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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO COMMERCIAL LAW--GENERAL REGULATORY PROVISIONS --
CREDIT CARD BUSINESS PRACTICES

Introduced By: Representative Donald J. Lally

Date Introduced: February 16, 2012

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 6 of the General Laws entitled "COMMERCIAL LAW - GENERAL
2 REGULATORY PROVISIONS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 26.2

4 PREVENTION OF CREDIT CARD COMPANY UNFAIR BUSINESS PRACTICES

5 **6-26.2-1. Findings.** – The legislature hereby finds and declares: (1) Courts have found
6 that the electronic payment networks, Visa and MasterCard, and their member banks have market
7 power.

8 (2) Electronic payment networks, set the level of credit and debit card interchange fees
9 charged by their member banks even though those banks are supposed to be competitors.

10 (3) Competing banks should set their own interchange fees and compete on that basis.

11 (4) These fees inflate the prices consumers pay for goods and services. They also
12 subsidize the most affluent reward cardholders, at the expense of less affluent consumers, who do
13 not use reward cards (or do not use cards at all).

14 (5) Consumers increasingly use credit and debit cards to purchase goods and services.

15 (6) In order to provide the desired convenience to consumers, most merchants must agree
16 to accept credit and debit cards.

17 (7) Some electronic payment networks, market themselves as providers of currency, and
18 promote use of their products as though they were a complete substitute for legal tender.

1 (8) Due to the market power of the two (2) largest electronic payment networks,
2 merchants do not have the power to negotiate the terms of acceptance of credit and debit cards.

3 (9) Merchants are subject to contracts that allow the electronic payment networks to
4 change the terms without notice, subject merchants to staggering fines, require costly operational
5 changes or change the cost of card acceptance.

6 (10) Merchants need the flexibility to price their goods and services in accordance with
7 the cost of accepting various types of payments.

8 **6-26.2-2. Definitions.** – As used in this chapter, the following terms have the following
9 meanings:

10 (1) “Electronic Payment Network” means an entity, other than a national bank, that
11 directly, or through licensed members, processors or agents, provides the proprietary services,
12 infrastructure, and software, that route information and data to facilitate transaction authorization,
13 clearance, and settlement, and that merchants access in order to accept a brand of general-purpose
14 credit cards, charge cards, debit cards or stored-value cards, as payment for goods or services.

15 (2) “Merchant” means a person or entity doing business in this state, which offers goods
16 or services for sale in this state.

17 **6-26.2-3. Protection of retail competition from credit card company unfair practices.**
18 – No electronic payment network may, directly or through any agent, acquirer, or processor
19 member of the system:

20 (1) Impose any requirement, condition, penalty, or fine in a contract with a merchant
21 relating to the display of pricing for goods or services for sale by the merchant;

22 (2) Inhibit the ability of any merchant to offer its customers discounts or in-kind
23 incentives for using a form of payment (such as cash, check, debit card, or credit card);

24 (3) Inhibit the ability of any merchant to offer its customers discounts or in-kind
25 incentives for using a debit or credit card of another electronic payment system;

26 (4) Prevent any merchant from setting minimum or maximum dollar value for its
27 acceptance of a credit card;

28 (5) Inhibit the ability of any merchant to decide not to accept the products of an electronic
29 payment system at one of its locations;

30 (6) Prevent any merchant from deciding not to accept certain products of an electronic
31 payment system based on the fees associated with such products while still accepting other
32 products of that electronic payment system; or

33 (7) Prevent any merchant from choosing how to route a transaction among any of the
34 electronic payment networks authorized to clear transactions on the card in question.

1 **6-26.2-4. Prohibition on cartel price-setting by credit card companies.** – No
2 electronic payment network may set required, suggested, or default rates for the fees to be
3 charged by any issuer of its payment cards, agent, processor or member of the system for
4 transactions occurring within this state unless such issuer, agent or processor is the electronic
5 payment system itself and not a separate legal entity.

6 **6-26.2-5. Penalties.** – (a) Any electronic payment network found to have violated section
7 6-26.2-3 or 6-26.2-4 of this chapter shall reimburse all affected merchants for all chargebacks,
8 fees, and fines collected from affected merchants directly or through any agent, processor or
9 member of the system during the period of time in which the electronic payment system was in
10 violation and be liable for a civil penalty of ten thousand dollars (\$10,000) per chargeback, fee or
11 fine, levied in violation of section 6-26.2-3 or 6-26.2-4.

12 (b) Any merchant whose rights under this chapter have been violated may maintain a
13 civil action for damages or equitable relief as provided for in this section.

14 (c) The attorney general may maintain a civil action for damages or equitable relief as
15 provided for in this section to protect against violations of this chapter.

16 **6-26.2-6. Severability.** -- If any provision of this chapter or of any rule or regulation
17 made under this chapter, or its application to any person or circumstance is held invalid by a court
18 of competent jurisdiction, the remainder of the chapter, rule, or regulation and the application of
19 the provision to other persons or circumstances shall not be affected by this invalidity. The
20 invalidity of any section or sections or parts of any section or sections shall not affect the validity
21 of the remainder of the chapter.

22 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO COMMERCIAL LAW--GENERAL REGULATORY PROVISIONS --
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1 This act would protect merchants that use credit and debit card services, provided by
2 electronic payment networks, from specified unfair business practices, by imposing certain
3 prohibitions and financial penalties.

4 This act would take effect upon passage.

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