

By the Committee on Banking and Insurance; and Senator Hutson

597-02621-23

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1 A bill to be entitled
2 An act relating to interchange fees on taxes; creating
3 s. 501.0119, F.S.; defining terms; providing
4 applicability; prohibiting issuers, payment card
5 networks, acquirer banks, and processors from
6 receiving or charging merchants interchange fees on
7 the tax amounts of electronic payment transactions if
8 the merchant provides certain information in a
9 specified manner; requiring an issuer to credit a
10 merchant the amount of interchange fees on taxes
11 within a certain timeframe if the merchant meets
12 certain conditions; providing a civil penalty;
13 providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Section 501.0119, Florida Statutes, is created
18 to read:

19 501.0119 Interchange fees on taxes prohibited.—

20 (1) As used in this section, the term:

21 (a) "Acquirer bank" means a member of a payment card
22 network which contracts with a merchant for the settlement of
23 electronic payment transactions. An acquirer bank may contract
24 directly with merchants or indirectly through a processor to
25 process electronic payment transactions.

26 (b) "Clearance" means the process of transmitting final
27 transaction data from a merchant to an issuer for posting to the
28 cardholder's account and the calculation of fees and charges,
29 including interchange fees, which apply to the issuer and

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30 merchant.

31 (c) "Credit card" means a card, plate, coupon book, or
32 other credit device existing for the purpose of obtaining money,
33 property, labor, or services on credit.

34 (d) "Debit card":

35 1. Means a card, or other payment code or device, issued or
36 approved for use through a payment card network to debit an
37 asset account, regardless of the purpose for which the account
38 is established, whether authorization is based on a signature, a
39 personal identification number, or other means;

40 2. Includes a general-use prepaid card, as defined in 15
41 U.S.C. s. 16931-1; and

42 3. Excludes paper checks.

43 (e) "Electronic payment transaction" means a transaction in
44 which a person uses a debit card, credit card, or other payment
45 code or device issued or approved through a payment card network
46 to debit a deposit account or use a line of credit, whether
47 authorization is based on a signature, a personal identification
48 number, or other means.

49 (f) "Interchange fee" means a fee established, charged, or
50 received by a payment card network for the purpose of
51 compensating the issuer for its involvement in an electronic
52 payment transaction.

53 (g) "Issuer" means a person issuing a debit card or credit
54 card or the issuer's agent.

55 (h) "Merchant" has the same meaning as the term "dealer" in
56 s. 212.06(2).

57 (i) "Payment card network" means an entity:

58 1. That directly or through licensed members, processors,

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59 or agents provides the proprietary services, infrastructure, and
60 software that routes information and data to conduct electronic
61 payment transaction authorization, clearance, and settlement;
62 and

63 2. That a merchant uses to accept as a form of payment a
64 brand of debit card, credit card, or other device that may be
65 used to carry out electronic payment transactions.

66 (j) "Processor" means an entity that facilitates, services,
67 processes, or manages the debit or credit authorization,
68 billing, transfer, payment procedures, or settlement with
69 respect to any electronic payment transaction.

70 (k) "Settlement" means the process of transmitting sales
71 information to the issuing bank for collection and reimbursement
72 of funds to the merchant and calculating and reporting the net
73 transaction amount to the issuer and merchant for an electronic
74 payment transaction that is cleared.

75 (l) "Tax" means all taxes and fees levied under chapter 212
76 and s. 125.0104.

77 (m) "Tax documentation" means documentation sufficient for
78 the payment card network to determine the total amount of the
79 electronic payment transaction and the tax amount of such
80 transaction. Tax documentation may be related to a single
81 electronic payment transaction or multiple electronic payment
82 transactions aggregated over a period of time. Examples of tax
83 documentation include, but are not limited to, invoices,
84 receipts, journals, ledgers, and tax returns filed with the
85 Department of Revenue or local taxing authorities.

86 (2) This section does not apply to an electronic payment
87 transaction in which the tax amount is not separately stated on

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88 the consumer's payment invoice, sales slip, or other evidence of
89 sale as required under s. 212.07(2).

90 (3) Except as provided in subsection (2), an issuer, a
91 payment card network, an acquirer bank, or a processor may not
92 receive or charge the merchant any interchange fees on the tax
93 amount of an electronic payment transaction if the merchant
94 informs the acquirer bank, its designee, or any other entity as
95 provided in the payment card network's terms and conditions of
96 service of such tax amount as part of the clearance process for
97 the electronic payment transaction. A merchant must transmit the
98 tax amount data as part of the clearance process to avoid being
99 charged interchange fees on the tax amount of an electronic
100 payment transaction.

101 (4) A merchant that does not transmit the tax amount data
102 in accordance with subsection (3) may submit tax documentation
103 for the electronic payment transaction to the acquirer bank, its
104 designee, or any other entity as provided in the payment card
105 network's terms and conditions of service no later than 180 days
106 after the date of the electronic payment transaction, and within
107 30 days, the issuer must credit to the merchant the amount of
108 interchange fees charged on the tax amount of the electronic
109 payment transaction.

110 (5) An issuer, a payment card network, an acquirer bank, a
111 processor, or other designated entity that has received the tax
112 amount data and violates this section is subject to a civil
113 penalty of \$1,000 per electronic payment transaction, and the
114 issuer must refund the merchant the interchange fee calculated
115 on the tax amount relative to the electronic payment
116 transaction.

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Section 2. This act shall take effect October 1, 2023.