

# HB2432



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB2432

by Rep. Elizabeth Hernandez

#### SYNOPSIS AS INTRODUCED:

205 ILCS 616/10  
205 ILCS 616/46 new

Amends the Electronic Fund Transfer Act. Provides that a person who sells or issues general use reloadable cards shall disclose, prior to sale or issuance of the card, any fees imposed by the issuer. Provides certain requirements for the disclosures. Makes other changes. Effective January 1, 2014.

LRB098 09008 MGM 39143 b

A BILL FOR

1 AN ACT concerning regulation.

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

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

6 (205 ILCS 616/10)

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

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

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

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

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

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

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

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

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

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

26 (2) issued under an agreement containing terms and

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

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

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

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

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

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

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 "Seller of goods and services" means a business entity

1 other than a financial institution.

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

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

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

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

9 (205 ILCS 616/46 new)

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

12 (a) A person who sells or issues general use reloadable  
13 cards shall disclose, prior to sale or issuance of the card,  
14 any fees imposed by the issuer. The disclosures shall be in  
15 writing and may be provided in electronic form, subject to  
16 compliance with the consumer consent and other applicable  
17 provisions of the Electronic Signatures in Global and National  
18 Commerce Act (E-Sign Act) (15 U.S.C. 7001 et seq.). The  
19 disclosure may be made on or with other documents. For joint  
20 accounts, only one set of the required disclosures must be  
21 provided and may be given to any of the account holders.

22 (b) The disclosure required under subsection (a) of this  
23 Section shall provide information regarding fees charged under  
24 the following fee categories, as applicable:

25 (i) total cost of setup fees (activation and cost of

1       card fees);  
2       (ii) maintenance fees (service and inactivity fees);  
3       (iii) fees to spend money (signature purchases, point  
4 of sale transactions involving a personal identification  
5 number, and bill pay fees);  
6       (iv) fees to get money (cash advance, cash back at  
7 merchant, international conversion, ATM balance inquiry,  
8 and ATM withdrawal fees);  
9       (v) fees to add money (reload and direct deposit fees);  
10       (vi) fees to obtain information (audio response unit,  
11 audio response unit opt-out to live operator, and audio  
12 response unit balance inquiry fees); and  
13       (vii) other related fees (such as cash out, negative  
14 balance, replacement card, rush replacement card delivery,  
15 reissuing an expired card, and denied transaction fees).

16       The disclosure must also indicate when third party fees may  
17 apply.

18       (c) Accurate disclosure of all applicable fees in  
19 substantially similar form to that provided in this Section  
20 shall constitute compliance with the disclosure requirements  
21 under subsection (a) of this Section. Categories for which no  
22 fee is charged may be indicated as "free" or may be omitted.

23       (d) The standard disclosure form shall be organized as  
24 follows:

25                               [ Name of Card Issuer]

26                               [ Name of Prepaid Card Product] Fee Summary

<u>FEE CATEGORY</u>	<u>FEE TYPE</u>	<u>AMOUNT</u>
1		
2	<u>Total Cost</u>	<u>Activation</u>
		\$ .....
3	<u>of Setup:</u>	<u>Cost of Card</u>
		\$ .....
4	<u>Maintenance:</u>	<u>Service</u>
		\$ ..... per [ time period]
5		<u>Inactivity</u>
		\$ .....
6		per [ time period] after
7		[ time period] of
8		<u>inactivity</u>
9	<u>Spend Money:</u>	<u>Signature Purchase</u>
		\$ .....
10		<u>PIN/POS</u>
		\$ .....
11		<u>Bill Pay</u>
		\$ .....
12	<u>Get Money:</u>	<u>Cash Advance</u>
		\$ .....
13		<u>Cash Back</u>
14		<u>at Merchant</u>
		\$ .....
15		<u>International</u>
16		<u>Conversion</u>
		... % of the transaction
17		amount when a currency
18		<u>conversion occurs</u>
19		or .. % of the transaction
20		amount when a currency
21		<u>conversion does not occur</u>
22		<u>ATM Balance Inquiry</u>
		\$ .....
23		<u>ATM Withdrawal</u>
		\$ .....
24	<u>Add Money:</u>	<u>Reload</u>
		\$ .....
25		<u>Direct Deposit</u>
		\$ .....
26	<u>Information:</u>	<u>Audio response</u>



1	<u>unit ("VRU")</u>	<u>\$ .....</u>
2	<u>VRU Opt-Out to Live</u>	
3	<u>Operator</u>	<u>\$ .....</u>
4	<u>VRU Balance Inquiry</u>	<u>\$ .....</u>
5	<u>Other: Cash Out</u>	<u>\$ .....</u>
6	<u>Negative Balance</u>	<u>\$ .....</u>
7	<u>Replacement Card</u>	<u>\$ .....</u>
8		<u>to replace a [ lost,</u>
9		<u>stolen, or damaged card]</u>
10	<u>Rush Delivery</u>	<u>\$ .....</u>
11	<u>Reissue Expired Card</u>	<u>\$ .....</u>
12	<u>Denied Transaction</u>	<u>\$ .....</u>

\*asterisk indicates that third party fees may apply

[ insert webpage address]

Cardholder Customer Service: [ insert phone number]

(e) 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.

(f) 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.

Section 99. Effective date. This Act takes effect January 1, 2014.