

HOUSE BILL 2074

By Williams R

AN ACT to amend Tennessee Code Annotated, Title 45,
Chapter 15 and Title 45, Chapter 17, relative to
fees charged in a financial transaction.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 45-15-111, is amended by adding the following new subsection (c) and redesignating existing subsections accordingly:

(c)

(1) In addition to fees otherwise authorized under this chapter, a title pledge lender may also impose and collect a convenience fee from any customer making payment for services by credit card, debit card, electronic funds transfer, electronic check, or other electronic means in order to offset actual costs incurred by the licensee for accepting and processing payments by electronic means.

(2)

(A) Any convenience fee collected by a title pledge lender pursuant to this subdivision (c)(1) may not exceed the actual costs incurred by the title pledge lender; provided, however, a title pledge lender may impose a convenience fee in lieu of the actual cost of the individual payment type that does not exceed the average of the actual costs incurred for the various types of electronic payments accepted by the title pledge lender.

(B) Any title pledge lender charging a convenience fee pursuant to this subdivision (c)(1) shall make available to the customer the option to make payment by check, cash or money order directly to the title

pledge lender without the imposition of a convenience fee for a card payment or electronic payment.

(C) When a customer elects to make a payment to the title pledge lender by credit card, debit card, electronic funds transfer, electronic check, or other electronic means and a convenience fee is imposed and collected pursuant to this subdivision (c)(1), the payment of the convenience fee shall not be refundable.

(D) The convenience fee may be charged in addition to all other interest and fees allowed by law.

(E) For purposes of this subdivision (c)(1) "actual costs" means the actual third party costs incurred for the processing of payments made by electronic means. If a title pledge lender is a subsidiary of an entity that processes payments made by electronic means, then the parent entity shall be considered a third party.

SECTION 2. Tennessee Code Annotated, Section 45-17-112(b), is amended by designating the existing language as subdivision (1) and adding the following new subdivision (2):

(2)

(A) In addition to fees otherwise authorized under this part, a licensee may also impose and collect a convenience fee from any customer making payment for services by credit card, debit card, electronic funds transfer, electronic check, or other electronic means in order to offset actual costs incurred by the licensee for accepting and processing payments by electronic means.

(B)

(i) Any convenience fee collected by a registrant pursuant to this subdivision (b)(2) may not exceed the actual costs incurred by the licensee; provided, however, a licensee may impose a convenience fee in lieu of the actual cost of the individual payment type that does not exceed

the average of the actual costs incurred for the various types of electronic payments accepted by the licensee.

(ii) Any licensee charging a convenience fee pursuant to this subdivision (b)(2) shall make available to the customer the option to make payment by check, cash or money order directly to the licensee without the imposition of a convenience fee for a card payment or electronic payment.

(iii) When a customer elects to make a payment to the licensee by credit card, debit card, electronic funds transfer, electronic check, or other electronic means and a convenience fee is imposed and collected pursuant to this subdivision (b)(2), the payment of the convenience fee shall not be refundable.

(iv) The convenience fee may be charged in addition to all other interest and fees allowed by law.

(v) For purposes of this subdivision (b)(2) "actual costs" means the actual third party costs incurred for the processing of payments made by electronic means. If a licensee is a subsidiary of an entity that processes payments made by electronic means, then the parent entity shall be considered a third party.

SECTION 3. For purposes of promulgating rules, this act shall take effect upon becoming law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2014, the public welfare requiring it.