
SENATE BILL 5611

State of Washington

64th Legislature

2015 Regular Session

By Senators Benton and Keiser

Read first time 01/26/15. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to excessive overdraft fees; amending RCW
2 30A.22.040; and adding a new section to chapter 30A.22 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 30A.22.040 and 2014 c 37 s 194 are each amended to
5 read as follows:

6 Unless the context of this chapter otherwise requires, the terms
7 contained in this section have the meanings indicated.

8 (1) "Account" means a contract of deposit between a depositor or
9 depositors and a financial institution; the term includes a checking
10 account, savings account, certificate of deposit, savings
11 certificate, share account, savings bond, and other like
12 arrangements.

13 (2) "Actual knowledge" means written notice to a manager of a
14 branch of a financial institution, or an officer of the financial
15 institution in the course of his or her employment at the branch,
16 pertaining to funds held on deposit in an account maintained by the
17 branch received within a period of time which affords the financial
18 institution a reasonable opportunity to act upon the knowledge.

19 (3) "Agency account" means an account to which funds may be
20 deposited and from which payments may be made by an agent designated
21 by a depositor. In the event there is more than one depositor named

1 on an account, each depositor may designate the same or a different
2 agent for the purpose of depositing to or making payments of funds
3 from a depositor's account.

4 (4) "Agent" means a person designated by a depositor or
5 depositors in a contract of deposit or other document to have the
6 authority to deposit and to make payments from an account in the name
7 of the depositor or depositors.

8 (5) "Continuous overdraft fee" means a fee charged by a financial
9 institution when an account remains overdrawn for a predetermined
10 consecutive number of days.

11 (6) "Depositor," when utilized in determining the rights of
12 individuals to funds in an account, means an individual who owns the
13 funds. When utilized in determining the rights of a financial
14 institution to make or withhold payment, and/or to take any other
15 action with regard to funds held under a contract of deposit,
16 "depositor" means the individual or individuals who have the current
17 right to payment of funds held under the contract of deposit without
18 regard to the actual rights of ownership thereof by these
19 individuals. A trust or P.O.D. account beneficiary becomes a
20 depositor only when the account becomes payable to the beneficiary by
21 reason of having survived the depositor or depositors named on the
22 account, depending upon the provisions of the contract of deposit.

23 ~~((+6))~~ (7) "Depositor's funds" or "funds of a depositor" means
24 the amount of all deposits belonging to or made for the benefit of a
25 depositor, less all withdrawals of the funds by the depositor or by
26 others for the depositor's benefit, plus the depositor's prorated
27 share of any interest or dividends included in the current balance of
28 the account and any proceeds of deposit life insurance added to the
29 account by reason of the death of a depositor.

30 ~~((+7))~~ (8) "Director" means the director of the department of
31 financial institutions or his or her designee.

32 ~~((+8))~~ (9) "Financial institution" means a bank, trust company,
33 mutual savings bank, savings and loan association, or credit union
34 authorized to do business and accept deposits in this state under
35 state or federal law.

36 ~~((+9))~~ (10) "Individual" means a human being; "person" includes
37 an individual, corporation, partnership, limited partnership, joint
38 venture, trust, or other entity recognized by law to have separate
39 legal powers.

1 ~~((10))~~ (11) "Joint account with right of survivorship" means an
2 account in the name of two or more depositors and which provides that
3 the funds of a deceased depositor become the property of one or more
4 of the surviving depositors.

5 ~~((11))~~ (12) "Joint account without right of survivorship" means
6 an account in the name of two or more depositors and which contains
7 no provision that the funds of a deceased depositor become the
8 property of the surviving depositor or depositors.

9 ~~((12))~~ (13) "Overdraft fee" means a fee charged by a financial
10 institution when a withdrawal from an account exceeds the available
11 balance.

12 (14) "Payment(s)" of sums on deposit includes withdrawal, payment
13 by check or other directive of a depositor or his or her agent, any
14 pledge of sums on deposit by a depositor or his or her agent, any
15 set-off or reduction or other disposition of all or part of an
16 account balance, and any payments to any person under RCW 30A.22.120,
17 30A.22.140, 30A.22.150, 30A.22.160, 30A.22.170, 30A.22.180,
18 30A.22.190, 30A.22.200, and 30A.22.220.

19 ~~((13))~~ (15) "Promotional contest of chance" means a promotional
20 contest conducted pursuant to RCW 9.46.0356(1)(b).

21 ~~((14))~~ (16) "Proof of death" means a certified or authenticated
22 copy of a death certificate, or photostatic copy thereof, purporting
23 to be issued by an official or agency of the jurisdiction where the
24 death purportedly occurred, or a certified or authenticated copy of a
25 record or report of a governmental agency, domestic or foreign, that
26 a person is dead. In either case, the proofs constitute prima facie
27 proof of the fact, place, date, and time of death, and identity of
28 the decedent and the status of the dates, circumstances, and places
29 disclosed by the record or report.

30 ~~((15))~~ (17) "Request" means a request for withdrawal, or a
31 check or order for payment, which complies with all conditions of the
32 account, including special requirements concerning necessary
33 signatures and regulations of the financial institution; but if the
34 financial institution conditions withdrawal or payment on advance
35 notice, for purposes of this chapter the request for withdrawal or
36 payment is treated as immediately effective and a notice of intent to
37 withdraw is treated as a request for withdrawal.

38 ~~((16))~~ (18) "Single account" means an account in the name of
39 one depositor only.

1 (~~(17)~~) (19) "Trust or P.O.D. account beneficiary" means a
2 person or persons, other than a codepositor, who has or have been
3 designated by a depositor or depositors to receive the depositor's
4 funds remaining in an account upon the death of a depositor or all
5 depositors.

6 (~~(18)~~) (20) "Trust and P.O.D. accounts" means accounts payable
7 on request to a depositor during the depositor's lifetime, and upon
8 the depositor's death to one or more designated beneficiaries, or
9 which are payable to two or more depositors during their lifetimes,
10 and upon the death of all depositors to one or more designated
11 beneficiaries. The term "trust account" does not include deposits by
12 trustees or other fiduciaries where the trust or fiduciary
13 relationship is established other than by a contract of deposit with
14 a financial institution.

15 (~~(19)~~) (21) "Withdrawal" means payment to a person pursuant to
16 check or other directive of a depositor.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 30A.22
18 RCW to read as follows:

19 It is unlawful for any financial institution to charge a
20 continuous overdraft fee beyond the initial overdraft fee or fees
21 charged when the depositor exceeded the available balance of the
22 account.

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