

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1106

Short Title: Factoring Credit Card Info./Fraud.

(Public)

Sponsors: Representative Brubaker.

Referred to: Judiciary.

April 7, 1989

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT INTENTIONAL FACTORING OF FINANCIAL TRANSACTION CARD RECORDS OF SALE SHALL BE PUNISHABLE AS FRAUD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-113.8(1) reads as rewritten:

"§ 14-113.8. Definitions.

The following words and phrases as used in this Chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) Acquirer. – ‘Acquirer’ means a business organization, financial institution, or an agent of a business organization or financial institution that authorizes a merchant to accept payment by financial transaction card for money, goods, services or anything else of value.

~~(1)~~(1a) Automated Banking Device. – ‘Automated banking device’ means any machine which when properly activated by a financial transaction card and/or personal identification code may be used for any of the purposes for which a financial transaction card may be used.

(2) Cardholder. – ‘Cardholder’ means the person or organization named on the face of a financial transaction card to whom or for whose benefit the financial transaction card is issued by an issuer.

(3) Expired Financial Transaction Card. – ‘Expired financial transaction card’ means a financial transaction card which is no longer valid because the term shown on it has elapsed.

- 1           (4) Financial Transaction Card. – ‘Financial transaction card’ or ‘FTC’  
2 means any instrument or device whether known as a credit card, credit  
3 plate, bank services card, banking card, check guarantee card, debit  
4 card, or by any other name, issued with or without fee by an issuer for  
5 the use of the cardholder:  
6           a. In obtaining money, goods, services, or anything else of value  
7 on credit; or  
8           b. In certifying or guaranteeing to a person or business the  
9 availability to the cardholder of funds on deposit that are equal  
10 to or greater than the amount necessary to honor a draft or  
11 check payable to the order of such person or business; or  
12           c. In providing the cardholder access to a demand deposit account  
13 or time deposit account for the purpose of:  
14           1. Making deposits of money or checks therein; or  
15           2. Withdrawing funds in the form of money, money orders,  
16 or traveler's checks therefrom; or  
17           3. Transferring funds from any demand deposit account or  
18 time deposit account to any other demand deposit  
19 account or time deposit account; or  
20           4. Transferring funds from any demand deposit account or  
21 time deposit account to any credit card accounts,  
22 overdraft privilege accounts, loan accounts, or any other  
23 credit accounts in full or partial satisfaction of any  
24 outstanding balance owed existing therein; or  
25           5. For the purchase of goods, services or anything else of  
26 value; or  
27           6. Obtaining information pertaining to any demand deposit  
28 account or time deposit account;  
29           d. But shall not include a telephone number, credit number, or  
30 other credit device which is covered by the provisions of Article  
31 19A of this Chapter.
- 32           (5) Issuer. – ‘Issuer’ means the business organization or financial  
33 institution or its duly authorized agent which issues a financial  
34 transaction card.
- 35           (6) Personal Identification Code. – ‘Personal identification code’ means a  
36 numeric and/or alphabetical code assigned to the cardholder of a  
37 financial transaction card by the issuer to permit authorized electronic  
38 use of that FTC.
- 39           (7) Presenting. – ‘Presenting’ means, as used herein, those actions taken  
40 by a cardholder or any person to introduce a financial transaction card  
41 into an automated banking device, including utilization of a personal  
42 identification code, or merely displaying or showing a financial  
43 transaction card to the issuer, or to any person or organization

1 providing money, goods, services, or anything else of value, or any  
2 other entity with intent to defraud.

3 (8) Receives. – ‘Receives’ or ‘receiving’ means acquiring possession or  
4 control or accepting a financial transaction card as security for a loan.

5 (9) Revoked Financial Transaction Card. – ‘Revoked financial transaction  
6 card’ means a financial transaction card which is no longer valid  
7 because permission to use it has been suspended or terminated by the  
8 issuer."

9 Sec. 2. G.S. 14-113.13 is amended by adding a new subsection to read:

10 "(c1) A person authorized by an acquirer to furnish money, goods, services or  
11 anything else of value upon presentation of a financial transaction card or a financial  
12 transaction card account number by a cardholder, or any agent or employee of such  
13 person, who, with intent to defraud the issuer, acquirer, or cardholder, remits to an  
14 issuer or acquirer, for payment, a financial transaction card record of a sale, which sale  
15 was not made by such person, his agent or employee, is guilty of financial transaction  
16 card fraud.

17 Conviction of financial transaction card fraud as provided in this subsection is  
18 punishable as provided in G.S. 14-113.17(a)."

19 Sec. 3. Article 19B of Chapter 14 of the General Statutes is amended by  
20 adding a new section to read:

21 **"§ 14-113.15A. Criminal factoring of financial transaction card records.**

22 A person who, without the acquirer's express authorization, employees, contracts  
23 with or otherwise induces an authorized merchant, or any agent or employee of such  
24 merchant, to remit to an issuer or acquirer, for payment, a financial transaction card  
25 record of a sale, which sale was not made by such merchant, his agent or employee, is  
26 guilty of a felony punishable as provided in G.S. 14-113.17(b)."

27 Sec. 4. This act shall become effective October 1, 1989, and shall apply to  
28 offenses occurring on or after that date.