

SHORT TITLE: Banking; prohibiting surcharge on transaction conducted at consumer electronic banking facility under certain conditions; stating conditions; effective date.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 510

By: Wilkerson

AS INTRODUCED

An Act relating to banking; amending 6 O.S. 1991, Section 422, as amended by Section 8, Chapter 183, O.S.L. 1993 (6 O.S. Supp. 1996, Section 422), which relates to consumer banking electronic facilities; prohibiting surcharge on certain transactions under certain conditions; stating conditions; defining terms; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 6 O.S. 1991, Section 422, as amended by Section 8, Chapter 183, O.S.L. 1993 (6 O.S. Supp. 1996, Section 422), is amended to read as follows:

Section 422. A. Any bank, savings and loan association or credit union located within the State of Oklahoma may install, operate or utilize consumer banking electronic facilities, provided written notice is given to the State Banking Commissioner prior to the commencement of operations of each facility. Such notice shall contain any reasonable descriptive information pertaining to the facility as shall be required by the rules or regulations of the Banking Board.

B. A consumer banking electronic facility, when located other than at a bank's principal office or detached facility, may be operated exclusively by customers or transactions may be performed through the assistance of any person provided that person is not

employed, either directly or indirectly, by any bank, bank holding company or subsidiary, savings and loan association or credit union. Such assistance shall not be deemed to be engaging in the business of banking. Persons assisting bank customers at the site of a consumer banking electronic facility may be trained by bank employees and nothing in this section shall be construed to prohibit periodic servicing of a consumer banking electronic facility by a bank, savings and loan association or credit union employee. Under no circumstances may an employee of a bank, bank holding company, affiliate or subsidiary thereof, savings and loan association or credit union perform transactions for others at the consumer banking electronic facility. However, a consumer banking electronic facility located on the business premises of a person engaged in the sale of goods or services may be used to perform internal nonbanking functions for such persons.

C. Consumer banking electronic facility transactions shall be considered as the conduct of banking transactions at the headquarters' location of the bank, savings and loan association or credit union for which the data is transmitted.

D. 1. A bank or combination of banks or business entity, association or organization offering such services to a bank, savings and loan association or credit union which establishes or maintains a manned or unmanned consumer banking electronic facility or facilities shall make the use thereof available to banks, savings and loan associations or credit unions located in Oklahoma on a fair and equitable basis of nondiscriminatory access and rates. Provided, that if a retailer does accept any credit or debit card or other system, nothing herein shall be construed to deprive such retailer of the right to accept or reject any other credit or debit card or other system offered by any other bank or business entity.

2. A bank, combination of banks, savings and loan association or credit union which establishes and maintains a manned consumer

banking electronic facility or facilities may make the use thereof available on a reciprocal basis to other banks, savings and loan associations and credit unions located in Oklahoma on a fair and equitable basis of nondiscriminatory access and rates.

3. In the event of a dispute, the Banking Board shall have the jurisdiction to determine, after a hearing conducted upon notice and pursuant to regulations adopted by the Board, what constitutes a fair and equitable basis of nondiscriminatory access and rates, based upon cost of installation and proportionate usage of the facility. A principal factor in any equitable formula of shared costs of installation and/or operation shall give weight to the number of transactions of each participating bank, savings and loan association or credit union.

4. Proceedings of the Board under this section shall be subject to the Administrative Procedures Act of Oklahoma.

E. 1. With respect to a transaction conducted at a consumer electronic banking facility, a surcharge may not be assessed directly or indirectly against a consumer if:

- a. the transaction does not relate to or affect an account held by the consumer with the bank, savings and loan association or credit union that is the owner or operator of the consumer electronic banking facility, and
- b. the transaction is conducted through a national, regional, statewide or local electronic banking network.

2. As used in this subsection:

- a. "surcharge" means a transaction fee assessed by a bank, savings and loan association or credit union that is the owner or operator of the consumer electronic banking facility, and

b. "electronic banking network" means a communications system linking banks, savings and loan associations, credit unions, or any combination thereof, through consumer electronic banking facilities.

SECTION 2. This act shall become effective November 1, 1997.

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