

104TH CONGRESS
2D SESSION

H. R. 3727

To amend the Electronic Fund Transfer Act to require notice of certain fees imposed by the operator of an automated teller machine in connection with an electronic fund transfer initiated by a consumer at the machine, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 1996

Mrs. ROUKEMA (for herself and Mr. SCHUMER) introduced the following bill;
which was referred to the Committee on Banking and Financial Services

A BILL

To amend the Electronic Fund Transfer Act to require notice of certain fees imposed by the operator of an automated teller machine in connection with an electronic fund transfer initiated by a consumer at the machine, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “ATM Fee Reform Act
5 of 1996”.

1 **SEC. 2. ELECTRONIC FUND TRANSFER FEE DISCLOSURES**
2 **AT ANY HOST ATM.**

3 Section 904 of the Electronic Fund Transfer Act (15
4 U.S.C. 1693b) is amended—

5 (1) by striking “(d) In the event” and inserting
6 “(d) APPLICABILITY TO SERVICE PROVIDERS
7 OTHER THAN CERTAIN FINANCIAL INSTITU-
8 TIONS.—

9 “(1) IN GENERAL.—In the event”; and

10 (2) by adding at the end the following new
11 paragraph:

12 “(2) FEE DISCLOSURES AT ELECTRONIC TERMI-
13 NALS.—

14 “(A) IN GENERAL.—The regulations pre-
15 scribed under paragraph (1) shall require any
16 host electronic terminal operator who imposes a
17 fee on any consumer for providing host transfer
18 services to such consumer to provide notice in
19 accordance with subparagraph (B) to the
20 consumer (at the time the service is provided)
21 of—

22 “(i) the fact that a fee is imposed by
23 such operator for providing the service;
24 and

25 “(ii) the amount of any such fee.

1 “(B) NOTICE REQUIREMENTS.—The notice
2 required under subparagraph (A) with respect
3 to any fee described in such subparagraph
4 shall—

5 “(i) be posted in a prominent and
6 conspicuous location on or at the electronic
7 terminal at which the electronic fund
8 transfer is initiated by the consumer; and

9 “(ii) appear on the screen of the elec-
10 tronic terminal, or on a paper notice issued
11 from the terminal, after the transaction is
12 initiated and before the consumer is irrev-
13 ocably committed to completing the trans-
14 action.

15 “(C) PROHIBITION ON FEES NOT PROP-
16 ERLY DISCLOSED AND EXPLICITLY ASSUMED BY
17 CONSUMER.—No fee may be imposed by any
18 host electronic terminal operator in connection
19 with any electronic fund transfer initiated by a
20 consumer for which a notice is required under
21 subparagraph (A), unless—

22 “(i) the consumer receives such notice
23 in accordance with subparagraph (B); and

1 “(ii) the consumer elects to continue
2 in the manner necessary to effect the
3 transaction after receiving such notice.

4 “(D) DEFINITIONS.—For purposes of this
5 paragraph, the following definitions shall apply:

6 “(i) ELECTRONIC FUND TRANSFER.—
7 The term ‘electronic fund transfer’ in-
8 cludes a transaction which involves a bal-
9 ance inquiry initiated by a consumer in the
10 same manner as an electronic fund trans-
11 fer, whether or not the consumer initiates
12 a transfer of funds in the course of the
13 transaction.

14 “(ii) HOST ELECTRONIC TERMINAL
15 OPERATOR.—The term ‘host electronic ter-
16 minal operator’ means any person who—

17 “(I) operates an electronic termi-
18 nal at which consumers initiate elec-
19 tronic fund transfers; and

20 “(II) is not the financial institu-
21 tion which holds the account of any
22 such consumer from which the trans-
23 fer is made.

24 “(iii) HOST TRANSFER SERVICES.—
25 The term ‘host transfer services’ means

1 any electronic fund transfer made by a
 2 host electronic terminal operator in connec-
 3 tion with a transaction initiated by a
 4 consumer at an electronic terminal oper-
 5 ated by such operator.”.

6 **SEC. 3. AGENCY REPORTS OF COMPLIANCE WITH REGULA-**
 7 **TION E.**

8 (a) IN GENERAL.—Section 918 of the Electronic
 9 Fund Transfer Act (15 U.S.C. 1693p) is amended by add-
 10 ing at the end the following new subsection:

11 “(c) COMPLIANCE AND TRENDS.—

12 “(1) REGULATION E COMPLIANCE REPORTS.—

13 Each agency responsible under section 917 for en-
 14 forcing compliance with the requirements imposed
 15 under this title shall submit an annual report to the
 16 Congress on the degree to which entities which are
 17 subject to the jurisdiction of such agency under this
 18 title are in compliance with regulations prescribed by
 19 the Board under section 904(d).

20 “(2) TRENDS IN FEES IMPOSED BY HOST ATM
 21 OPERATORS.—Each report submitted by an agency
 22 pursuant to paragraph (1) shall include a descrip-
 23 tion of any discernible trend, in the Nation as a
 24 whole and in each region—

1 “(A) in the imposition of fees for which no-
 2 tices are required under section 904(d)(2); and

3 “(B) in the rate of compliance with regula-
 4 tions prescribed pursuant to such section.

5 “(3) SEPARATE SUBMISSION NOT REQUIRED.—
 6 The information required to be submitted to the
 7 Congress under this subsection may be included in
 8 any other annual report submitted to the Congress
 9 by such agency.”.

10 **SEC. 4. DISCLOSURE OF POSSIBLE FEES TO CONSUMERS**
 11 **WHEN ATM CARD IS ISSUED.**

12 Section 911 of the Electronic Fund Transfer Act (15
 13 U.S.C. 1693i) is amended by adding at the end the follow-
 14 ing new subsection:

15 “(d) DISCLOSURE OF POSSIBLE EFT FEES.—When-
 16 ever a card, code, or other means of access to a consumer’s
 17 account is issued for the purpose of initiating electronic
 18 fund transfers from such account, the person issuing the
 19 card, code, or other means of access shall provide a written
 20 notice to the accountholder that a fee may be imposed
 21 by—

22 “(1) a host electronic terminal operator (as de-
 23 fined in section 904(d)(2)(D)(ii)) if the consumer
 24 initiates a transfer from an electronic terminal which

1 is not operated by the person issuing the card or
2 other means of access; and

3 “(2) any national, regional, or local network
4 utilized to effect the transaction.”.

5 **SEC. 5. FEASIBILITY STUDY.**

6 (a) IN GENERAL.—The Comptroller General of the
7 United States shall conduct a study of the feasibility of
8 prohibiting the imposition of any fee by any person in con-
9 nection with any electronic fund transfer initiated by a
10 consumer through the use of an electronic terminal un-
11 less—

12 (1) a notice is provided to the consumer before
13 the consumer is irrevocably committed to completing
14 the transaction, which clearly states the amount of
15 any fee which will be imposed upon the consumma-
16 tion of the transaction by—

17 (A) any host electronic terminal operator
18 (as defined in section 904(d)(2)(D)(ii) of the
19 Electronic Fund Transfer Act) involved in the
20 transaction;

21 (B) the financial institution holding the ac-
22 count of the consumer;

23 (C) any national, regional, or local network
24 utilized to effect the transaction; and

1 (D) any other party involved in the trans-
2 fer; and

3 (2) the consumer elects to consummate the
4 transaction after receiving the notice described in
5 paragraph (1).

6 (b) FACTORS TO BE CONSIDERED.—In conducting
7 the study required under subsection (a) with regard to the
8 notice requirement described in such subsection, the
9 Comptroller General shall consider the following factors:

10 (1) The availability of appropriate technology.

11 (2) Implementation and operating costs.

12 (3) The competitive impact any such notice re-
13 quirement would have on various sizes and types of
14 institutions, if implemented.

15 (4) The period of time which would be reason-
16 able for implementing any such notice requirement.

17 (5) The extent to which consumers would bene-
18 fit from any such notice requirement.

19 (6) Any other factor the Comptroller General
20 determines to be appropriate in analyzing the fea-
21 sibility of imposing any such notice requirement.

22 (c) REPORT TO THE CONGRESS.—Before the end of
23 the 6-month period beginning on the date of the enact-
24 ment of this Act, the Comptroller General shall submit
25 a report to the Congress containing—

1 (1) the findings and conclusions of the Comp-
2 troller General in connection with the study required
3 under subsection (a); and

4 (2) the recommendation of the Comptroller
5 General with regard to the question of whether a no-
6 tice requirement described in subsection (a) should
7 be implemented and, if so, how such requirement
8 should be implemented.

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