

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 361 CS

Automated Teller Machine Transaction Charges

**SPONSOR(S):** Carroll

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 704

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<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1) <u>Economic Development, Trade &amp; Banking Committee</u>	<u>13 Y, 0 N, w/CS</u>	<u>Carlson</u>	<u>Carlson</u>
2) <u>Tourism Committee</u>	<u>7 Y, 0 N</u>	<u>McDonald</u>	<u>McDonald</u>
3) <u>Commerce Council</u>	<u>13 Y, 0 N</u>	<u>Carlson</u>	<u>Liepshutz</u>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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**SUMMARY ANALYSIS**

HB 361 CS allows the operator of an automated teller machine (ATM) to charge an access fee or surcharge to a customer conducting a transaction using an account from a financial institution that is located outside the United States. The fee or surcharge cannot otherwise be prohibited under state or federal law.

The bill has no apparent fiscal impact on state or local government.

The bill has an effective date of July 1, 2006.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

The bill does not implicate any House Principles.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation:

VISA and MasterCard operating rules prohibit the assessment of access fees or surcharges by ATM operators on international cardholders except in states where it is expressly permitted by law.<sup>1</sup> The rules are intended to avoid confusing international cardholders, who rarely have to pay ATM surcharges.<sup>2</sup>

A number of states have passed legislation allowing for the assessment of fees or surcharges on international cardholders, including Alabama, Arkansas, California, Georgia, Idaho, Louisiana, Maine, Mississippi, Montana, Nevada, Tennessee, Texas, Washington and Wyoming.<sup>3</sup>

Section 655.005(1)(h), F.S., defines a "financial institution" as a state or federal association, bank, savings bank, trust company, international bank agency, international branch, representative office or international administrative office, or credit union.

Section 655.960(3), F.S., defines an "automated teller machine" as any electronic information processing device located in Florida which accepts or dispenses cash in connection with a credit, deposit, checking, or convenience account. The definition does not include devices used solely to facilitate check guarantees or check authorizations or which are used in connection with the acceptance or dispensing of cash on a person-to-person basis, such as by a store cashier.

##### Effect of Proposed Changes:

Effective July 1, 2006, the bill creates a new section of law that will allow the operator of an ATM, as defined in s. 655.960, F.S., to impose an access fee or surcharge not otherwise prohibited by state or federal law to a customer conducting a transaction using an account from a financial institution, as defined in s. 655.005, F.S., that is located outside the United States.

#### C. SECTION DIRECTORY:

Section 1. Creates s. 655.966, F.S., relating to ATM transaction charges.  
Section 2. Provides an effective date.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

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<sup>1</sup> According to an article published by ATMmarketplace.com on March 21, 2005 and reprinted at [www.greensheet.com/PriorIssues-/050401-/11.htm](http://www.greensheet.com/PriorIssues-/050401-/11.htm). Copy on file with Committee staff.

<sup>2</sup> Id.

<sup>3</sup> Id. California and Washington passed legislation after the March 21, 2005 article.

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill should have a positive effect on ATM operators, who will be able to impose a fee or surcharge for international cardholders. The bill will impact international cardholders, who will have to pay new fees or surcharges. This will add to the cost of any travel to Florida (as it would to any other state that has passed similar legislation).

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not reduce the percentage of state tax shared with municipalities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On January 10, 2005, the Economic Development, Trade and Banking Committee adopted a strike-everything amendment to HB 361. The amendment corrected two cross-references: replaced the term "owner" with the statutorily-defined term "operator," and clarified that the access fee or surcharge that may be imposed must not otherwise be prohibited by state or federal law.