

LC004573

IN GENERAL ASSEMBLY

RELATING TO COMMERCIAL LAW -- GENERAL REGULATORY PROVISIONS --
INTERCHANGE FEES

Referred To: Senate Commerce

1 SECTION 1. Title 6 of the General Laws entitled "COMMERCIAL LAW — GENERAL
2 REGULATORY PROVISIONS" is hereby amended by adding thereto the following chapter:

INTERCHANGE FEES

6 (a) As used in this chapter, the following words and terms shall have the following
7 meanings:

8 (1) "Acquirer bank" means a member of a payment card network that contracts with a
9 merchant for the settlement of electronic payment transactions. An acquirer bank may contract
10 directly with merchants or indirectly through a processor to process electronic payment
11 transactions.

12 (2) "Authorization" means the process through which a merchant requests approval for an
13 electronic payment transaction from the issuer.

14 (3) "Clearance" means the process of transmitting final transaction data from a merchant
15 to an issuer for posting to the cardholder's account and the calculation of fees and charges, including
16 interchange fees, that apply to the issuer and the merchant.

17 (4) "Credit card" means a card, plate, coupon book, or other credit device existing for the
18 purpose of obtaining money, property, labor, or services on credit.

1 (5) "Debit card" means a card or other payment code or device issued or approved for use
2 through a payment card network to debit an asset account, regardless of the purpose for which the
3 account is established, whether authorization is based on a signature, a personal identification
4 number, or other means. "Debit card" includes a general use prepaid card, as defined in 15 U.S.C.
5 § 16931-I. "Debit card" does not include paper checks.

6 (6) "Electronic payment transaction" means a transaction in which a person uses a debit
7 card, a credit card, or other payment code or device issued or approved through a payment card
8 network to debit a deposit account or use a line of credit, whether authorization is based on a
9 signature, a personal identification number or other means.

10 (7) "Gratuity" means a voluntary monetary contribution to an employee from a guest,
11 patron, or customer in connection with services rendered.

12 (8) "Interchange fee" means a fee established, charged, or received by a payment card
13 network for the purpose of compensating the issuer for its involvement in an electronic payment
14 transaction.

15 (9) "Issuer" means a person issuing a debit card or credit card or the issuer's agent.

16 (10) "Merchant" means a person that collects and remits a tax.

17 (11) "Payment card network" means an entity that:

18 (i) Directly or through licensed members, processors, or agents, provides the proprietary
19 services, infrastructure, and software to route information and data for the purpose of conducting
20 electronic payment transaction authorization clearance and settlement; and

21 (ii) A merchant uses to accept as a form of payment a brand of debit card, credit card, or
22 other device that may be used to carry out electronic payment transactions.

23 (12) "Person" means any individual, firm, public or private corporation, government,
24 partnership, association, or any other organization or entity.

25 (13) "Processor" means an entity that facilitates, services, processes, or manages the debit
26 or credit authorization, billing, payment procedures, or settlement with respect to any electronic
27 payment transaction.

28 (14) "Settlement" means the process of transmitting sales information to the issuing bank
29 for collection and reimbursement of funds to the merchant and calculating and reporting the net
30 transaction amount to the issuer and merchant for an electronic payment transaction that is cleared.

31 (15) "Tax" means any sales, use, occupancy, or excise tax imposed by the state or a political
32 subdivision thereof.

33 (16) "Tax and gratuity documentation" means documentation sufficient or data sufficient
34 for the payment card network to determine the total amount of the electronic payment transaction

1 and the tax or gratuity amount of the transaction. It may be related to a single electronic payment
2 transaction or multiple electronic payment transactions aggregated over a period of time to include,
3 but are not limited to, invoices, receipts, journals, ledgers, and tax returns filed with the department
4 of revenue or local taxing authority.

5 **6-26.2-2. Interchange fees on taxes and gratuities prohibited.**

6 (a) An issuer, a payment card network, an acquirer bank, or a processor shall not receive
7 or charge a merchant any interchange fee on the tax amount or gratuity of an electronic payment
8 transaction if a merchant informs the acquirer bank or its designee of the tax or gratuity amount as
9 part of the authorization or settlement process for the electronic payment transaction. The merchant
10 shall transmit the tax or gratuity amount data as part of the authorization or settlement process to
11 avoid being charged interchange fees on the tax or gratuity amount of an electronic payment
12 transaction.

13 (b) A merchant that does not transmit the tax or gratuity amount data in accordance with
14 this section may submit tax and gratuity documentation for the electronic payment transaction to
15 the acquirer bank or its designee no later than one hundred eighty (180) days after the date of the
16 electronic payment transaction, and, within thirty (30) days after the merchant submits the
17 necessary tax and gratuity documentation, the issuer or a payment card network shall credit to the
18 merchant the amount of interchange fees charged on the tax or gratuity amount of the electronic
19 payment transaction.

20 (c) This section shall not create liability for a payment card network regarding the accuracy
21 of the tax or gratuity data reported by the merchant.

22 (d) It shall be unlawful for an issuer, a payment card network, an acquirer bank, or a
23 processor to alter or manipulate the computation and imposition of interchange fees by increasing
24 the rate or amount of the fees applicable to or imposed upon the portion of a credit or debit card
25 transaction not attributable to taxes or gratuities to circumvent the provisions of this section.

26 **6-26.2-3. Penalties.**

27 An issuer, a payment card network, an acquirer bank, a processor, or other designated entity
28 that has received the tax or amount data and violates the provisions of this chapter shall be subject
29 to a civil penalty of one thousand dollars (\$1,000) per electronic payment transaction conducted in
30 violation of this chapter, and the issuer or payment card network shall refund the merchant the
31 interchange fee calculated on the tax or gratuity amount relative to the electronic payment
32 transaction.

33 **6-26.2-4. Severability.**

34 If any of the provisions of this chapter are held invalid, the remainder shall not be affected

1 [as a result, nor shall the application of the provision held invalid to persons or circumstances other](#)
2 [than those as to which it is held invalid be affected as a result.](#)

3 SECTION 2. This act shall take effect on January 1, 2027.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO COMMERCIAL LAW -- GENERAL REGULATORY PROVISIONS --
INTERCHANGE FEES

- 1 This act would prohibit the charging of interchange fees on taxes and gratuities.
- 2 This act would take effect on January 1, 2027.

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