

1999 DRAFTING REQUEST

Bill

Received: **01/7/99**

Received By: **rmarchan**

Wanted: **As time permits**

Identical to LRB:

For: **Jon Erpenbach**

By/Representing: **Julie Laundrie**

This file may be shown to any legislator: **NO**

Drafter: **rmarchan**

May Contact:

Alt. Drafters:

Subject: **Fin. Inst. - banking inst.**

Extra Copies: **KSH**

Topic:

Limit ATM / automated teller machine fees

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	rmarchan 01/25/99	ygeller 01/31/99	martykr 01/31/99	_____	lrb_docadmin 01/31/99	lrb_docadminState 02/2/99	
			martykr 02/1/99	_____	lrb_docadmin 02/1/99		

FE Sent For:

G 01-12-00

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**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 1/31/99

To: Senator Erpenbach

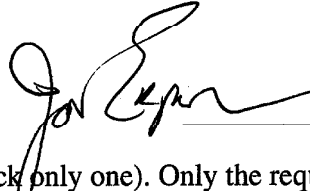
Relating to LRB drafting number: LRB-1647

Topic

Limit ATM / automated teller machine fees

Subject(s)

Fin. Inst. - banking inst.

1. **JACKET** the draft for introduction _____  2/2/99
in the **Senate** or the **Assembly** _____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.
If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Robert J. Marchant, Legislative Attorney
Telephone: (608) 261-4454

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			martykr 02/1/99	_____	lrb_docadmin 02/1/99		

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1?	rmarchan	1/1 WLJ 1/27 1/1 JLG 1/31	1/1 LM 2/1	2/1 Am 1/1			

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1-7-99

of Julie Landre, Sen. Egerbeck's office

Wants draft to limit ATM fees.

Model after federal Electronic Funds Transfer
Fees Act of 1997. HR 795 IH. Julie
will find copy of this Act via IDM.

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GPO's PDF version of this bill	References to this bill in the Congressional Record	Link to the Bill Summary & Status file	Download this bill. (2,607 bytes).
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Electronic Fund Transfer Fees Act of 1997 (Introduced in the House)

HR 795 IH

105th CONGRESS

1st Session

H. R. 795

To amend the Electronic Fund Transfer Act to prohibit the imposition of certain additional fees on consumers in connection with any electronic fund transfer which is initiated by the consumer from an electronic terminal operated by a person other than the financial institution holding the consumer's account and which utilizes a national or regional communication network.

IN THE HOUSE OF REPRESENTATIVES

February 13, 1997

Mr. SANDERS 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 prohibit the imposition of certain additional fees on consumers in connection with any electronic fund transfer which is initiated by the consumer from an electronic terminal operated by a person other than the financial institution holding the consumer's account and which utilizes a national or regional communication network.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Electronic Fund Transfer Fees Act of 1997'.

SEC. 2. PROHIBITION ON CERTAIN FEES.

The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended--

(1) by redesignating sections 918, 919, 920, and 921 as sections 919, 920, 921, and 922, respectively; and

(2) by inserting after section 917 the following new section:

SEC. 918. FEES.

In the case of any electronic fund transfer which--

(1) is initiated by a consumer from an electronic terminal operated by a person other than the financial institution holding the account of the consumer; and

(2) utilizes a national or regional communication network to effect the transaction between such person and the financial institution holding the account of the consumer,

no fee may be imposed on the consumer with respect to such transaction by the person operating the electronic terminal at which the transfer is initiated.

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State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1647/1

RJM:/:....

+ leg
Redraft
run

1999 BILL

DNOTE

gen. cart.

1 AN ACT ...; relating to: automatic teller machine fees and requiring the exercise

2 STET → [⊖] rule making authority.

WCD/VA/ ← STET ↓

Analysis by the Legislative Reference Bureau

Under current law, banks, credit unions, savings banks and savings and loan associations (financial institutions) are authorized to operate customer bank communications terminals, remote service units or remote terminals, commonly referred to as automatic teller machines (ATMs). Financial institutions are required to make their ATMs available for use, on a nondiscriminatory basis, upon request by another financial institution or by customers designated by a financial institution using the terminal, subject to joint rules established by the division of savings and loan, the division of banking and the office of credit unions in the department of financial institutions.

This bill requires these joint rules to prohibit a state, national, or federal financial institution from charging a person a fee for a transaction using an ATM, unless the transaction relates to or affects an account held by that person with that financial institution. Federal law may preempt these rules with regard to national and federal financial institutions.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

BILL

1 **SECTION 1.** 186.113 (15) (a) of the statutes is amended to read:

2 186.113 (15) (a) Directly or indirectly, acquire, place and operate, or participate
3 in the acquisition, placement and operation of, at locations other than its offices,
4 remote terminals, in accordance with rules established by the office of credit unions.
5 The rules shall provide that any remote terminal shall be available for use, on a
6 nondiscriminatory basis, by any state or federal credit union which has its principal
7 place of business in this state, by any other credit union obtaining the consent of a
8 state or federal credit union which has its principal place of business in this state and
9 is using the terminal and by all members designated by a credit union using the
10 terminal. This subsection does not authorize a credit union which has its principal
11 place of business outside the state to conduct business as a credit union in this state.
12 The remote terminals also shall be available for use, on a nondiscriminatory basis,
13 by any state or national bank, state or federal savings bank or state or federal savings
14 and loan association, whose home office is located in this state, if the bank, savings
15 bank or savings and loan association requests to share its use, subject to the joint
16 rules established under s. 221.0303 (2). The joint rules under s. 221.0303 (2) shall
17 prohibit a state or federal credit union from imposing a charge on a person for making
18 a transaction at a remote terminal, unless the transaction relates to an account
19 owned by the person and held by the state or federal credit union imposing the
20 charge. The office of credit unions by order may authorize the installation and
21 operation of a remote terminal in a mobile facility, after notice and hearing upon the
22 proposed service stops of the mobile facility.

23 **SECTION 2.** 214.04 (21) (b) of the statutes is amended to read:

24 214.04 (21) (b) The rules of the division shall provide that any remote service
25 unit shall be available for use, on a nondiscriminatory basis, by any state or federal

BILL

1 savings bank which has its principal place of business in this state, by any other state
2 or federal savings bank obtaining the consent of a state or federal savings bank that
3 has its principal place of business in this state and is using the terminal and by all
4 customers designated by a savings bank using the unit. This paragraph does not
5 authorize a savings bank which has its principal place of business outside this state
6 to conduct business as a savings bank in this state. A remote service unit shall be
7 available for use, on a nondiscriminatory basis, by any credit union, state or national
8 bank or state or federal savings and loan association, whose home office is located
9 in this state, if the credit union, bank or savings and loan association requests to
10 share its use, subject to joint rules established by the division of banking, the office
11 of credit unions and the division under s. [✓]221.0303 (2).[✓] The joint rules under s.
12 221.0303 (2)[✓] shall prohibit a state or federal savings bank from imposing a charge
13 on a person for making a transaction at a remote service unit, unless the transaction
14 relates to an account owned by the person and held by the state or federal savings
15 bank imposing the charge. The division by order may authorize the installation and
16 operation of a remote service unit in a mobile facility, after notice and hearing upon
17 the proposed service stops of the mobile facility.

18 **SECTION 3.** 215.13 (46) (a) 1.[✓] of the statutes is amended to read:

19 215.13 (46) (a) 1. Directly or indirectly, acquire, place and operate, or
20 participate in the acquisition, placement and operation of, at locations other than its
21 home or branch offices, remote service units, in accordance with rules established by
22 the division. Remote service units established in accordance with such rules are not
23 subject to sub. (36), (39), (40) or (47) or s. 215.03 (8). The rules of the division shall
24 provide that any such remote service unit shall be available for use, on a
25 nondiscriminatory basis, by any state or federal savings and loan association which

BILL

1 has its principal place of business in this state, by any other savings and loan
2 association obtaining the consent of a state or federal savings and loan association
3 which has its principal place of business in this state and is using the terminal and
4 by all customers designated by a savings and loan association using the unit. This
5 paragraph does not authorize a savings and loan association which has its principal
6 place of business outside this state to conduct business as a savings and loan
7 association in this state. The remote service units also shall be available for use, on
8 a nondiscriminatory basis, by any credit union, state or national bank or state or
9 federal savings bank, whose home office is located in this state, if the credit union,
10 bank or savings bank requests to share its use, subject to the joint rules established
11 under s. 221.0303 (2). The joint rules under s. 221.0303 (2) shall prohibit a state or
12 federal savings and loan association from imposing a charge on a person for making
13 a transaction at a remote service unit, unless the transaction relates to an account
14 owned by the person and held by the state or federal savings and loan association
15 imposing the charge. The division by order may authorize the installation and
16 operation of a remote service unit in a mobile facility, after notice and hearing upon
17 the proposed service stops of the mobile facility.

18 **SECTION 4.** 221.0303 (2)¹ of the statutes is amended to read:

19 **221.0303 (2) OPERATION AND ACQUISITION OF CUSTOMER BANK COMMUNICATIONS**
20 **TERMINALS.** A bank may, directly or indirectly, acquire, place and operate, or
21 participate in the acquisition, placement and operation of, at locations other than its
22 main or branch offices, customer bank communications terminals, in accordance
23 with rules established by the division. The rules of the division shall provide that
24 any such customer bank communications terminal shall be available for use, on a
25 nondiscriminatory basis, by any state or national bank and by all customers

BILL

1 designated by a bank using the terminal. This subsection does not authorize a bank
2 which has its principal place of business outside this state to conduct banking
3 business in this state. The customer bank communications terminals also shall be
4 available for use, on a nondiscriminatory basis, by any credit union, savings and loan
5 association or savings bank, if the credit union, savings and loan association or
6 savings bank requests to share its use, subject to rules jointly established by the
7 division of banking, the office of credit unions and the division of savings and loan.
8 The joint rules shall prohibit a state or national bank from imposing a charge on a
9 person for making a transaction at a customer bank communications terminal,
10 unless the transaction relates to or affects an account owned by the person and held
11 by the state or national bank imposing the charge. The division by order may
12 authorize the installation and operation of a customer bank communications
13 terminal in a mobile facility, after notice and hearing upon the proposed service stops
14 of the mobile facility.

SECTION 5. Effective date.

15
16 (1) This act takes effect on the first day of the 6th month beginning after
17 publication.

18 (END) ✓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1647/1dn

RJM:/:....

WJ
↓
JG

1. This draft prohibits all state, national and federal financial institutions from charging an ATM fee under certain circumstances. However, it is unclear whether and to what extent the state may regulate the fees charged by national and federal financial institutions. For example, it is possible that the National Banking Act, at 12 U.S.C. Sec. 24 (Seventh), would preempt the application of this bill to national banks. Currently, both the state of Connecticut and the state of Iowa are in litigation over the applicability of their ATM statutes to national banks. See Fleet Nat'l Bank v. Burke, 1998 Conn. Super. LEXIS 3554; Bank One v. Guttan, 1998 U.S. Dist. LEXIS 14830. As of now, there has been no binding court decision on the issue.

Thus far

2. I have incorporated an effective date provision into this draft to give the regulators involved an opportunity to promulgate the required rules. The delayed effective date also gives financial institutions time to change the operation of their ATM's so that the financial institutions can comply with the law. ✓

If you desire to further discuss these or other issues, please feel free to contact me. ✓ Also, please let me know if you want copies of the federal law or the cases that deal with these issues or if you would like an update on the status of the Fleet Nat'l Bank and Bank One cases.

Robert J. Marchant
Legislative Attorney
261-4454

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

LRB-1647/1dn
RJM:wlj&jlg:km

February 1, 1999

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Robert J. Marchant
Legislative Attorney
261-4454