

2013 DRAFTING REQUEST

Assembly Amendment (AA-AB277)

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 9/27/2013			_____			
/1		kfollett 9/27/2013	jfrantze 9/27/2013	_____	srose 9/27/2013	srose 9/27/2013	

FE Sent For:

<END>

2013 DRAFTING REQUEST

Assembly Amendment (AA-AB277)

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	1/15f 9/27	ag	9/27			

FE Sent For:

<END>

Gary, Aaron

From: Peters, Steve
Sent: Tuesday, September 17, 2013 4:21 PM
To: Gary, Aaron
Subject: FW: Liability Limits on Debit Cards Information Request
Attachments: Debit and EFT Consumer Liability for Unauthorized Transactions Statutes & Admin Codes 09-03-13.doc

Aaron, can we get the NY portion of this drafted as both an amendment to AB 277 and as separate legislation?

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

New York	N.Y. General Business Law §511 <i>et seq.</i>	A provision which imposes liability upon a holder for a cash advance or loan or for the purchase or lease of property or services obtained by the unauthorized use of a credit card or a debit card shall not be enforceable to the extent that it imposes a greater liability upon the holder than is imposed upon the holder of a credit card under the provisions of the act of Congress entitled 'Truth in Lending Act' and the regulations thereunder, as such act and regulations may from time to time be amended.
----------	-----------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

From: Heather Morton [<mailto:heather.morton@ncsl.org>]
Sent: Tuesday, September 03, 2013 4:51 PM
To: Peters, Steve
Subject: Liability Limits on Debit Cards Information Request

Dear Steve,

Thank you for contacting NCSL with your information request regarding state liability limits for unauthorized debit card transactions. Please find attached a chart summarizing the statutes and administrative codes for your review. I found relevant provisions in nine states.

If you have any additional questions, please do not hesitate to contact me.

Your satisfaction with NCSL's services is very important to us, and we are constantly looking for ways to improve. We invite you to take a few seconds to indicate your level of satisfaction with this response to your request for information. Please [click here](#) (or copy and paste <http://tinyurl.com/NCSLFeedback> into your browser) to respond to a very short survey.

Best wishes,
Heather Morton
Program Principal
National Conference of State Legislatures
7700 East First Place
Denver, CO 80230

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?

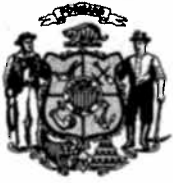
Steven Peters
Office of Representative Eric Genrich
304W State Capitol
608-266-0617

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

Scan

in 9/27



LRB: ~~244~~ 90854/
ARG:kjf:ph
stays

ASSEMBLY AMENDMENT
TO ASSEMBLY BILL 277

Sorry, I thought
I would be
drafting and
run the RMR
too soon

August 27, 2013 - Offered by Representatives GENRICH, RICHARDS and SARGENT.

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 10, line 2: delete the material beginning with that line and ending with
- 3 page 12, line 7.
- 4 **2.** Page 19, line 4: delete the material beginning with that line and ending with
- 5 page 21, line 10.
- 6 **3.** Page 22, line 2: delete the material beginning with that line and ending with
- 7 page 24, line 10.
- 8 **4.** Page 25, line 2: delete the material beginning with that line and ending with
- 9 page 27, line 6.
- 10 (END)