

The House Committee on Banks and Banking offers the following substitute to HB 299:

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 and subject to the
21 terms and conditions of the debit card or credit card acceptance agreement, a lender or
22 merchant may collect a nonrefundable convenience fee from any person electing to utilize
23 an option of payment by electronic means. Such convenience fee shall be in an amount
24 that represents the actual cost to a lender or merchant; provided, however, that in lieu of
25 the actual cost, a lender or merchant may collect a convenience fee which does not exceed

26 the average of the actual cost incurred for a specific type of payment made by electronic
27 means for which such lender or merchant imposes a convenience fee.

28 (c) No convenience fee shall be charged unless a lender or merchant also provides a direct
29 payment option by check, cash, or money order in which no convenience fee is imposed.

30 (d) Any lender or merchant imposing a convenience fee as provided for in this Code
31 section shall provide clear disclosure of such fee prior to imposition. Such notice shall
32 include the dollar amount of such fee, a statement that such fee is nonrefundable, and a
33 statement that such fee is charged for payment by electronic means.

34 (e) This Code section shall apply only to industrial loans made pursuant to Chapter 3 of
35 Title 7, retail installment and home solicitation sales contracts entered into pursuant to
36 Article 1 of Chapter 1 of Title 10, motor vehicle sales financing contracts entered into
37 pursuant to Article 2 of Chapter 1 of Title 10, and insurance premium finance agreements
38 entered into pursuant to Chapter 22 of Title 33; provided, however, that a convenience fee
39 authorized under this Code section shall not constitute interest, an additional charge, a time
40 price differential, a finance charge, or a service charge within the meaning of Code Section
41 7-3-15, 10-1-4, 10-1-33, or 33-22-9.

42 (f) Nothing contained in Code Section 7-4-18 shall be construed to amend or modify the
43 provisions of this Code section."

44 **SECTION 2.**

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

47 **SECTION 3.**

48 All laws and parts of laws in conflict with this Act are repealed.