



Sen. Emil Jones, III

**Filed: 3/15/2013**

09800SB1829sam001

LRB098 09006 MGM 42425 a

1 AMENDMENT TO SENATE BILL 1829

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1829 by replacing  
3 everything after the enacting clause with the following:

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.

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

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

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

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

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

19 "Financial institution" means a bank established under the  
20 laws of this or any other state or established under the laws  
21 of the United States, a savings and loan association or savings  
22 bank established under the laws of this or any other state or  
23 established under the laws of the United States, a credit union  
24 established under the laws of this or any other state or  
25 established under the laws of the United States, or a licensee  
26 under the Consumer Installment Loan Act or the Sales Finance

1 Agency Act.

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

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

7 (2) issued under an agreement containing terms and  
8 conditions that permit funds to be added to the card, code,  
9 or other device after the initial purchase or issuance,  
10 including a temporary non-reloadable card issued solely in  
11 connection with a general use reloadable card, code, or  
12 other device;

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

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

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

24 "Marketed or labeled as a gift card or gift certificate"  
25 means directly or indirectly offering, advertising, or  
26 otherwise suggesting the potential use of a card, code, or

1 other device as a gift for another person.

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

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

7 "Seller of goods and services" means a business entity  
8 other than a financial institution.

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. 96-1365, eff. 7-28-10.)

16 (205 ILCS 616/46 new)

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

19 (a) The form of the disclosures made under this Section  
20 shall adhere to the following standards:

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

24 (2) The disclosures generally shall be provided to the  
25 consumer in written or electronic form, except that the

1 disclosures required to be made prior to purchase may be  
2 provided orally.

3 (3) The disclosures may be made on or with other  
4 documents. For joint accounts, only one set of the required  
5 disclosures shall be provided and may be given to any of  
6 the account holders.

7 (4) Issuers may design their own disclosure format,  
8 provided that all fees required to be disclosed under  
9 subsection (b) are included and the substance and clarity  
10 of the disclosures are not affected.

11 (b) The following disclosures are required:

12 (1) Before a general use reloadable card is purchased,  
13 a person that issues the card shall disclose to the  
14 consumer the amount of any dormancy, inactivity, or  
15 periodic service fee for holding or use of the card that  
16 may be charged and how often the fee or fees may be  
17 assessed. The disclosures may be displayed on the card  
18 packaging or carrier containing the general use reloadable  
19 card.

20 (2) A person that issues a general use reloadable card  
21 shall include the following disclosures on the card:

22 (A) the expiration date of the card, if any; and

23 (B) a toll-free telephone number and, if one is  
24 maintained, a website that a consumer may use to obtain  
25 information about fees and to obtain a replacement card  
26 after the card expires if the underlying funds may be

1           available thereafter.

2           (3) A person that issues a general use reloadable card  
3           shall disclose the amount of each type of fee that may be  
4           imposed in connection with the card (or an explanation of  
5           how the fee shall be determined), and the conditions under  
6           which the fee may be imposed.

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

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

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

18           Section 99. Effective date. This Act takes effect January  
19           1, 2014."