

BEFORE THE INDUSTRIAL LOAN COMMISSIONER

STATE OF GEORGIA

IN THE MATTER OF:

**CHAPTER 120-1-17
Convenience Fees**

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DOCKET NUMBER I-15-IL-1

ORDER

I. STATEMENT OF PROCEEDINGS

On May 6, 2015, Notice of Intent to Adopt Rule Changes and Notice of Hearing was given regarding the adoption of a new Regulation Chapter of the Office of the Industrial Loan Commissioner (“Office”). (Record, Exhibit 1) The purpose of the proposed Regulation Chapter is to clarify and implement recent changes to O.C.G.A. Section 13-1-15, which explicitly reference and apply to Chapter 3 of Title 7 of the Official Code of Georgia Annotated.

By letter dated May 19, 2015, the Office of the Attorney General opined that the proposed regulations are within the Commissioner’s scope of authority (Record, Exhibit 5). Pursuant to O.C.G.A. Section 50-13-4(e), the proposed regulations were transmitted to Wayne R. Allen, Legislative Counsel for the General Assembly, for assignment to the appropriate standing committees of the Senate and House of Representatives. (Record, Exhibit 6) The proposed Regulation Chapter was assigned accordingly. (Record, Exhibit 7)

II. CONSIDERATION OF INTERESTED PARTY COMMENTS

Interested persons were given the opportunity to participate in the proposed rulemaking by submitting their written comments to the Office by June 5, 2015, and by making oral comments at the public hearing held June 10, 2015. No written comments were submitted.

Jay Florence, the Assistant Insurance Commissioner of this Office, was the only person to offer oral comments at the hearing. (Record, pp. 7-8) By way of background, House Bill 299 allows lenders to charge borrowers a “Convenience Fee” to offset the cost of receiving payment by electronic means. A Convenience Fee is an amount equal to or less than the “Actual Cost” or the “Average Cost.” Although Actual Cost is defined in the Bill, Average Cost is not.

According to Mr. Florence, an important purpose of the proposed Regulation Chapter is to clarify how “Average Cost” should be calculated. The proposed Average Cost calculation requires each licensee to total the amount of fees it paid to third parties for the processing of electronic payments in the preceding calendar year and divide that number by the total number of transactions for that year where the Licensee processed an electronic payment.¹ Mr. Florence recommends that the Commissioner adopt the Proposed Regulation Chapter.

III. DECISION

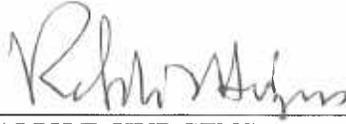
WHEREAS, the Commissioner finds persuasive the comments offered by Mr. Florence regarding the need for the proposed Regulation Chapter, and **WHEREAS**, no comments were offered in opposition, **IT IS HEREBY ORDERED** that the proposed Chapter 120-1-17 entitled “Convenience Fees” a copy of which is attached hereto and made a part by reference, is **HEREBY ADOPTED**.

Given under my Hand and Seal this 25th day of June, 2015.

[Signature on Next Page.]

¹ It is important to emphasize here that 1) licensees are not eligible to use the Average Cost calculation method until they can demonstrate that they have have been processing electronic payments for at least one calendar year; and 2) licensees may not include any loans in the Average Cost calculation that are not governed by Chapter 3 of Title 7 (the “Industrial Loan Chapter”).

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RALPH T. HUDGENS
INDUSTRIAL LOAN COMMISSIONER
STATE OF GEORGIA

