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HOUSE BILL NO. 2485

Offered January 20, 2023

A BILL to amend the Code of Virginia by adding in Title 6.2 a chapter numbered 27, consisting of sections numbered 6.2-2700 through 6.2-2705, relating to operators of automated teller machines and similar electronic terminals; registration required.

Patron—Shin

Referred to Committee on Commerce and Energy

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 6.2 a chapter numbered 27, consisting of sections numbered 6.2-2700 through 6.2-2705, as follows:

CHAPTER 27.

AUTOMATED TELLER MACHINE OPERATORS.

§ 6.2-2700. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Electronic funds transfer" means (i) the withdrawal of cash from or the deposit of cash or checks into an automated teller machine (ATM), cash-dispensing machine, or similar electronic terminal; (ii) an application for or acceptance of a loan through the use of an ATM, cash-dispensing machine, or similar electronic terminal; (iii) the transfer of funds between accounts through the use of an ATM, cash-dispensing machine, or similar electronic terminal; or (iv) the issuance of a check by an ATM, cash-dispensing machine, or similar electronic terminal. "Electronic funds transfer" does not mean access to accounts, the application for or acceptance of a loan, the transfer of funds between accounts, or other banking services accomplished through the use of a personal computer or phone. "Similar electronic terminal" does not include a personal computer or phone.

"Operator" means any person that establishes or operates an ATM, cash-dispensing machine, or similar electronic terminal, excluding a personal computer or phone, that has the capacity to perform an electronic funds transfer. "Operator" does not include any money order seller or money transmitter, as those terms are defined in § 6.2-1900, and such persons regulated under Chapter 19 (§ 6.2-1900 et seq.).

"Registered operator" means an operator that has registered with the Commission pursuant to this chapter.

§ 6.2-2701. Exemptions.

The provisions of this chapter shall not apply to:

1. Any financial institution;
2. Any wholly owned subsidiary of any financial institution, provided that such wholly owned subsidiary is subject to the general supervision or regulation of, or subject to audit or examination by, a regulatory body or agency of the United States or any state; or
3. Any person that operates or maintains an Internet website with the capacity to perform an electronic funds transfer.

§ 6.2-2702. Registration; authority to transact business.

A. No person shall act as an operator, directly or indirectly, whether or not the person has an office or any other physical presence in the Commonwealth, except in accordance with the provisions of this chapter and without first registering with the Commission pursuant to this section.

B. On or before July 1, 2024, every operator (i) shall register with the Commission in accordance with the procedures established by the Commission and (ii) unless such operator is organized under the laws of the Commonwealth or otherwise is not required to obtain authority to transact business in the Commonwealth as a foreign entity, shall obtain authority to transact business in the Commonwealth in accordance with the provisions of Title 13.1.

An application for registration shall include disclosure of any judgment, memorandum of understanding, cease and desist order, or conviction that involves a crime or an act of fraud, breach of trust, or money laundering with respect to that operator or any officer, director, manager, or individual who otherwise controls the business of such operator.

C. Each operator shall pay an initial registration fee of \$1,000. Each operator shall pay an annual registration fee of \$500 by September 15, 2024, and annually thereafter. If the operator fails to pay the annual registration fee by September 15 of each year, its registration shall automatically expire by operation of law.

D. A registered operator shall comply with all federal laws and regulations applicable to the conduct

59 of its business.

60 **§ 6.2-2703. Restrictions on fees.**

61 A. No registered operator shall impose a fee for the use of its ATM, cash-dispensing machine, or
62 similar electronic terminal unless the imposition of the fee is disclosed at a time and in a manner that
63 allows a customer to terminate or cancel the transaction before incurring the transaction fee. Such fee
64 shall not exceed \$3 per transaction or two percent of the gross amount of the transaction, whichever is
65 greater.

66 B. An agreement to share an ATM, cash-dispensing machine, or similar electronic terminal shall not
67 prohibit, limit, or restrict the right of a registered operator to charge such fees for the use of such
68 machine or terminal as permitted under state or federal law or require a registered operator to limit or
69 waive its rights or obligations under this section.

70 **§ 6.2-2704. Regulations.**

71 The Commission may adopt regulations as it deems appropriate to effect the purposes of this
72 chapter. Before adopting any such regulation, the Commission shall give reasonable notice of its content
73 and shall afford interested parties an opportunity to be heard in accordance with the rules of the
74 Commission.

75 **§ 6.2-2705. Authority of Attorney General.**

76 A. The Attorney General is authorized to seek to enjoin violations of this chapter and may also seek
77 damages and other relief as permitted by law. The circuit court having jurisdiction may enjoin such
78 violations notwithstanding the existence of an adequate remedy at law or order or decree damages and
79 such other relief as permitted by law.

80 B. In any action brought by the Attorney General by virtue of the authority granted in this section,
81 the Attorney General shall be entitled to seek reasonable attorney fees and costs.

82 C. If the Attorney General files an action to enjoin violations of this chapter, the Attorney General
83 shall give notice of such action to the Commission.

84 **2. That the provisions of this act shall become effective on January 1, 2024.**