

## CHAPTER 2016-53

### Committee Substitute for Committee Substitute for House Bill No. 145

An act relating to financial transactions; amending s. 501.0117, F.S.; exempting a private school from the prohibition against charging certain convenience fees to a student or family paying tuition, fees, or other student account charges by credit card under certain circumstances; amending s. 516.07, F.S., prohibiting a licensee from making payments to a person as compensation, inducement, or reward for referring loan applications to the licensee under certain circumstances; amending s. 670.108, F.S.; revising applicability; providing that chapter 670, F.S., governs certain funds transfers that are remittance transfers; providing that the federal Electronic Fund Transfer Act governs any inconsistency between a funds transfer under chapter 670, F.S.; amending s. 701.03, F.S.; reducing the time limit for a mortgagee or an assignee to cancel a mortgage, except in cases where the loan is an open-end mortgage; authorizing an open-end mortgage to be canceled within a specified timeframe if the borrower provides written notice of his or her intent to close the open-end mortgage; providing applicability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 501.0117, Florida Statutes, is amended to read:

501.0117 Credit cards; transactions in which seller or lessor prohibited from imposing surcharge; penalty.—

(1) A seller or lessor in a sales or lease transaction may not impose a surcharge on the buyer or lessee for electing to use a credit card in lieu of payment by cash, check, or similar means, if the seller or lessor accepts payment by credit card. A surcharge is any additional amount imposed at the time of a sale or lease transaction by the seller or lessor that increases the charge to the buyer or lessee for the privilege of using a credit card to make payment. Charges imposed pursuant to approved state or federal tariffs are not considered to be a surcharge, and charges made under such tariffs are exempt from this section. A convenience fee imposed upon a student or family paying tuition, fees, or other student account charges by credit card to a William L. Boyd, IV, Florida resident access grant eligible institution, as defined in s. 1009.89, or to a private school, as defined in s. 1002.01, is not considered to be a surcharge and is exempt from this section if the amount of the convenience fee does not exceed the total cost charged by the credit card company to the institution. The term “credit card” includes those cards for which unpaid balances are payable on demand. This section does not apply to the offering of a discount for the purpose of inducing payment by cash, check, or other means not involving the use of a credit card, if the discount is offered to all prospective customers.

(2) A person who violates the provisions of subsection (1) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 2. Paragraph (k) of subsection (1) of section 516.07, Florida Statutes, is amended to read:

516.07 Grounds for denial of license or for disciplinary action.—

(1) The following acts are violations of this chapter and constitute grounds for denial of an application for a license to make consumer finance loans and grounds for any of the disciplinary actions specified in subsection (2):

(k) Paying money or anything else of value, directly or indirectly, to any person as compensation, inducement, or reward for referring loan applicants to a licensee, if such amount is charged directly or indirectly to the borrower.

Section 3. Section 670.108, Florida Statutes, is amended to read:

670.108 Relationship to Electronic Fund Transfer Act ~~Exclusion of consumer transactions governed by federal law.—~~

(1) Except as provided in subsection (2), this chapter does not apply to a funds transfer any part of which is governed by the Electronic Fund Transfer Act of 1978 (Title XX, Pub. L. No. 95-630, 92 Stat. 3728, 15 U.S.C. ss. 1693 et seq.), as amended from time to time.

(2) This chapter applies to a funds transfer that is a remittance transfer as defined in the Electronic Fund Transfer Act, 15 U.S.C. s. 1693o-1, as amended from time to time, unless the remittance transfer is an electronic fund transfer as defined in the Electronic Fund Transfer Act, 15 U.S.C. s. 1693a, as amended from time to time.

(3) If there is an inconsistency between a funds transfer under this chapter and the Electronic Fund Transfer Act, the Electronic Fund Transfer Act governs the inconsistency.

Section 4. Section 701.03, Florida Statutes, is amended to read:

701.03 Cancellation.—

(1) Whenever the amount of money due under a promissory note secured by a ~~on any mortgage is~~ shall be fully paid, the mortgagee or assignee shall within 45 ~~60~~ days after satisfaction of the mortgage thereafter cancel the mortgage ~~same~~ in the manner provided by law, unless the mortgage is an open-end mortgage.

(2) A mortgage that is an open-end mortgage as provided in the loan agreement may be canceled upon written notice from the borrower of the intent to close the mortgage. The mortgagee or assignee shall cancel the

open-end mortgage within 45 days after receiving the notice. This subsection does not apply to an open-end mortgage existing before July 1, 2016, if the loan agreement contained procedures for canceling the mortgage.

Section 5. This act applies to all remittance transfers initiated on or after July 1, 2016.

Section 6. This act shall take effect July 1, 2016.

Approved by the Governor March 10, 2016.

Filed in Office Secretary of State March 10, 2016.