

May 24, 2012

To: Members of the United States Senate

Re: Support for S. 3204, to Update ATM Fee Disclosure Requirements

The undersigned banking trade associations, representing banks of all sizes in every state, are writing to express our strong support for legislation (S. 3204) by Sen. Mike Johanns (R-NE), Sen. Bob Corker (R-TN), Sen. Jon Tester (D-MT), and Sen. Mark Warner (D-VA). This overdue legislation would protect financial institutions from frivolous lawsuits by repealing the outdated and duplicative requirement that placards must be attached to automated teller machines (ATMs) stating that fees may be charged.

The Electronic Fund Transfer Act and its implementing rule require ATM operators to provide two separate notices to consumers regarding the imposition of a fee for the use of the ATM. One fee disclosure is included in the ATM video monitor. The customer must affirmatively accept the fee in order for the transaction to continue. If the customer does not affirmatively accept the fee, the transaction is cancelled and the customer is not charged. The banking industry supports this fee disclosure requirement.

The rule also requires a second disclosure: a physical placard attached to the ATM stating that a fee may be charged. If the placard is not attached, the rule permits class-action lawsuits to recover up to \$500,000 plus attorneys' fees and costs. As a result, many placards have been purposely removed in order to sue, or threaten to sue, financial institutions and merchants for non-compliance with the requirement.

The dual-disclosure requirement made some sense when it was enacted in the 1990s. Offsite ATMs were less common, consumers were not as aware that they would be charged fees, and video monitors were smaller and had lower resolutions. Today, offsite ATMs have become common, consumers are more aware that fees may be charged at ATMs not operated by their financial institutions, and ATM video monitors are much larger, more prominent, and display sharp images.

S. 3204 would update the dual disclosure requirement, reducing the regulatory burden on all financial institutions, while continuing to ensure consumer protections for all ATM users through mandated on-screen fee disclosures. Without this important reform, the number of these baseless lawsuits will continue to rise as will the cost of this service to consumers. Such actions could very well reduce the number of ATMs deployed and result in reduced consumer convenience.

We urge you to support this important reform by cosponsoring S. 3204. Thank you for considering our views.

Sincerely,

American Bankers Association
Alabama Bankers Association

Alaska Bankers Association
Arizona Bankers Association

Arkansas Bankers Association
California Bankers Association
Colorado Bankers Association
Connecticut Bankers Association
Delaware Bankers Association
Florida Bankers Association
Georgia Bankers Association
Hawaii Bankers Association
Heartland Community Bankers Association
Idaho Bankers Association
Illinois Bankers Association
Illinois League of Financial Institutions
Indiana Bankers Association
Iowa Bankers Association
Kansas Bankers Association
Kentucky Bankers Association
Louisiana Bankers Association
Maine Bankers Association
Maryland Bankers Association
Massachusetts Bankers Association
Michigan Bankers Association
Minnesota Bankers Association
Mississippi Bankers Association
Missouri Bankers Association
Montana Bankers Association
Nebraska Bankers Association
Nevada Bankers Association
New Hampshire Bankers Association
New Jersey Bankers Association
New Mexico Bankers Association
New York Bankers Association

North Carolina Bankers Association
North Dakota Bankers Association
Ohio Bankers League
Oklahoma Bankers Association
Oregon Bankers Association
Pennsylvania Bankers Association
Puerto Rico Bankers Association
Rhode Island Bankers Association
South Carolina Bankers Association
South Dakota Bankers Association
Tennessee Bankers Association
Texas Bankers Association
Utah Bankers Association
Vermont Bankers Association
Virginia Bankers Association
Washington Bankers Association
Washington Financial League
West Virginia Bankers Association
Wisconsin Bankers Association
Wyoming Bankers Association