

1 ENGROSSED SENATE
BILL NO. 473

By: Sparks of the Senate

and

Echols and Loring of the
House

[Consumer Credit Code - surcharge of bank processing
fee - disclosure - construing provisions -
codification - effective date]

11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 14A O.S. 2011, Section 2-417, as
13 last amended by Section 2, Chapter 31, O.S.L. 2017 (14A O.S. Supp.
14 2017, Section 2-417), is amended to read as follows:

15 Section 2-417. A. No seller in any sales transaction may
16 impose a surcharge on a cardholder who elects to use a credit card
17 or debit card in lieu of payment by cash, check or similar means.

18 B. As used in this section, "debit card" means any instrument
19 or device, whether known as a debit card or by any other name,
20 issued with or without fee by an issuer for the use of the
21 cardholder in depositing, obtaining or transferring funds from a
22 consumer banking electronic facility.

23 C. For purposes of this section, a private educational
24 institution as defined in paragraph (e) of Section 3102 of Title 70

1 of the Oklahoma Statutes, a private school defined as a nonpublic
2 entity conducting an educational program for at least one grade
3 between prekindergarten through twelve, a municipality as defined in
4 paragraph 5 of Section 1-102 of Title 11 of the Oklahoma Statutes or
5 a public trust with a municipality as its beneficiary may charge a
6 service fee. The service fee shall be limited to bank processing
7 fees and financial transaction fees, the cost of providing for
8 secure transaction, portal fees, and fees necessary to compensate
9 for increased bandwidth incurred as a result of providing for an
10 ~~online~~ the transaction.

11 SECTION 2. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 2-418 of Title 14A, unless there
13 is created a duplication in numbering, reads as follows:

14 With respect to a person acting on behalf of a principal in a
15 lawful business activity or transaction in which money is advanced
16 or paid by credit card to the agent, and deposited in the agent's
17 lawful trust, escrow or holding account, the person acting on behalf
18 of the principal may surcharge the credit card processing fee
19 incurred. No credit card surcharge shall exceed the actual bank
20 processing fee. All surcharges and amounts must be fully disclosed
21 as part of the agreement for services by the agent. Such activity
22 or transaction must not require a charter, license or registration
23 as a trust and must be an exempt activity as provided in Section
24 1706 of Title 6 of the Oklahoma Statutes. Any credit card surcharge

1 authorized by this section shall not be deemed contrary to any
2 provision of Section 2-211 or Section 2-417 of Title 14A of the
3 Oklahoma Statutes for sales transactions. The provisions of this
4 section shall not authorize any additional fees or charges regulated
5 or prohibited by any other provision of law or by any contractual
6 provision.

7 SECTION 3. This act shall become effective January 1, 2019.

8 Passed the Senate the 14th day of March, 2018.

9

10

Presiding Officer of the Senate

11

12 Passed the House of Representatives the ____ day of _____,
13 2018.

14

15

Presiding Officer of the House
of Representatives

16

17

18

19

20

21

22

23

24