

CS/CS/HB 677

2023

1 A bill to be entitled
2 An act relating to electronic payment transactions;
3 creating s. 501.0119, F.S.; defining terms; providing
4 nonapplicability; providing construction; prohibiting
5 certain entities from receiving and charging merchants
6 interchange fees on tax and tip amounts of electronic
7 payment transactions under certain circumstances;
8 requiring merchants to transmit certain data for
9 interchange fees credits; authorizing certain
10 merchants to submit certain documentation and data
11 within a specified timeframe; requiring issuers to
12 credit merchants certain interchange fees within a
13 specified timeframe under certain circumstances;
14 providing civil penalties; prohibiting certain
15 entities from distributing, exchanging, transferring,
16 disseminating, and using electronic payment
17 transaction data; providing exceptions; providing
18 violations and enforcement; providing entitlement to
19 attorney fees and costs under certain circumstances;
20 providing an effective date.

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22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Section 501.0119, Florida Statutes, is created
25 to read:

26 | 501.0119 Restrictions on electronic payment transactions.-

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

28 | (a) "Acquirer bank" means a member of a payment card
 29 | network which contracts with a merchant for the settlement of
 30 | electronic payment transactions. An acquirer bank may contract
 31 | directly with merchants or indirectly through a processor to
 32 | process electronic payment transactions.

33 | (b) "Authorization" means the process through which a
 34 | merchant requests approval for an electronic payment transaction
 35 | from the issuer.

36 | (c) "Clearance" means the process of transmitting final
 37 | transaction data from a merchant to an issuer for posting to the
 38 | cardholder's account and the calculation of fees and charges,
 39 | including interchange fees, which apply to the issuer and
 40 | merchant.

41 | (d) "Credit card" means a card, plate, coupon book, or
 42 | other credit device existing for the purpose of obtaining money,
 43 | property, labor, or services on credit.

44 | (e) "Debit card":

45 | 1. Means a card, or other payment code or device, issued
 46 | or approved for use through a payment card network to debit a
 47 | deposit account, regardless of the purpose for which the account
 48 | is established, whether authorization is based on a signature, a
 49 | personal identification number, or other means;

50 | 2. Includes a general-use prepaid card, as defined in 15

51 U.S.C. s. 16931-1; and

52 3. Excludes paper checks.

53 (f) "Electronic payment transaction" means a transaction
54 in which a person uses a debit card, credit card, or other
55 payment code or device issued or approved through a payment card
56 network to debit a deposit account or use a line of credit,
57 whether authorization is based on a signature, a personal
58 identification number, or other means.

59 (g) "Interchange fee" means a fee established, charged, or
60 received by a payment card network for the purpose of
61 compensating the issuer for its involvement in an electronic
62 payment transaction.

63 (h) "Issuer" means a person issuing a debit card or credit
64 card or an agent of such a person.

65 (i) "Merchant" has the same meaning as the term "dealer"
66 in s. 212.06(2).

67 (j) "Payment card network" means an entity:

68 1. That directly or through licensed members, processors,
69 or agents provides the proprietary services, infrastructure, and
70 software that route information and data to conduct electronic
71 payment transaction authorization, clearance, and settlement;
72 and

73 2. That a merchant uses to accept as a form of payment a
74 brand of debit card, credit card, or other payment code or
75 device that may be used to carry out electronic payment

76 transactions.

77 (k) "Processor" means an entity that facilitates,
 78 services, processes, or manages the debit or credit
 79 authorization, billing, transfer, payment procedures, or
 80 settlement with respect to any electronic payment transaction.

81 (l) "Settlement" means the process of transmitting sales
 82 information to the issuing bank for collection and reimbursement
 83 of funds to the merchant and calculating and reporting the net
 84 transaction amount to the issuer and merchant for a cleared
 85 electronic payment transaction.

86 (m) "Tax" means all taxes and fees levied under chapter
 87 212 and s. 125.0104.

88 (n) "Tax documentation" means documentation sufficient for
 89 the payment card network to determine the total amount of the
 90 electronic payment transaction and the tax amount of such
 91 transaction. Tax documentation may be related to a single
 92 electronic payment transaction or multiple electronic payment
 93 transactions aggregated over a period of time. Examples of tax
 94 documentation include, but are not limited to, invoices,
 95 receipts, journals, ledgers, and tax returns filed with the
 96 Department of Revenue or local taxing authorities.

97 (o) "Tip" means a sum of money paid in addition to the
 98 payment obligation for the good or service obtained, including,
 99 but not limited to, a payment for the benefit of one or more
 100 individuals who facilitate the provision of the good or service.

101 (2) This section does not apply to an electronic payment
102 transaction in which the tax or tip amount is not separately
103 stated on the consumer's payment invoice, sales slip, or other
104 evidence of sale as required under s. 212.07(2).

105 (3) This section does not create liability for a payment
106 card network regarding the accuracy of the tax or tip data
107 reported by the merchant.

108 (4) Except as provided in subsection (2), an issuer, a
109 payment card network, an acquirer bank, a processor, or other
110 designated entity may not receive or charge the merchant any
111 interchange fees on the tax or tip amount of an electronic
112 payment transaction if the merchant informs the acquirer bank or
113 its designee of such tax or tip amount as part of the
114 authorization for the electronic payment transaction. A merchant
115 must transmit the tax or tip amount data as part of the
116 authorization to avoid being charged interchange fees on the tax
117 or tip amount of an electronic payment transaction.

118 (5) A merchant that does not transmit the tax or tip
119 amount data in accordance with subsection (4) may transmit tax
120 documentation or tip amount data for the electronic payment
121 transaction to the acquirer bank or its designee no later than
122 180 days after the date of the electronic payment transaction,
123 and, within 30 days, the issuer must credit to the merchant the
124 amount of interchange fees charged on the tax or tip amount of
125 the electronic payment transaction.

126 (6) An issuer, a payment card network, an acquirer bank, a
127 processor, or other designated entity that has received the tax
128 or tip amount data and violates this section is subject to a
129 civil penalty of \$1,000 per electronic payment transaction, and
130 the issuer must refund the merchant the amount of interchange
131 fees charged on the tax or tip amount of the electronic payment
132 transaction.

133 (7) An entity, other than the merchant, involved in
134 facilitating or processing an electronic payment transaction,
135 including, but not limited to, an issuer, a payment card
136 network, an acquirer bank, a processor, or other designated
137 entity, may not distribute, exchange, transfer, disseminate, or
138 use the electronic payment transaction data except to facilitate
139 or process the electronic payment transaction or as required by
140 law. A violation of this subsection constitutes a violation of
141 the Florida Deceptive and Unfair Trade Practices Act under part
142 II of this chapter. Notwithstanding s. 501.211, a violation of
143 this subsection must be enforced only by the enforcing
144 authority, as defined in s. 501.203(2), and subject the violator
145 to the sanctions and penalties provided for in part II of this
146 chapter. If such action is successful, the enforcing authority
147 is entitled to reasonable attorney fees and costs.

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