

House Bill 241 (AS PASSED HOUSE AND SENATE)

By: Representatives Rhodes of the 124th, Williams of the 148th, Douglas of the 78th, Chastain of the 7th, Barrett of the 24th, 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 regarding contracts, so as to revise provisions regarding convenience fees
3 for payment by electronic means; to provide for related matters; to repeal conflicting laws;
4 and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Chapter 1 of Title 13 of the Official Code of Georgia Annotated, relating to general
8 provisions regarding contracts, is amended by revising Code Section 13-1-15, relating to
9 convenience fee and when appropriate, as follows:

10 "13-1-15.

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

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

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

(b) In addition to any other charges, interest, and fees permitted by law and subject to the terms and conditions of the debit card or credit card acceptance agreement, a lender or merchant may collect a nonrefundable convenience fee from any person electing to utilize an option of payment by electronic means. Such convenience fee shall be in an amount that represents the actual cost to a lender or merchant; provided, however, that in lieu of the actual cost, a lender or merchant is authorized to collect a convenience fee which does not exceed the average of the actual cost incurred for a specific type of payment made by electronic means for which such lender or merchant imposes a convenience fee, or a fee of up to \$5.00, whichever is greater.

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

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

(e) This Code section shall apply only to loans made pursuant to Chapter 1 of Title 7, installment loans made pursuant to Chapter 3 of Title 7, retail installment and home solicitation sales contracts entered into pursuant to Article 1 of Chapter 1 of Title 10, motor vehicle sales financing contracts entered into pursuant to Article 2 of Chapter 1 of Title 10, and insurance premium finance agreements entered into pursuant to Chapter 22 of Title 33; provided, however, that a convenience fee authorized under this Code section shall not constitute interest, an additional charge, a time price differential, a finance charge, or a service charge within the meaning of Code Section 7-3-12, 10-1-4, 10-1-33, or 33-22-9.

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

45 **SECTION 2.**

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