

House Bill 299

By: Representatives Dunahoo of the 30th, Williams of the 119th, Rogers of the 29th, Hawkins of the 27th, Williamson of the 115th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 13 of the Official Code of Georgia Annotated, relating to
2 general provisions for contracts, so as to provide for definitions; to provide for the imposition
3 of convenience fees upon payments for certain loans or purchases when paid by electronic
4 means; to provide for notice of the imposition of convenience fees; to provide for exclusions
5 and applicability; to provide for an effective date; to provide for related matters; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 1 of Title 13 of the Official Code of Georgia Annotated, relating to general
10 provisions for contracts, is amended by adding a new Code section to read as follows:

11 "13-1-15.

12 (a) As used in this Code section, the term:

13 (1) 'Actual cost' means the amount paid by a third party for the processing of a payment
14 made by electronic means. If a lender or merchant is a subsidiary of an entity that
15 processes payments made by electronic means, the parent entity shall be considered a
16 third party.

17 (2) 'Payment by electronic means' means the remittance of an amount owed through the
18 use of a credit card, debit card, electronic funds transfer, electronic check, or other
19 electronic method.

20 (b) In addition to any other charges, interest, and fees permitted by law, a lender or
21 merchant may collect a nonrefundable convenience fee from any person electing to utilize
22 an option of payment by electronic means. Such convenience fee shall be in an amount
23 that represents the actual cost to a lender or merchant; provided, however, that in lieu of
24 the actual cost, a lender or merchant may collect a convenience fee which does not exceed
25 the average of the actual cost incurred for a specific type of payment made by electronic
26 means for which such lender or merchant imposes a convenience fee.

27 (c) No convenience fee shall be charged unless a lender or merchant also provides a direct
28 payment option by check, cash, or money order in which no convenience fee is imposed.
29 (d) Any lender or merchant imposing a convenience fee as provided for in this Code
30 section shall provide clear disclosure of such fee prior to imposition. Such notice shall
31 include the dollar amount of such fee, a statement that such fee is nonrefundable, and a
32 statement that such fee is charged for payment by electronic means.
33 (e) This Code section shall apply only to industrial loans made pursuant to Chapter 3 of
34 Title 7, retail installment and home solicitation sales contracts entered into pursuant to
35 Article 1 of Chapter 1 of Title 10, motor vehicle sales financing contracts entered into
36 pursuant to Article 2 of Chapter 1 of Title 10, and insurance premium finance agreements
37 entered into pursuant to Chapter 22 of Title 33; provided, however, that a convenience fee
38 authorized under this Code section shall not constitute interest, an additional charge, a time
39 price differential, a finance charge, or a service charge within the meaning of Code Section
40 7-3-15, 10-1-4, 10-1-33, or 33-22-9.
41 (f) Nothing contained in Code Section 7-4-18 shall be construed to amend or modify the
42 provisions of this Code section."

43 **SECTION 2.**

44 This Act shall become effective upon its approval by the Governor or upon its becoming law
45 without such approval.

46 **SECTION 3.**

47 All laws and parts of laws in conflict with this Act are repealed.