORGANIZED UNDER THE LAWS OF THE UNITED
25 STATES.

26 (4) ~~(3)~~ "Savings and loan association" means an
27 association established under ~~Act No. 156 of the Public Acts of~~

1 ~~1964, as amended, being sections 489.501 to 489.920 of the~~
2 ~~Michigan Compiled Laws~~ 1964 PA 156, MCL 489.501 TO 489.920, or a
3 federal savings and loan association established under the laws
4 of the United States having its main office in this state.

5 (5) ~~(4)~~ "Unauthorized use" means either of the following:

6 (a) Any transaction not known to the customer and not effec-
7 tuated with the express permission of the customer.

8 (b) Any transaction effectuated under physical duress.

9 SEC. 7A. A FEE OR CHARGE SHALL NOT BE IMPOSED ON A CUSTOMER
10 BY THE OWNER, OPERATOR, OR LESSEE OF AN ELECTRONIC FUNDS TRANSFER
11 TERMINAL FOR THE USE OF THE TERMINAL IF THE TRANSACTION DOES NOT
12 RELATE TO OR AFFECT AN ACCOUNT HELD BY THAT CUSTOMER WITH THE
13 FINANCIAL INSTITUTION OR PERSON THAT OWNS, OPERATES, OR LEASES
14 THE TERMINAL.