



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

Appendix A

LRB BILL HISTORY RESEARCH APPENDIX

The drafting file for 2013 LRB-3184 (For: Rep. Genrich

has been copied/added to the drafting file for

2013 LRB-4085 (For: Rep. Genrich)

Are These "Companion Bills" ?? ... No



RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 01/23/2014 (Per: ARG)

The attached draft was incorporated into the new draft listed above. For research purposes the attached materials were added, as a appendix, to the new drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

2013 DRAFTING REQUEST

Bill

Received: 9/18/2013 Received By: agary
Wanted: As time permits Same as LRB:
For: Eric Genrich (608) 266-0616 By/Representing: Steve Peters
May Contact: Drafter: agary
Subject: Fin. Inst. - int. rates/loans Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Rep.Genrich@legis.wisconsin.gov
Carbon copy (CC) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Liability limit for unauthorized use of debit card; same limit as for credit cards under Truth in Lending Act

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 10/1/2013			_____			
/P1		kfollett 10/2/2013	jmurphy 10/2/2013	_____	lparisi 10/2/2013		

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: 9/18/2013 Received By: agary
Wanted: As time permits Same as LRB:
For: Eric Genrich (608) 266-0616 By/Representing: Steve Peters
May Contact: Drafter: agary
Subject: Fin. Inst. - int. rates/loans Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Rep.Genrich@legis.wisconsin.gov
Carbon copy (CC) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Liability limit for unauthorized use of debit card; same limit as for credit cards under Truth in Lending Act

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	agary	1/PIEF 10/2	Jan 12	all			

FE Sent For:

<END>

Gary, Aaron

From: Rep.Genrich
Sent: Friday, September 27, 2013 10:26 AM
To: Gary, Aaron
Cc: Peters, Steve
Subject: Re: Liability Limits on Debit Cards Information Request

Makes sense. Thanks so much for all your help on these amendments. Sincerely appreciate it.

Eric Genrich
State Representative
90th Assembly District

On Sep 27, 2013, at 10:24 AM, "Gary, Aaron" <Aaron.Gary@legis.wisconsin.gov> wrote:

Thank you for the quick response. I started drafting the amendment (LRBa0854) and realized that DFI's current rule is the same as the liability limitation under TILA for credit cards (and the same as that provided for in the NY law). Therefore, the amendment restores DFI's existing rule and eliminates the changes in the bill, i.e. it will be identical to your earlier AA2 to AB-277. The bill draft, however, will be different, creating statutory text modeled on the TILA provision (15 USC 1643 (a)).

Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Rep.Genrich
Sent: Thursday, September 26, 2013 12:24 PM
To: Gary, Aaron
Cc: Peters, Steve
Subject: Re: Liability Limits on Debit Cards Information Request

That sounds good to me, Aaron. Thanks for looking into this question further.

Eric Genrich
State Representative
90th Assembly District

On Sep 26, 2013, at 12:13 PM, "Gary, Aaron" <Aaron.Gary@legis.wisconsin.gov> wrote:

Steve,

There are no state law provisions governing liability limits for credit cards because this subject is governed by federal law and federal law for unauthorized use of a credit card is much more protective of consumers than federal law related to unauthorized use of a debit card. (There are different federal laws that govern credit cards vs. debit cards.)

Under the federal Truth in Lending Act (TILA) and Reg. Z, a cardholder's maximum liability for unauthorized use of a credit card is the lesser of: \$50, or the dollar amount of the unauthorized charges before the unauthorized use is reported to the card issuer. (TILA and Reg. Z apply only to extensions of credit, and a debit card does not involve an extension of credit.)

Under the federal Electronic Fund Transfers Act and Reg. E, a cardholder's maximum liability for unauthorized use of a debit card depends on the facts, but there are three tiers under which liability may be: 1) capped at \$50; 2) capped at \$500, or 3) potentially unlimited. As you pointed out, states may impose more protective liability limits for unauthorized use of a debit card.

If a card can function as both a credit card and a debit card, federal law will apply in the manner consistent with the transaction. If a card can be used both as a credit card or debit card to make a purchase, the applicable law depends on how the card is actually used for that transaction. If a credit card is used to obtain a cash advance at an ATM, the credit card is being used for an extension of credit and TILA will apply.

Given this background, what the NY law you sent to me is really saying is that the liability limit for a debit card is the same as that applicable under federal law for a credit card (i.e. as outlined above, liability could never exceed \$50). Given this context, I think it makes the most sense for the draft to apply only to debit cards, as it is understandable to say that the liability limit for a debit card is the same as that for a credit card under TILA but it doesn't make much sense to say the liability limit for a credit card is the same as that for a credit card.

Is it OK to limit the draft to debit cards? (AB-277 covers debit cards/access devices.)

Thanks. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Peters, Steve
Sent: Wednesday, September 18, 2013 5:16 PM
To: Gary, Aaron
Cc: Rep.Genrich
Subject: RE: Liability Limits on Debit Cards Information Request

Aaron,

We would like the bill apply to both debit and credit cards. Even if it is just pointing back to the federal law that is governing them, that wouldn't do any harm.

Steven Peters
Office of Representative Eric Genrich
304W State Capitol

608-266-0617

From: Gary, Aaron
Sent: Wednesday, September 18, 2013 3:37 PM
To: Peters, Steve
Cc: Rep.Genrich
Subject: RE: Liability Limits on Debit Cards Information Request

Steve,

I don't believe there is a current law provision (statute or rule) governing credit card liability, except when the card is used for a cash advance at an ATM (ie the rules that we've already looked at in AB-277). I think federal law basically dictates credit card liability of consumers. However, I'll have to look into it further before I can give you a more definitive answer.

Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Peters, Steve
Sent: Wednesday, September 18, 2013 3:22 PM
To: Gary, Aaron
Cc: Rep.Genrich
Subject: RE: Liability Limits on Debit Cards Information Request

Thanks Aaron,

What is the current credit card liability and would the amount a credit card consumer is liable for decrease under the bill if they were included?

Steven Peters
Office of Representative Eric Genrich
304W State Capitol
608-266-0617

From: Gary, Aaron
Sent: Wednesday, September 18, 2013 3:00 PM
To: Peters, Steve
Subject: RE: Liability Limits on Debit Cards Information Request

Steve,

I have entered these two requests as LRBa0854 and LRB-3184. Is the intent that it apply to debit cards or both debit and credit cards?

Thanks. Aaron



State of Wisconsin
2013 - 2014 LEGISLATURE

10/1
wa-Fed
by 10/3



LRB-3184/P1

ARG: kjf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Nice

Gen

1 **AN ACT ...; relating to: consumer liability for unauthorized use of debit cards.**

Analysis by the Legislative Reference Bureau

This bill provides that the maximum liability of a consumer for the unauthorized use of the consumer's debit card is the lesser of: 1) \$50; or 2) the amount of money or value of property or services obtained through the unauthorized use of the debit card. Under the bill, a "debit card" is defined to include any card, code, or other means of access to a consumer's account at a financial institution used to make electronic fund transfers. The bill limits a consumer's maximum liability for unauthorized electronic fund transfers but does not affect any requirement under the federal Electronic Fund Transfer Act for establishing liability against a consumer for the transfers. Under the bill, an "unauthorized electronic fund transfer" does not include an electronic fund transfer initiated by a person other than the consumer who was furnished with the debit card by the consumer unless the consumer has notified the financial institution that transfers by the other person are no longer authorized.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 **SECTION 1.** 224.28 of the statutes is created to read:

3 **224.28 Consumer liability for unauthorized use of debit cards.** (1) In

4 this section:

- 1 (a) "Account" has the meaning given in 15 USC 1693a (2).
- 2 (b) "Consumer" has the meaning given in 15 USC 1693a (6).
- 3 (c) "Debit card" has the meaning given in 15 USC 1693a (1) for "accepted card
- 4 or other means of access."
- 5 (d) "Financial institution" has the meaning given in 15 USC 1693a (9).
- 6 (e) "Unauthorized electronic fund transfer" has the meaning given in 15 USC
- 7 1693a (12).

8 (2) A consumer's liability for an unauthorized electronic fund transfer
 9 involving the consumer's account at a financial institution and carried out by means
 10 of the consumer's debit card may not exceed the lesser of the following:

- 11 (a) ~~\$50~~ Fifty dollars
- 12 (b) The amount of money or value of property or services obtained by means of
- 13 the unauthorized electronic fund transfer prior to the time the financial institution
- 14 is notified of, or otherwise becomes aware of, circumstances which lead to the
- 15 reasonable belief that an unauthorized electronic fund transfer involving the
- 16 consumer's account has been or may be effected.

17 (3) This section establishes the maximum liability of a consumer under the
 18 circumstances specified in sub. (2) (intro.) but does not affect any requirement that
 19 is a prerequisite to establishing liability against a consumer under 15 USC 1693g,
 20 12 CFR 205.6, or any other applicable law.

21 **SECTION 2. Initial applicability.**

22 (1) This act first applies to electronic fund transfers occurring on the effective
 23 date of this subsection.

D. Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3184/P1dn

ARG:...

gf

Date

Please review the attached draft carefully to ensure that it is consistent with your intent.

This draft incorporates elements of the federal Truth in Lending Act (TILA), 15 USC 1643, and the federal Electronic Fund Transfer Act (EFTA), 15 USC 1693g, to create a liability limit for debit cards (governed by the EFTA) that is similar to the limit applicable to credit cards (governed by the TILA). The result is a liability cap for credit cards similar to that under current DFI rules, DFI-Bkg 14.07(2), Wis. Admin. Code.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3184/P1dn
ARG:kjf:jm

Oct 2, 2013

Please review the attached draft carefully to ensure that it is consistent with your intent.

This draft incorporates elements of the federal Truth in Lending Act (TILA), 15 USC 1643, and the federal Electronic Fund Transfer Act (EFTA), 15 USC 1693g, to create a liability limit for debit cards (governed by the EFTA) that is similar to the limit applicable to credit cards (governed by the TILA). The result is a liability cap for credit cards similar to that under current DFI rules, DFI-Bkg 14.07 (2), Wis. Admin. Code.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3184/P1
ARG:kjf:jm

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to create** 224.28 of the statutes; **relating to:** consumer liability for
2 unauthorized use of debit cards.

Analysis by the Legislative Reference Bureau

This bill provides that the maximum liability of a consumer for the unauthorized use of the consumer's debit card is the lesser of: 1) \$50; or 2) the amount of money or value of property or services obtained through the unauthorized use of the debit card. Under the bill, a "debit card" is defined to include any card, code, or other means of access to a consumer's account at a financial institution used to make electronic fund transfers. The bill limits a consumer's maximum liability for unauthorized electronic fund transfers but does not affect any requirement under the federal Electronic Fund Transfer Act for establishing liability against a consumer for the transfers. Under the bill, an "unauthorized electronic fund transfer" does not include an electronic fund transfer initiated by a person other than the consumer who was furnished with the debit card by the consumer unless the consumer has notified the financial institution that transfers by the other person are no longer authorized.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 224.28 of the statutes is created to read:

1 **224.28 Consumer liability for unauthorized use of debit cards.** (1) In
2 this section:

3 (a) "Account" has the meaning given in 15 USC 1693a (2).

4 (b) "Consumer" has the meaning given in 15 USC 1693a (6).

5 (c) "Debit card" has the meaning given in 15 USC 1693a (1) for "accepted card
6 or other means of access."

7 (d) "Financial institution" has the meaning given in 15 USC 1693a (9).

8 (e) "Unauthorized electronic fund transfer" has the meaning given in 15 USC
9 1693a (12).

10 (2) A consumer's liability for an unauthorized electronic fund transfer
11 involving the consumer's account at a financial institution and carried out by means
12 of the consumer's debit card may not exceed the lesser of the following:

13 (a) Fifty dollars.

14 (b) The amount of money or value of property or services obtained by means of
15 the unauthorized electronic fund transfer prior to the time the financial institution
16 is notified of, or otherwise becomes aware of, circumstances which lead to the
17 reasonable belief that an unauthorized electronic fund transfer involving the
18 consumer's account has been or may be effected.

19 (3) This section establishes the maximum liability of a consumer under the
20 circumstances specified in sub. (2) (intro.) but does not affect any requirement that
21 is a prerequisite to establishing liability against a consumer under 15 USC 1693g,
22 12 CFR 205.6, or any other applicable law.

23 **SECTION 2. Initial applicability.**

