

105TH CONGRESS  
1ST SESSION

# H. R. 264

To amend the Electronic Fund Transfer Act to require notice of certain fees imposed by the operator of an automated teller machine in connection with an electronic fund transfer initiated by a consumer at the machine, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mrs. ROUKEMA (for herself and Mr. SCHUMER) introduced the following bill;  
which was referred to the Committee on Banking and Financial Services

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## A BILL

To amend the Electronic Fund Transfer Act to require notice of certain fees imposed by the operator of an automated teller machine in connection with an electronic fund transfer initiated by a consumer at the machine, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “ATM Fee Reform Act  
5       of 1997”.

1 **SEC. 2. ELECTRONIC FUND TRANSFER FEE DISCLOSURES**  
2 **AT ANY HOST ATM.**

3 Section 904 of the Electronic Fund Transfer Act (15  
4 U.S.C. 1693b) is amended—

5 (1) by striking “(d) In the event” and inserting  
6 “(d) APPLICABILITY TO SERVICE PROVIDERS  
7 OTHER THAN CERTAIN FINANCIAL INSTITU-  
8 TIONS.—

9 “(1) IN GENERAL.—In the event”; and

10 (2) by adding at the end the following new  
11 paragraph:

12 “(2) FEE DISCLOSURES AT ELECTRONIC TERMI-  
13 NALS.—

14 “(A) IN GENERAL.—The regulations pre-  
15 scribed under paragraph (1) shall require any  
16 host electronic terminal operator who imposes a  
17 fee on any consumer for providing host transfer  
18 services to such consumer to provide notice in  
19 accordance with subparagraph (B) to the  
20 consumer (at the time the service is provided)  
21 of—

22 “(i) the fact that a fee is imposed by  
23 such operator for providing the service;  
24 and

25 “(ii) the amount of any such fee.

1           “(B) NOTICE REQUIREMENTS.—The notice  
2           required under subparagraph (A) with respect  
3           to any fee described in such subparagraph  
4           shall—

5                   “(i) be posted in a prominent and  
6                   conspicuous location on or at the electronic  
7                   terminal at which the electronic fund  
8                   transfer is initiated by the consumer; and

9                   “(ii) appear on the screen of the elec-  
10                  tronic terminal, or on a paper notice issued  
11                  from the terminal, after the transaction is  
12                  initiated and before the consumer is irrev-  
13                  ocably committed to completing the trans-  
14                  action.

15           “(C) PROHIBITION ON FEES NOT PROP-  
16           ERLY DISCLOSED AND EXPLICITLY ASSUMED BY  
17           CONSUMER.—No fee may be imposed by any  
18           host electronic terminal operator in connection  
19           with any electronic fund transfer initiated by a  
20           consumer for which a notice is required under  
21           subparagraph (A), unless—

22                   “(i) the consumer receives such notice  
23                   in accordance with subparagraph (B); and

1                   “(ii) the consumer elects to continue  
2                   in the manner necessary to effect the  
3                   transaction after receiving such notice.

4                   “(D) DEFINITIONS.—For purposes of this  
5                   paragraph, the following definitions shall apply:

6                   “(i) ELECTRONIC FUND TRANSFER.—  
7                   The term ‘electronic fund transfer’ in-  
8                   cludes a transaction which involves a bal-  
9                   ance inquiry initiated by a consumer in the  
10                  same manner as an electronic fund trans-  
11                  fer, whether or not the consumer initiates  
12                  a transfer of funds in the course of the  
13                  transaction.

14                  “(ii) HOST ELECTRONIC TERMINAL  
15                  OPERATOR.—The term ‘host electronic ter-  
16                  minal operator’ means any person who—

17                         “(I) operates an electronic termi-  
18                         nal at which consumers initiate elec-  
19                         tronic fund transfers; and

20                         “(II) is not the financial institu-  
21                         tion which holds the account of any  
22                         such consumer from which the trans-  
23                         fer is made.

24                   “(iii) HOST TRANSFER SERVICES.—  
25                   The term ‘host transfer services’ means

1                   any electronic fund transfer made by a  
 2                   host electronic terminal operator in connec-  
 3                   tion with a transaction initiated by a  
 4                   consumer at an electronic terminal oper-  
 5                   ated by such operator.”.

6 **SEC. 3. DISCLOSURE OF POSSIBLE FEES TO CONSUMERS**  
 7 **WHEN ATM CARD IS ISSUED.**

8           Section 905(a) of the Electronic Fund Transfer Act  
 9 (12 U.S.C. 1693c(a)) is amended—

10           (1) by striking “and” at the end of paragraph  
 11           (8);

12           (2) by striking the period at the end of para-  
 13           graph (9) and inserting “; and”; and

14           (3) by inserting after paragraph (9) the follow-  
 15           ing new paragraph:

16           “(10) a notice to the consumer that a fee may  
 17           be imposed by—

18                   “(A) a host electronic terminal operator  
 19                   (as defined in section 904(d)(2)(D)(ii)) if the  
 20                   consumer initiates a transfer from an electronic  
 21                   terminal which is not operated by the person is-  
 22                   suing the card or other means of access; and

23                   “(B) any national, regional, or local net-  
 24                   work utilized to effect the transaction.”.

1 **SEC. 4. FEASIBILITY STUDY.**

2 (a) IN GENERAL.—The Comptroller General of the  
3 United States shall conduct a study of the feasibility of  
4 requiring, in connection with any electronic fund transfer  
5 initiated by a consumer through the use of an electronic  
6 terminal—

7 (1) a notice to be provided to the consumer be-  
8 fore the consumer is irrevocably committed to com-  
9 pleting the transaction, which clearly states the  
10 amount of any fee which will be imposed upon the  
11 consummation of the transaction by—

12 (A) any host electronic terminal operator  
13 (as defined in section 904(d)(2)(D)(ii) of the  
14 Electronic Fund Transfer Act) involved in the  
15 transaction;

16 (B) the financial institution holding the ac-  
17 count of the consumer;

18 (C) any national, regional, or local network  
19 utilized to effect the transaction; and

20 (D) any other party involved in the trans-  
21 fer; and

22 (2) the consumer to elect to consummate the  
23 transaction after receiving the notice described in  
24 paragraph (1).

25 (b) FACTORS TO BE CONSIDERED.—In conducting  
26 the study required under subsection (a) with regard to the

1 notice requirement described in such subsection, the  
2 Comptroller General shall consider the following factors:

3 (1) The availability of appropriate technology.

4 (2) Implementation and operating costs.

5 (3) The competitive impact any such notice re-  
6 quirement would have on various sizes and types of  
7 institutions, if implemented.

8 (4) The period of time which would be reason-  
9 able for implementing any such notice requirement.

10 (5) The extent to which consumers would bene-  
11 fit from any such notice requirement.

12 (6) Any other factor the Comptroller General  
13 determines to be appropriate in analyzing the fea-  
14 sibility of imposing any such notice requirement.

15 (c) REPORT TO THE CONGRESS.—Before the end of  
16 the 6-month period beginning on the date of the enact-  
17 ment of this Act, the Comptroller General shall submit  
18 a report to the Congress containing—

19 (1) the findings and conclusions of the Comp-  
20 troller General in connection with the study required  
21 under subsection (a); and

22 (2) the recommendation of the Comptroller  
23 General with regard to the question of whether a no-  
24 tice requirement described in subsection (a) should

1 be implemented and, if so, how such requirement  
2 should be implemented.

3 **SEC. 5. NO LIABILITY IF POSTED NOTICES ARE DAMAGED.**

4 Section 910 of the Electronic Fund Transfer Act (15  
5 U.S.C. 1693h) is amended by adding at the end the follow-  
6 ing new subsection:

7 “(d) EXCEPTION FOR DAMAGED NOTICES.—If the  
8 notice required to be posted pursuant to section  
9 904(d)(2)(B)(i) by a host electronic terminal operator has  
10 been posted by such operator in compliance with such sec-  
11 tion and the notice is subsequently removed, damaged, or  
12 altered by any person other than the operator of the auto-  
13 mated teller machine, the operator shall have no liability  
14 under this section for failure to comply with section  
15 904(d)(2)(B)(i).”.

16 **SEC. 6. EFFECTIVE DATE.**

17 This Act and the amendments made by this Act to  
18 other provisions of law shall take effect at the end of the  
19 6-month period beginning on the date of the enactment  
20 of this Act.

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