

2015 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1460

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1460
2/3/2015
Job Number 23153

- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

Debit card holds and to provide a penalty.

Minutes:

Attachments #1-8

Chairman Keiser: Opens the hearing on HB 1460.

Representative Dosch~District 32, Bill Sponsor: (Attachment 1).

(5:26)

Representative Beadle: Is the hotel required to preauthorize for the estimated stay?

Representative Dosch: That's up to the hotel policy. An authorization is only good for fourteen days.

Representative Hanson: How would the law deal with banking entities that are not from the state of North Dakota?

Representative Dosch: We set state law. State law can't be more relaxed than federal law but we can be more restrictive than federal law. If the state requires that we have to release after three days, then anyone doing business in the state whether the bank is domiciled in North Dakota or whether it is a bank doing business in North Dakota, they have to follow state law.

Representative Hanson: Will a California bank have to abide to the North Dakota law?

Representative Dosch: They have to abide by North Dakota law otherwise they are subject to the fines or penalties. Visa and Mastercard standard policy is to release within a three-day period. If that was followed, we wouldn't be here today. We aren't being more restrictive, but just want the card companies to follow the stated policy. If we pass this and put a penalty on it, maybe we will get someone's attention.

Representative Hanson: Do you know any other states that have legislation like this?

Representative Dosch: No I do not.

Representative Laning: If they used a credit card to check in and pay with a debit card when leaving, then there is not a problem?

Representative Dosch: We don't see the problem on the credit card side. When people have limited funds and they are using their debit cards, that is the problem.

Chairman Keiser: Is the issue on the preauthorized when an individual checks in for five days and the amount is in the account and then after checkout it takes 14 days to get your money?

Representative Dosch: Using the example of five nights--if the rate is \$100/night, your card would be authorized for \$550 for the stay and incidentals. Upon checkout your charge is \$505. The next day we will have our \$505 from your card. Our funds go through. What's happening is a day or two later when you want to use the debit card again, you will be declined. When you look at your account you will see the \$505 payment and the \$550 authorization. Your account has a \$1,055 being held. So the hotel is blamed. The bank doesn't know what is wrong but the hotel has to deal with the angry customer.

Chairman Keiser: Could we convert this to a study?

Representative Dosch: I have no problem with that.

(15:16)

Opposition:

Rick Clayburgh~President and CEO of the ND Bankers Association: (Attachment 2). The problem comes with a hold that is placed on a debit card. Holds on credit cards are not recognized by the consumer until the end of the month when they get their bill.

With a debit card, a merchant can put more on hold than what the actual transaction will be. At the end of the transaction there is a hold in place. The hold is not put on by the institution. That is a choice made by the merchant. The 14 days are for merchants who run hotels and motels. When you leave, the hold is on the card until the process runs. At that point the dollars are removed from the customer's account and the merchant is guaranteed payment. The hold is not removed until the terminal is cleared by the merchant.

You do not have authorization to pass laws that will impact financial institutions that are located outside of the state of North Dakota. This bill will only address state chartered banks and state chartered credit unions.

You also cannot address a consumer that is coming from outside of North Dakota to stay in a hotel and are using their out-of-state bank card.

(Referred to page 3 of Attachment #2) The map from FISERV shows a map of how the process works. The Acquirer/Processor is the merchant's back operations. Some merchants can settle their terminal which determines when the information goes into the network. The bank is in the card processor step. The communication is between the processor and the network that determines when the hold will be let go. The maximum length that a hold is placed on an account is 72 business hours or when we receive the communication of the transaction which ever is shortest.

It depends on when the merchant settles their terminal. Some do it once a day, some several times a week.

The settlement system that we have is the best in the world. If you want to speed up the process, require that all business terminals have to use real time. So settlements have to occur immediately.

We are adamantly opposed to the bill.

(25:33)

Representative Louser: The example that Representative Dosch gave of a \$500 hold, is that hold then converted to a purchase at that moment or is it a separate hold?

Rick Clayburgh: The processing part is when the merchant through their back office will send that information into the network. The network is in real time so it will hit the bank. It's at that point the hold is released.

Representative Louser: Could the resolution be when using a debit card, you are actually prepaying a purchase and then a second transaction for a deposit?

Rick Clayburgh: The major resolution is the hold shouldn't be more than what the contracted amount is.

Jeff Olson~Represent the Credit Union Associations of the Dakotas: (Attachment 3). This is a solution in search of a problem.

(31:32)

Heather Fleck~Assistant Vice President of Operations at Railway Credit Union: (Attachment 4).

Representative Laning: When a merchant does a batch release is when you release the hold. Is that done electronically or does someone have to punch a button?

Heather Fleck: It goes through our network processing center.

Chad Bartosh~Director of Technology for Railway Credit Union: (Attachment 5).

(38:14)

Barry Haugen~President of the Independent Community Banks of North Dakota (ICBND): (Attachment 6)

(40:09)

Scott Tewksbury~President of the Hartland State Bank, Edgeley & Klum, North Dakota: (Attachment 7).

Representative Louser: Is the reversal of a hold any different than a refund on a purchase?

Scott Tewksbury: I am not sure on the merchant's end. I would think that those would be different. In one you are releasing an authorization hold. On the reversal of a purchase you are crediting the account.

Representative Louser: Maybe the solution when using a debit card would be to make the purchase up front. If they make a reservation for five days and the purchase is up front and then upon checkout they decide to pay in cash, that should be handled like a refund.

Representative Laning: You implied that the merchant has the ability to reverse the hold. Are you sure they can do that? If so, does that cancel the hold that they put on without endangering the possible actual debit?

Scott Tewksbury: The merchant is the only one that can create the release. When the release is created, the authorization hold has to come off immediately. There is probably a step that is being missed in the process.

Representative Laning: Does each merchant have the ability to change their time period. Are the 14 days across the industry?

Scott Tewksbury: The only industry that can do the 14 days is the car rental and hotel industry. Otherwise the industry standard is 72 hours.

(53:00)

Laney Herauf~Government and Regulatory Affairs Specialist for the Greater North Dakota Chamber: (Attachment 8).

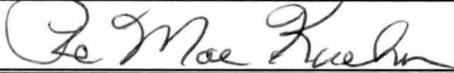
Chairman Keiser: Closed the hearing.

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1460
2/4/2015
Job Number 23205

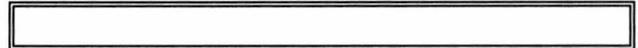
- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

Debit card holds and to provide a penalty.

Minutes:



Representative Beadle: Moved Do Not Pass

Representative Hanson: Seconded the motion

Representative Louser: I never did get an answer as to why a hotel can't charge the debit card up front and refund the difference. Why do they have to place a hold in the first place?

Representative Laning: They put a hold on because in a debit card situation, if someone later spends all the money out of their account before the hotel gets the final bill processed the debit is not fulfilled. It is like a bad check. The hold insures there are dollars in the account.

Chairman Keiser: Instead of putting a hold on, just charge the account and then issue a credit if it is not used. There is a lot of variability on how people pay.

I think people would get upset if you take the money out early before you created the expense.

Representative M. Nelson: I think part of that comes into an agreement on how you are billed as a merchant. Some you get charged a per transaction fee in addition to a percentage. Some just charge percentages. If you do the refund you don't get the transaction fee back. With a hold there is no transaction fee. It all depends on the merchant's agreements.

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A Roll Call vote was taken: Yes 13, No 0, Absent 2.

Do Not Pass carries.

Representative Louser will carry the bill.

Date: Feb 4

Roll Call Vote: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1460

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep. Beadle Seconded By Rep. Hanson

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Representative Lefor	X	
Vice Chairman Sukut	X		Representative Louser	X	
Representative Beadle	X		Representative Ruby	X	
Representative Becker	X		Representative Amerman	X	
Representative Devlin	X		Representative Boschee	X	
Representative Frantsvog	Ab		Representative Hanson	X	
Representative Kasper	Ab		Representative M Nelson	X	
Representative Laning	X				

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep Louser

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1460: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO NOT PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).
HB 1460 was placed on the Eleventh order on the calendar.

2015 TESTIMONY

HB 1460

1

HB 1460

House Industry, Business and Labor Committee

Representative George Keiser, Chairman

February 3, 2015

Mr. Chairman and members of the IBL committee, for the record my name is **Mark Dosch**, Representative of District 32.

HB 1460 is before you today, to help get to the bottom of a problem dealing with debit cards.

Four years ago, I addressed the problem with the industry, about Preauthorization's that are placed on debit cards that are not being released in a timely matter. These preauthorization's hold funds in a person's checking account, making whose funds unavailable for up to 14 days. In addition, when funds are held, not only can that amount of money NOT be used by the customer, in some cases, if account balances are not large enough, checks may even be returned by the bank as NSF.

Let me explain how this works. You check into the hotel. The hotel preauthorizes your debit card for the estimated amount of your stay. In this case, let's say \$100 dollars. When you check out the following day, you decide that you will pay cash for your room, and the hotel releases their preauthorization, because you paid cash. That night, the hotel will submit the credit and debit cards to the processor. Unfortunately, for some reason the preauthorization is not released by the bank, either because they did not receive the release of authorization from the processor, or maybe they did, but the bank does not release it on their end, or.... Who knows? And that is the reason for this bill. SOMEONE KNOWS, and I am hopeful this bill will get to the bottom of it.

As I mentioned, this problem was brought up to the industry 4 years ago, and the response was basically it's "not us". Unfortunately, the problem still persists today. People who use debit cards are being declined. Whose fault is it? The merchant says "not us" the bank says "not us" the processor says "not us. One thing I do know, and that is, it is not the customers fault, however they have to deal with the consequences.

This bill basically asks that a preauthorization on a debit card be handled in a timely matter, just like credit cards. Mr. Chairman, this concludes my testimony; I will stand for any questions.

I know the industry does not like this, and will more than likely make the following statements:

It's not us! ... If so, then they have nothing to worry about.... Right?

This will harm only ND banks Then ask them this Question- State Law can be applied to any bank doing business in our state right?

We can't control the processor or Visa or MC - Then question, do they not have to follow state law?

HB 1460

Rick Clayburgh
2/3/15

#2

Check Card Transactions

When we receive an electronic notice that a U.S. Bank Check Card Visa® transaction has been authorized against your account, we will place a hold on your account for that amount. Some merchants (e.g., hotels, restaurants, gas stations, car rental agencies) estimate the amount of the anticipated purchase for the purpose of determining an authorization amount. As a result, the amount held against your account may be less or greater than the final transaction amount presented. Your available account balance will be reduced by the amount held for all pending check card Visa® purchases from the time we receive the notice until the item is presented, a completion message is received, or three business days, whichever occurs first. If we release a hold due to the expiration of three business days, your account may still be debited if and when the transaction is presented to us for processing. During that time, sufficient funds may not be available to pay checks or other electronic transactions, and you may be subject to an overdraft fee.

- Deposit funds to checking and savings accounts.
- Transfer funds from your account associated with your card.
- Make payments to credit card or line of credit accounts from a deposit account associated with your card.
- Check the current balance of your linked checking, savings, credit card and line of credit accounts.
- Request a statement showing your most recent deposit account transactions. (Refer to your account fee disclosures regarding any fees for purchasing statements at ATMs.)
- Purchase stamps, event tickets and wireless phone minutes.
- Make certain charitable contributions from a deposit account associated with your card.

Some of these transactions are not available at all ATMs.

Purchases at Merchants

You may use any of your U.S. Bank Check Cards to make purchases at Visa® merchants that accept debit cards. You may use your U.S. Bank ATM Card and any of your U.S. Bank Check Cards to make purchases by entering your PIN at participating merchants. You may also get cash from a merchant, if the merchant permits. Purchases made with your card will result in debits to your "primary" checking account. These transactions will be itemized on your monthly statement, including the merchant name, location, the date of purchase and the amount of the purchase.

Other Electronic Transactions

In addition to transactions initiated by using your U.S. Bank Check Card, there are other electronic banking transactions that you may arrange through your account. These include:

- Telephone/personal computer activated transfers of funds from your accounts with us to other accounts with us or to third parties. These include but are not limited to transfers made by telephone, text, online and mobile banking.
- Automatic transfer of funds between checking and savings accounts.
- Automatic periodic payments to third parties or us from checking or savings accounts (for example, monthly mortgage payments, installment loan payments, insurance payments, utility payments).
- Direct deposit to checking or savings accounts (for example, payroll checks, social security payments).
- Electronic check conversions from your checking account using a blank, partial or fully completed personal check at merchant locations.
- You can also use any of your U.S. Bank Check Cards to obtain a cash advance from your checking account at any Visa® member bank anywhere in the world.

LIMITS ON TRANSFERS

The terms of your deposit account may restrict the number of withdrawals you may make from your account each month. Restrictions described earlier in this brochure and in other disclosures and agreements you received at the time your account was opened or when additional products or services were accessed, will also apply to your electronic withdrawals and electronic payments unless specified otherwise.

New Accounts

For the first 90 days of opening a new account, you cannot make deposits at a non-U.S. Bank ATM. After this initial period, you can make deposits at any participating ATM.

Security

For security reasons, there are limitations on the transactions that you may perform with any of your U.S. Bank Check Cards or U.S. Bank ATM Cards per day. There are limitations on the dollar amount of cash withdrawals at ATMs and or cash that you receive from merchants over the amount of your purchase. There are also limitations on the total dollar amount of purchases at merchants and or cash advances at Visa® member banks you may perform during each 24-hour period beginning at 9:00 p.m. Central Time. Our standard transaction limits are \$300 per day for cash withdrawals and \$1,000 per day for purchases and or cash advances at banks. We may change these limitations based on periodic risk assessments and we reserve the right to make such changes without notice to you. Transfer limits are also subject to temporary reductions to protect the security of customer accounts or transfer systems.

Check Card Transactions

When we receive an electronic notice that a U.S. Bank Check Card Visa® transaction has been authorized against your account, we will place a hold on your account for that amount. Some merchants (e.g., hotels, restaurants, gas stations, car rental agencies) estimate the amount of the anticipated purchase for the purpose of determining an authorization amount. As a result, the amount held against your account may be less or greater than the final transaction amount presented. Your available account balance will be reduced by the amount held for all pending check card Visa® purchases from the time we receive the notice until the item is presented, a completion message is received, or three business days, whichever occurs first. If we release a hold due to the expiration of three business days, your account may still be debited if and when the transaction is presented to us for processing. During that time, sufficient funds may not be available to pay checks or other electronic transactions, and you may be subject to an overdraft fee.

FEES

We will charge you fees for electronic funds transfers in accordance with the information found in our *Consumer Pricing Information* brochure. The fees may be changed at any time, subject to our giving you any notice required by law.

ATM Surcharges. When you use an ATM that is not identified as ours with the U.S. Bank name, you may be charged a fee by the ATM operator or any network used to complete the transfer (and you may be charged a fee for a balance inquiry).

USING YOUR CARD FOR INTERNATIONAL TRANSACTIONS

You may use your U.S. Bank Check Card or ATM card for retail purchases with international merchants, for international cash advances and all transactions performed at international ATMs that bear any of the network logos found on your card. Some merchant and ATM transactions, even if you and/or the merchant or ATM are located in the United States, are considered international transactions under the applicable network rules, in which case we will add International Processing Fees to those transactions. U.S. Bank does not control how these merchants, ATMs and transactions are classified for this purpose. If the transaction requires a currency conversion, the exchange rate in effect when processed may differ from the rate in effect on the date of the transaction or the date of the posting to your Account.

Transactions processed through the Visa® system will be converted according to the applicable rules established by Visa®. The foreign currency transaction will be converted to U.S. Dollars by multiplying the amount of the foreign currency times (a) a rate selected by Visa® from the range of rates available in wholesale currency markets for the applicable central processing date, which rate may vary from the rate Visa® itself receives, or (b) the government-mandated rate in effect for the applicable central processing date. For transactions processed through other networks, the international currency transaction will be converted by that network in accordance with their rules.

Additional fees may apply. If you need to contact us about your card while outside of the United States, call us collect at 503-401-9991.

ADVISORY AGAINST ILLEGAL USE

You agree not to use your card(s) for illegal gambling or any other illegal purpose. Display of a payment card logo by, for example, an online merchant does not necessarily mean that transactions are lawful in all jurisdictions in which you may be located; therefore, we reserve the right to decline all online (Internet) gambling transactions.

DOCUMENTATION

Terminal transfers. You can get a receipt at the time you make any transfer to or from your account using automated teller machines or point-of-sale terminals. However, you may not get a receipt if the amount of the transfer is \$15 or less.

Pre-authorized credits. If you have arranged to have direct deposits made to your account at least once every 60 days from the same person or company, you can call U.S. Bank 24-Hour Banking or visit our Online Banking site at usbank.com to find out whether or not the deposit has been made. If you have entered into an Online and Mobile Banking Agreement with us, you may also communicate with us by e-message as described in the agreement.

Periodic statements. You will get a monthly account statement unless there are no transfers in a particular month. In any case, you will get the statement at least quarterly for an account to or from which you have arranged for electronic access. In the event your account has become inactive as defined in the section titled Dormant Account and Escheat (refer to page 9) and you have had no electronic activity, you will receive an annual statement.

PREAUTHORIZED PAYMENTS

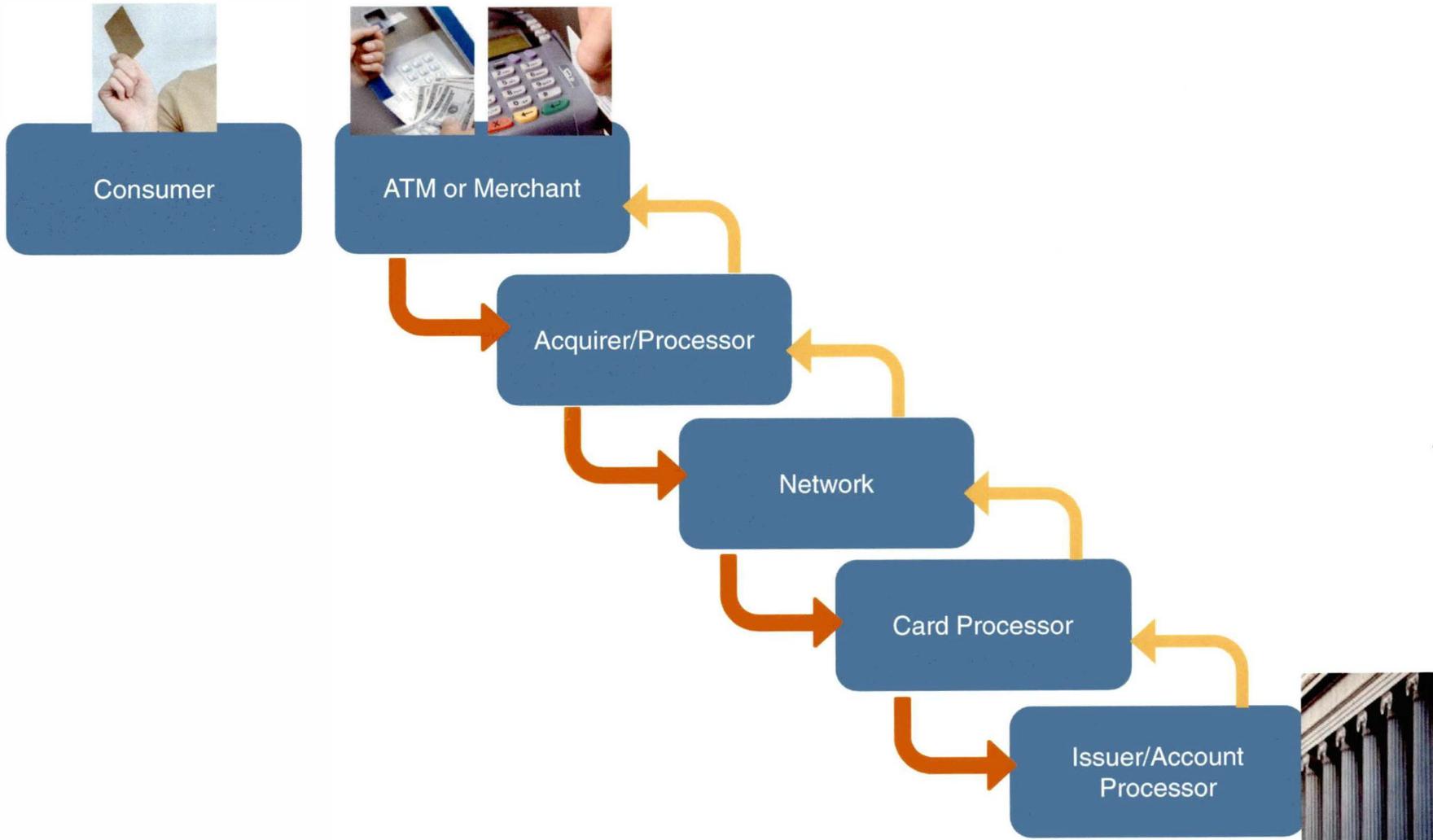
If you have arranged for automatic periodic payments to be deducted from your checking or savings account and these payments vary in amount, you will be notified by the person you are going to pay ten calendar days prior to the payment date of the amount to be deducted. If the date upon which your payment is scheduled to be deducted changes, the person you are going to pay will notify you seven calendar days prior to the new scheduled date. To confirm the completion of automatic transfers, payments and/or direct deposits, please contact U.S. Bank 24-Hour Banking or visit our Online Banking site at usbank.com.

Right to Stop Payment of Preauthorized Transfers

To stop a preauthorized electronic payment or transfer, please call U.S. Bank 24-Hour Banking (see last page for phone numbers). You must call in time for us to receive your request and to be able to act upon it, which in the case of these electronic payments, is at least three business days before the transfer is scheduled to occur. We may also require you to put your request in writing and forward it to us within 14 days after you call.

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Transaction Flow



HB 1460

Rick Clayburgh
2/3/15

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Feb 3, 2015

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TESTIMONY IN REGARDS TO HOUSE BILL NO. 1460

JEFF OLSON, CREDIT UNION ASSOCIATION
OF THE DAKOTAS

Mr. Chairman and Members of the House Industry, Business and Labor Committee, I am Jeff Olson and I represent the Credit Union Association of the Dakotas.

While we appreciate Rep. Dosch engaging our input in his introduction of this bill, and for his taking our initial suggestion of a 48-hour "hold" release rather than a 24 hour release he originally proposed, however credit unions in North Dakota are opposed to House Bill 1460 as it is written.

In our opinion, this bill is a solution in search of a problem. It is a Bill to alter or regulate a payment system that performs so efficiently and effectively that more and more merchants are no longer accepting checks.

This legislation, however, would task the state to request payment networks, processing centers and debit card issuers to redesign their electronic payment networks.

We surveyed several of our members on the issue to see where and if this 48 release would be a concern:

In most cases, generally, these holds are from hotels,

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In all of our responses, our credit unions indicated that the pre-authorization hold is provided to protect both merchant and the member/consumer. It protects the merchant from an NSF check, or having to chase down and collect non-paid funds, and it protects the member/consumer from over drawing and having to pay over draft fees. In the instance where a member consumer holds or guarantees a payment with a debit card and chooses to pay with cash or a credit card, it is really up to the merchant to clear that hold.

What are the Implications for Credit Unions?

Every time a rule is changed, there are certain upfront costs that must be incurred: staff time and credit union resources must be applied in determining what is necessary in order to comply with the change; forms and disclosures must be changed; data processing systems must be reprogrammed; and staff must be retrained.

The burden of complying with ever-changing and ever-increasing regulatory requirements is particularly burdensome for smaller institutions, like credit unions.

Every dollar a credit union spends on complying with regulation is a dollar that is not used for the benefit of its members.

It should also be noted that retailers that accept electronic payments do not face the same requirements which financial institutions are subject to under the GLBA (Gramm-Leach-Bliley Act).

As you know, millions of American consumers' personal financial information has been compromised as a result of merchant data breaches in recent years, demonstrating the need for retailers to live under Federal standards similar to GLBA. Today they don't and Congress is holding cyber security hearings as we speak.

One of the reasons that merchants don't have to comply with the same standards is because of the cost to upgrade their own internal security and electronic payment systems. Often relying on the networks, processors, and issuers to carry that burden, which are ultimately passed on to the consumer.

In fact, the Identity Theft Resource Center has compiled a list of all publicly reported breaches in the United States merchants and businesses accounted for 33 percent and financial institutions breaches are less than 6 percent.

As a result of the number of breaches occurring at retailers, credit unions are increasingly responsible for protecting consumer financial safety and are reporting significant costs as a result:

According to a survey of CUNA members, estimates of the recent Target data breach put credit union costs at approximately \$5.68 per affected card by the security lapse. This equals, at a minimum, a total cost of \$30.6 million for credit unions alone. One year after the breach, credit unions have not been reimbursed for a dime.

In order for this Bill to get serious consideration, our members would like the committee to consider these points:

- Would there be a requirement on the merchant side to comply with the 48 hour release, requiring them to reconcile or clear their transactions to ensure any and all holds would be sufficient so that it would minimize the risk exposure to the issuer and membership/consumers?
- Should the payment system come up with a better way to handle hotel/Car rental/gas purchases instead of regulating the issuers to try and fix the problem?
- Is there a way to give the merchants/retailers a way to send through a reversal or partial reversal of an authorization as they are the ones that really know what the final authorization outcome is and what that final dollar amount should be – as long as they would then be held responsible for any over-charges to the consumer after they authorized the reversal and not the credit union?

Credit unions should be provided accommodation to continue to offer products as they have been for years, without the crippling burden of new regulations.

Feb 3, 2015

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TESTIMONY IN REGARDS TO HOUSE BILL NO. 1460

Heather Fleck, Railway Credit Union

Good Afternoon Chairman Keiser and Members of the IBL Committee-

My name is Heather Fleck and I am currently the Assistant Vice President of Operations at Railway Credit Union. I have over 13 years experience in the financial industry with 7 of those years specifically in the operations department for Railway, which includes managing our entire debit card system and the conversion from the offline positive balance file to the real-time live transaction processing system.

Our Credit Union is opposing this bill due to the holds associated with debit card transactions being in place to protect not only our members but more importantly the merchants who accept debit card payments. There are some credit unions that are still using an offline batch processing system for their debit card transactions. In this system transaction posting and account balances are only communicated between the card processor and credit union once a day. Therefore it would cause significant hardships to the credit union and member because of the delays in the communications happening and being required to abide by a 48 hour timeframe. In a real time processing system a 48 hour mandatory release provides a very short window to guarantee funds are available for the transaction to settle with a merchant.

The placement and release of holds on a debit card transaction are controlled by the merchant who is submitting the authorization and subsequent settlement of the transaction.

pg 1

To ensure that holds are not in place longer than necessary when another form a payment is used to satisfy the authorized transaction merchants should be batching their transactions in a timely manner, which will release all holds on satisfied transactions.

Our system uses four different criteria to release authorization holds on individual transactions. Provided the merchant is submitting transaction settlement accurately and timely all holds associated with that transaction would be released. In the rare instance that a hold was not released our members have the ability to contact the credit union and request the hold to be released for a given transaction that was paid by another means. Our default authorization hold is 3 days, although it is common that transactions settle and holds are released under that timeframe.

Thank you for allowing me to present our reasons for opposing this bill and am open to answering any questions you may have.

Authorization Type: All

Select Authorization to View Details, Edit or Delete

Authorization Date	Amount	TIP Number	Release Date	Authorization Identification
02/02/2015	\$20.17	39914	02/05/2015	39914*201475*503300017016*5812*@W
02/02/2015	\$238.00	40184	02/05/2015	40184*265604*503300021799*7922*@W

Authorization Details for Selected Item

Authorization Amount: \$238.00
 Release Date: 02/05/2015
 Release Time: 23:59:59
 Overdraft Funds Held:

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Card Number: [REDACTED]
 Hold Type: Hard Hold
 SIC Code: 7922
 Location: BALLY'S HOTEL B LAS VEGAS NV

Authorization Type: All

Select Authorization to View Details, Edit or Delete

Authorization Date	Amount	TIP Number	Release Date	Authorization Identification
01/30/2015	\$161.10	32191	02/04/2015	32191*137991*503000079004*7011*@W
01/31/2015	\$21.35	34524	02/05/2015	34524*503945*503100022849*5812*@W
02/02/2015	\$20.84	39680	02/05/2015	39680*130528*503300014914*5812*@W

Authorization Details for Selected Item

Authorization Amount: \$161.10
 Release Date: 02/04/2015
 Release Time: 23:59:59
 Overdraft Funds Held:

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Card Number: [REDACTED]
 Hold Type: Hard Hold
 SIC Code: 7011
 Location: NORTHERN LIGHTS WALKER MN

Mr. Chairman and Members of the House Industry, Business and Labor Committee, I am Chad Bartosh. I am the Director of Technology for Railway Credit Union. I have been working with credit unions for over 10 years and more specifically in the many forms of payments systems in the technology and processes used to provide such conveniences for the merchants and consumers.

In our opinion, this bill is a solution in search of a problem. Therefore I am encouraging you to oppose H.B. 1460. Before even considering the potential problems this bill causes to the technology that drives it, why break a system that works and puts the consumer, merchant and financial institutions at more risk and burden. When a merchant places a hold on a debit card, it secures payment for the merchant, prevents the consumer from spending more money than they have in their account and further protects them from incurring other banking fees such as NSF. By making a standard release time the merchant no longer has a guaranteed payment from the consumer (but now by the financial institution) and further may cause further harm to the consumer by overdrawing the account.

On the technology side of the bill causes more questions and concerns. In the first sentence of the bill, (7) "An issuer of a debit card in this state" my first concern is now every merchant must identify if the consumer's (not their legal residence) financial institution is from this state. This possibly creates a major legal burden on the merchant or what are the implications when a non state debit card issuer has a hold placed? Further in the sentence (10 - 11) "debit card issuer is notified by the processor the transaction was satisfied by a means other than the debit card". Currently there is no way for the processor to know this has occurred. The only parties that have this knowledge are the consumer and merchant. It is unreasonable to expect the processor to have this knowledge.

The rest of the bill causes the same concerns of who knows what and when it happened. From a financial institution perspective, we receive this via the payment systems in place that work. We do not know if the consumer paid via other means. Only the consumer and merchant contain that knowledge. The merchants already have the systems and technology in place to release the holds. If they want to release them in a 48-72 hour period they can submit that through current means. The consumer also has the option to contact their financial institution to release the holds.

In order for the current technology to handle this there will need to be major changes. At the surface, some type of system would need to be developed between the merchant, credit card issuers, processors, apple pay or many of the forms of payments accepted, to somehow notify each other that the merchant received payment and the hold can be replaced. Who is going to develop this system? To my knowledge there is no such system in place and further should be researched and developed the consumer will ultimately bear the cost to develop it. This will need to occur in order just to satisfy sentence (10-13) "If a transaction is satisfied by a means other than the debit card used for preauthorization, the debit card processor shall notify the debit card issuer within two business days of the processor receiving notice."

Further, in the payment world transactions are completed and satisfied by a set of rules and formats that are set in a standard. These are set and accepted by the software and systems that process the payments. Whether the existing rules and formats are changed or a new system is developed as mentioned above, the cost and acceptance is neither a simple task nor a cheap one. The merchant and consumer already possess the ability to release such holds.

Complying with ever-changing and ever-increasing regulatory requirements is particularly burdensome for smaller institutions, like credit unions.

If this Bill is necessary, then let's require the same rules to the retailer/merchant so they too have to comply with the 48 hour release. Thus requiring them to reconcile or clear their transactions to ensure any and all holds would be sufficient so that it would minimize the risk exposure to the issuer and membership/consumers. Further the merchant should be held to same liability standards as the financial institutions are when a security breach, compromise or regulation breach occurs.

In short, H.B. 1460 is an un-necessary regulatory burden.

February 3, 2015

HOUSE INDUSTRY, BUSINESS AND LABOR COMMITTEE
HB 1460

Chairman Keiser and members of the committee:

Good morning. My name is Barry Haugen and I am President of the Independent Community Banks of North Dakota (ICBND). Our membership totals about 60 independent community banks throughout North Dakota.

We strongly oppose this bill. Many of our member banks are debit card issuers and there are a number of problems with this bill.

First of all, the electronic payments system in our country is part of the financial system that actually functions pretty well and processes transactions efficiently. What this payments system does not need is a patchwork of state laws that could confuse and hinder the processes in place.

Second, the bill doesn't address the merchant's role related to debit card holds (or preauthorization as it's also referred). Debit card issuers are just one part of the transaction process. Also involved in the process are merchants, merchant acquirers, card processors and card vendors. Merchants have substantially more control over the hold process than card issuers, but nothing in the bill addresses merchant responsibilities or obligations. Merchants initiate the hold when a consumer presents a debit card and they choose to accept a debit card. Merchants place a hold for their own payment protection. In the case of hotels and car rentals, for example, the ultimate amount of the transaction is not known at the time the card is presented, so the merchants put a hold on the card for an amount that is most often more than the ultimate transaction and for a term of up to 14 days. This amount is then unavailable to the consumer in their account until the transaction ultimately settles or the hold drops off, whichever comes first. Merchants and processors control this, not the debit card issuers.

In the second sentence of the bill for example, it states "If a transaction is satisfied by a means other than the debit card used for preauthorization, the debit card processor shall notify the debit card issuer within two business days of the processor receiving notice." How will the debit card processor or issuer know that the transaction was satisfied by another means – cash for example? All the processor will know is that there is never a settlement match for the preauthorization so the hold will fall off after the time period indicated by the merchant at the time of pre-authorization UNLESS the

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merchant specifically initiates a reversal or cancellation of the hold. The 2nd and 3rd sentences of this bill are thereby very problematic since the merchant is the ONLY participant in the process who will know whether a transaction is satisfied by another means other than that which was preauthorized.

Third, the predominant card companies, including VISA and MasterCard, already have specific rules in place regarding debit card holds and when they must be released. ALL merchants, banks and processors should be playing by these same rules. In reality almost all authorization holds are releasing prior to 72 hours when the transaction settles.

Finally, the costs associated with this proposed regulatory change could also be significant to community banks that issue debit cards as those costs would be contractually pushed down from the processors to the banks responsible. The costs for national processors to rewrite their software to comply with this law for North Dakota debit card issuers could be an extremely significant burden to community banks in our state.

Please consider a "Do Not Pass" on this bill and thank you for the opportunity to testify.

Feb 3, 2015

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HB 1460 - House Industry, Business and Labor Committee

Chairman Keiser and members of the committee:

Good Afternoon. My name is Scott Tewksbury and I am president of the Heartland State Bank in Edgeley and Kulm, ND. We are a community bank with about 65 million in total assets.

I am here today because this bill represents a significant and unnecessary burden for my bank and ultimately for my bank customers. I strongly oppose this bill.

The problem this bill tries to prevent is similar to, but not exactly like rules VISA and Mastercard already require adherence to. I have 10 copies of those rules if members would like them. In some cases the rules require a faster relief from hold than what this bill attempts. For instance the Visa rules require immediate lift of hold upon notification of a reversal sent by the merchant. (RULE 7.3.8.2) amongst others. We are a much regulated industry and I know that regulators of my bank have looked at our compliance with these rules, including following a transaction from authorization hold to release. Merchants and processors are also subject to the same Visa or Mastercard rules but are not subjected to the same regulatory oversight. Who is looking over their shoulder to determine if their requested hold time is correct? This bill is better suited to be directed to the merchants or transaction acquirers who have the ability to lift or reverse holds, not toward small banks like mine that are powerless to know if the transaction has been satisfied unless the merchant closes the transaction or otherwise reverses it. The merchant determines the amount and length of the original hold and when authorized the bank is contractually bound to provide funds at settlement. It is the merchant that must complete the transaction or initiate the reversal or partial release in the event that the transaction is not for the amount authorized. VISA requires processors to accept these and must process them immediately (RULE 7.3.8.1).

All of our debit card holds are authorized by, placed against the card available balance and released by our processor, FISRV a large national vendor. This proposed legislation is not directly applicable to them or to transactions in 49 other states. If adopted this would force us to require them to rewrite their software just to operate differently for ND banks. What would their response be if we asked them to change their technology just for us or other ND banks? Our business volume to them is nothing more than a gnat on wall to the balance of their business, They would likely say ta ta for now and leave us without any options for VISA debit cards, limiting access for our customers. If they did agree to the change, contractually we are bound to pay to the processor for any costs related to regulatory change. Changing software of a national scope would probably cost hundreds of millions of dollars and theoretically would be assessed against only ND banks. Again it could make debit card issuance cost prohibitive for smaller banks and drive us out of that business segment. Regulatory costs in our business are already significant and in my small bank probably add one percentage point cost to every loan we make. We cannot endure the state piling new regulation on top of other visa rules and existing regulations addressing this.

In my recollection, in my 25 years as manager of the bank, we have never had a customer complaint about the bank holding an authorization beyond what a merchant had requested. This bill is unnecessary and will not provide the relief it seeks if other players in the system ignore the existing VISA card rules. I urge you to adopt a "Do Not Pass" on this bill. I appreciate the time you have taken to allow me to speak today.

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Testimony of Laney Herauf
Greater North Dakota Chamber of Commerce
HB 1460
February 3, 2015

Mr. Chairman and members of the committee, my name is Laney Herauf; I am the Government and Regulatory Affairs Specialist for the Greater North Dakota Chamber. GNDC is working on behalf of our more than 1,100 members, to build the strongest business environment in North Dakota. GNDC also represents the National Association of Manufacturers and works closely with the U.S. Chamber of Commerce. As a group we stand in opposition to House Bill 1460.

The business community tends to favor the marketplace of ideas approach to correcting any issues. That philosophy is very much at play in this current bill. Debit cards are an incredibly useful product for both consumers and merchants. Debit cards were created by private industry and through the market place of ideas, they are constantly improving.

North Dakota is home to a very large debit card processor. The US Bank in Fargo has about 700 employees. GNDC is concerned that the ramifications of this bill could include losing this facility or seeing a downgrade. This bill will likely impact North Dakota banks, but no banks from surrounding areas. Why would we willingly put our state at a disadvantage in this business, especially when we are seeing a much more global business model?

GNDC strongly opposes this bill and respectfully requests a DO NOT PASS recommendation on HB 1460. Thank you for your time and I'd be happy to answer any questions.

Champions  Business

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