

ASSEMBLY, No. 2951

STATE OF NEW JERSEY

INTRODUCED MAY 12, 1997

By Assemblymen ZECKER and BLEE

1 AN ACT concerning certain electronic fund transfers.

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3 **BE IT ENACTED** by the Senate and General Assembly of the State  
4 of New Jersey:

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6 1. This act shall be known as and may be cited as the "Ethical  
7 ATM Act of 1997."

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9 2. The Legislature finds and declares:

10 a. State and federally chartered financial institutions have put  
11 considerable emphasis on the use by customers of electronic terminals,  
12 including automated teller machines (ATMs), rather than carrying  
13 cash;

14 b. Many of the largest financial institutions are trying to convince  
15 customers to use electronic terminals more frequently and to visit their  
16 branch offices less frequently, so branch offices can be closed and  
17 operating costs can be cut;

18 c. Most financial institutions already charge a fee to some of their  
19 customers when they use an ATM owned by another financial  
20 institution or independent company;

21 d. In addition, many financial institutions charge a noncustomer for  
22 using their ATMs.

23 e. The networks, which make it possible for account holders to  
24 access their accounts whether using their own financial institution's  
25 ATMs or other ATMs wherever located, charge the financial  
26 institution which issues the access device every time its customers use  
27 an ATM, part of which charge the networks keep and part of which  
28 charge the networks send to the owner of the ATM used.

29 f. In New Jersey ownership of ATMs is not restricted to financial  
30 institutions. Many of the ATMs in convenience stores and  
31 supermarkets are owned by corporations other than financial  
32 institutions which lease the space in these stores, use their own  
33 resources to provide moneys for any person wishing to withdraw  
34 money from their financial institution or credit card account and  
35 impose a charge for this service.

1       3. As used in this act:

2       "Access device" means a card, code, or other means of access to  
3 a consumer's account, or any combination thereof, that may be used by  
4 the consumer for the purpose of initiating electronic fund transfers.

5       "Account" means a demand deposit, savings, or other consumer  
6 asset account held either directly or indirectly by a financial institution  
7 and established primarily for personal, family or household purposes.

8       "Electronic fund transfer" means any transfer of funds, other than  
9 a transfer of funds originated by check, draft or other paper  
10 instrument, that is initiated through an electronic terminal, or  
11 computer or magnetic tape for the purpose of ordering, instructing, or  
12 authorizing a financial institution to debit or credit an account. The  
13 term includes, but is not limited to, point of sale transfers, automated  
14 teller machine transfers, direct deposits or withdrawals of funds. It  
15 includes all transfers resulting from debit card transactions, including  
16 those that do not involve an electronic terminal at the time of the  
17 transaction. The term does not include payments made by check, draft  
18 or similar paper instruments at an electronic terminal, or transfers  
19 initiated by use of a telephone.

20       "Electronic terminal" means an electronic device, other than a  
21 telephone, operated by a consumer through which a consumer may  
22 initiate an electronic fund transfer. The term includes, but is not  
23 limited to, point-of-sale terminals, automated teller machines (ATMs),  
24 and cash dispensing machines.

25       "Financial institution" means a state or federally chartered bank,  
26 savings bank, savings and loan association or credit union.

27       "Third party" means a person who owns or operates an electronic  
28 terminal other than the financial institution holding a consumer's  
29 account.

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31       4. When an electronic fund transfer is initiated and completed by  
32 a consumer through the use of an electronic terminal owned by a third  
33 party, no fee may be imposed by that third party in connection with  
34 that transaction.

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36       5. This act shall take effect on the 30th day following enactment.

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#### STATEMENT

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41       This bill prohibits the imposition of a fee by an owner of an  
42 electronic terminal which is used by the consumer to initiate and  
43 complete an electronic fund transfer if the owner of the electronic  
44 terminal is other than the financial institution holding the consumer's  
45 account.

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3 Enacts the "Ethical ATM Act of 1997."