

ONE HUNDRED FOURTH LEGISLATURE - FIRST SESSION - 2015
COMMITTEE STATEMENT
LB348

Hearing Date: Tuesday March 10, 2015
Committee On: Banking, Commerce and Insurance
Introducer: Krist
One Liner: Change provisions relating to automatic teller machines and point-of-sale terminals

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 8 Senators Campbell, Craighead, Gloor, Lindstrom, Scheer, Schumacher, Williams, Howard
Nay:
Absent:
Present Not Voting:

Verbal Testimony:

Proponents:

Senator Bob Krist
Kimberly Ford
Michael McDermott
Julia Plucker

Representing:

Introducer
First Data
Metro Credit Union
NE Credit Union League

Opponents:

Robert Hallstrom
Cathy Morrissey
Mark Hansen
Leslie Andersen
Alan Fosler
Kim Schroll
Kurt Yost

Representing:

NE Bankers Association and NETS, Inc.
NETS, Inc.
West Gate Bank
Bank of Bennington
Union Bank and Trust Co.
Nebraskaland National Bank
NE Independent Community Banks

Neutral:

Kathy Siefken

Representing:

NE Grocery Industry Association

Summary of purpose and/or changes:

This bill would amend sections 8-101 and 8-157.02 the Nebraska Banking Act to enact new provisions regarding automatic teller machines (ATM) and point-of-sale (POS) terminals.

The bill would amend section 8-157.01 to provide that a group of two more financial institutions or a combination of financial institutions and a third party or parties, in addition to just a financial institution, (1) may establish and maintain or (2) may contract with a seller of goods and services or any third party for the operation of point-of-sale terminals.

The bill would provide that a financial institution, a group of two or more financial institutions, or a combination of such financial institutions and a third party or parties (1) may establish and maintain automatic teller machines or (2) may contract with a seller of goods and services or any third party for the operation of goods and services or any third party

for the operation of POS terminals.

The bill would eliminate many of the provisions of section 8-157.01 including those providing for an ATM or POS terminal being made available on a nondiscriminating basis. The bill would further amend this section to provide requirements regarding ATM and POS receipts; to provide that no account holder shall be liable for loss resulting from tampering or manipulation of an ATM or POS terminal not performed or authorized by the account holder; to provide that no agreement to operate or share an ATM or POS terminal may prohibit, limit, or restrict the right of an owner or operator to charge a fee; and to provide that the bill does not prohibit, limit, or restrict the right of an owner or operator from entering into an agreement to participate in a surcharge fee network.

The bill would move a definition of "personal identification number" from section 8-157.01 to section 28-636 regarding criminal impersonation.

Explanation of amendments:

The committee amendments would become the bill.

The amendments would provide that, beginning November 1, 2016, (1) all automatic teller machines (ATMs) shall be made available on a nondiscriminating basis for use by Nebraska customers of a user financial institution, and (2) all ATM transactions initiated by Nebraska customers of a user financial institution shall be made on a nondiscriminating basis. (section 8-157.01(3))

The amendments would provide that a switch (1) shall provide to financial institutions an equal opportunity to participate in the switch, (2) shall implement the same ATM usage fee for all user financed institutions for essentially the same service, (3) shall be capable of operating to accept and route Nebraska ATM transactions, and (4) shall be capable of being connected to every data processing center for any ATM. (section 8-157.01(3))

The amendments would provide that no user financial institution or establishing financial institution shall be required to become a member any particular switch. (section 8-157.01(3))

The amendments would repeal the provisions that regulate point-of-sale (POS) terminals.

The amendments would provide that nothing in section 8-157.01, as amended, shall prevent a financial institution which has a main office or branch in Nebraska from participating in a national ATM program to allow its customers to use ATMs outside Nebraska which are established by out-of-state financial institutions or foreign financial institutions or to allow customers of out-of-state financial institutions or foreign financial institutions to use its ATMs. Such participation or ATM usage fees charged or received shall not be considered for determining noncompliance with section 8-157.01(3). (section 8-157.01(10))

The amendments would provide that switch fees shall not be subject to regulation by the Department of Banking and Finance. (section 8-157.01(12))

The amendments would provide that nothing in section 8-157.01, as amended, shall prohibit a group of credit unions from participating in a credit union service organization organized on or before January 1, 2015, for the purpose of owning ATMs. Such participation and any ATM usage fees associated with Nebraska ATM transactions initiated by customers of participating credit unions shall not be considered for determining noncompliance with section 8-157.01. (section 8-157.01(13))

The amendments would provide that the Department of Banking and Finance shall take no enforcement action under section 8-157.01, as amended, between the effective date of this act and November 1, 2016, with respect to access to ATMs, Nebraska ATM usage fees, or any agreements relating Nebraska ATM usage fees which existed on the effective date of this act, except for changes in ATM usage fees announced prior to the effective date of this act. (section 8-157.01(14)(a))

The amendments would provide that Nebraska ATM usage fees or agreements relating to Nebraska ATM usage fees in effect on the effective date of this act shall remain unchanged until April, 1 2016, except for changes in ATM usage fees announced prior to the effective date of this act. (section 8-157.01(14)(b))

The amendments would provide that there shall be a moratorium on the implementation of any agreement with new members relating to Nebraska ATM usage fees between the effective date of this act and April 1, 2016, except for changes in ATM usage fees announced prior to the effective date of this act. (section 8-157.01(14)(c))

The amendments would provide that any agreement implemented on or after April 1, 2016, relating to Nebraska ATM usage fees shall comply with section 8-157.01(3). (section 8-157.01(14)(d))

The amendments would provide that commencing November 1, 2016, Nebraska ATM usage fees and any agreements relating to Nebraska ATM usage fees shall comply with section 8-157.01(3). (section 8-157.01(14)(e))

The amendments would add the severability clause.

The amendments include the emergency clause, as does the bill as introduce

Jim Scheer, Chairperson