

SENATE BILL 2305

By Kyle

AN ACT to amend Tennessee Code Annotated, Title 45 and Title 47, Chapter 4, Part 4, relative to processing of certain drafts against deposit accounts.

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

SECTION 1. Tennessee Code Annotated, Section 47-4-401, is amended by adding the following language as a new subsection:

(e)

(1) The payor bank shall charge each item that is properly payable against the account of a customer in the sequential order, based on the check, draft or order number, presented to the bank for payment on the day the items are charged against the customer's account. This subdivision (e)(1) shall not be waivable by contract.

(2) If items are processed in a non-sequential manner and such processing results in an overdraft occurring for more items than would have occurred had the items been processed sequentially, then no handling charge otherwise authorized pursuant to § 47-29-102 shall be assessed by the payor bank for any items, which if processed sequentially, an overdraft charge would not have occurred. Any handling charge improperly assessed shall be immediately deposited in the customer's deposit account on the day the improperly assessed charge is brought to the attention of the payor bank.

(3) A fine of two thousand five hundred dollars (\$2,500) per infraction shall be assessed by the commissioner of financial institutions against any payor bank who fails to comply with this subsection (e). Prior to imposing such a fine,

the commissioner shall conduct a hearing, if requested by the payor bank, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, giving the payor bank the opportunity to be heard.

SECTION 2. This act shall take effect July 1, 2016, the public welfare requiring it, and shall apply to charges made against accounts on or after that date.