

Senate File 2146 - Introduced

SENATE FILE 2146

BY SEGEBART

A BILL FOR

1 An Act relating to fees charged in conjunction with free
2 trials, the cancellation of recurring charges, and making
3 penalties applicable.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 554E.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Account debit arrangement*" means an agreement between a
5 depository institution and a person permitting the depository
6 institution to debit the person's account to collect fees or
7 other amounts due to a third party.

8 2. "*Consumer*" means a person who is a resident of this
9 state, and to whom any of the following apply:

10 a. The person is a buyer, lessee, or debtor to whom credit
11 is granted in a consumer credit transaction.

12 b. The person has an account or other contractual
13 arrangement with a depository institution.

14 3. "*Consumer credit transaction*" means the same as defined
15 in section 537.1301.

16 4. "*Depository institution*" means the same as defined in
17 section 502.102.

18 5. "*Lender*" means the same as defined in section 537.1301.

19 Sec. 2. NEW SECTION. 554E.2 Cancellation of recurring
20 charges.

21 1. A consumer may cancel, with immediate, prospective
22 effect, a recurring payment to a third-party vendor of goods or
23 services made on the consumer's behalf by any of the following:

24 a. A lender pursuant to a consumer credit transaction.

25 b. A depository institution pursuant to an account debit
26 arrangement.

27 c. A provider of financial services that may make such
28 payments pursuant to an agreement with the consumer.

29 2. A lender, depository institution, or provider of
30 financial services that makes a payment to a third party on
31 behalf of a consumer shall implement a procedure for the
32 immediate and prospective cancellation of such payments upon
33 the receipt of a request from the consumer, which request may
34 be transmitted in writing, electronically, or verbally.

35 3. Nothing in this chapter affects a preexisting

1 installment contract for previously delivered goods or services
2 or a contract between a consumer and a lender who loaned money
3 to the consumer for the purchase of goods or services.

4 Sec. 3. Section 714.16, subsection 2, paragraph o,
5 subparagraph (2), Code 2020, is amended to read as follows:

6 (2) It is an unlawful practice for a person to cause a
7 consumer to incur a charge or other financial obligation as a
8 result of accepting a free offer unless, one of the following
9 occurs:

10 ~~(a) The person obtains the consumer's billing information~~
11 ~~directly from the consumer. For purposes of this subparagraph~~
12 ~~division, a person obtains a consumer's billing information~~
13 ~~directly from the consumer if the billing information is~~
14 ~~obtained by the person or by the person's agent or employee.~~

15 ~~(b) The consumer gives affirmative consent at the time~~
16 ~~the consumer accepts a free offer for the person to provide~~
17 ~~billing information to a person other than the person making~~
18 ~~the free offer after the completion of delivery of goods or~~
19 ~~services without charge pursuant to the free offer, and before~~
20 ~~any charge or other financial obligation is incurred, the~~
21 ~~consumer consents to the charge or financial obligation in~~
22 ~~writing, electronically, or verbally, and the person imposing~~
23 ~~the financial obligation records the verbal consent.~~

24 EXPLANATION

25 The inclusion of this explanation does not constitute agreement with
26 the explanation's substance by the members of the general assembly.

27 This bill relates to fees charged in conjunction with free
28 trials and the cancellation of recurring charges.

29 The bill defines "account debit arrangement" as an agreement
30 between a depository institution and a person permitting the
31 depository institution to debit the person's account to collect
32 fees due to a third party. The bill defines "consumer" as a
33 person who is a resident of the state, and to whom either of
34 the following apply: the person is a buyer, lessee, or debtor
35 to whom credit is granted in a consumer credit transaction;

1 or the person has an account with a depository institution.
2 The bill defines "consumer credit transaction" by reference to
3 Code section 537.1301, as a consumer credit sale or consumer
4 loan, a refinancing or consolidation thereof, a consumer lease,
5 or a consumer rental purchase agreement. The bill defines
6 "depository institution" by reference to Code section 502.102,
7 as a bank, savings institution, trust company, credit union,
8 or similar institution that is organized or chartered under
9 the laws of a state or of the United States. The bill defines
10 "lender" by reference to Code section 537.1301, as a person who
11 makes a loan or takes an assignment of a right to payment.

12 Pursuant to the bill, a consumer may cancel a recurring
13 payment to a third-party vendor of goods or services made on
14 the consumer's behalf by a lender pursuant to a consumer credit
15 transaction; a depository institution pursuant to an account
16 debit arrangement; or a provider of financial services that may
17 make such payments pursuant to any agreement with the consumer.

18 The bill also requires a lender, depository institution, or
19 provider of financial services that makes a payment to a third
20 party on behalf of a consumer to implement a procedure for the
21 immediate cancellation of such payments upon the receipt of a
22 request from the consumer.

23 The bill provides that nothing in the new Code chapter
24 affects a preexisting lawful installment contract or a contract
25 between a consumer and a lender who loaned money to the
26 consumer for the purchase of goods or services.

27 Current law provides it is an unlawful practice for a
28 person to cause a consumer to incur a financial obligation as
29 a result of accepting a free offer unless either the person
30 obtains the consumer's billing information directly from the
31 consumer, or the consumer gives affirmative consent at the time
32 the consumer accepts a free offer for the person to provide
33 billing information to a person other than the person making
34 the free offer. The bill modifies this provision by providing
35 it is an unlawful practice for a person to cause a consumer to

1 incur a charge or other financial obligation as a result of
2 accepting a free offer unless, after the completion of delivery
3 of goods or services pursuant to the free offer, and before any
4 charge or other financial obligation is incurred, the consumer
5 consents to the charge or financial obligation. Several types
6 of remedies are available if a court finds that a person has
7 committed an unlawful practice, including injunctive relief,
8 disgorgement of moneys or property, and a civil penalty not to
9 exceed \$40,000 per violation.