120-1-17-.01 Statutory Authority

This Regulation is made and promulgated by the Industrial Loan Commissioner pursuant to O.C.G.A. §§7-3-7 and 13-1-15.

Authority: O.C.G.A. §§7-3-7 and 13-1-15.

120-1-17-.02 Purpose

The purpose of this Regulation is to establish procedures for the charging of Convenience Fees related to the advance of money or the extension of credit offered pursuant to Chapter 3 of Title 7 of the Official Code of Georgia Annotated.

Authority: O.C.G.A. §§7-3-7 and 13-1-15.

120-1-17-.03 Definitions

The following terms shall have the following meaning as used in this Regulation unless a different meaning or construction is clearly required by the context:

(a) "Actual Cost" means the amount paid by a third party for the processing of a payment made by electronic means. If a lender or merchant is a subsidiary of an entity that processes payments made by electronic means, the parent entity shall be considered a third party.

(b) "Average Cost" means the cost calculated pursuant to 120-1-17-.05(a).

(c) "Convenience Fee" means a nonrefundable fee collected by a Licensee to offset the cost of receiving payment by electronic means.

(d) "Licensee" means a person to whom one or more licenses under Chapter 3 of Title 7 have been issued.

Authority: O.C.G.A. §§7-3-7 and 13-1-15.

120-1-17-.04 Convenience Fee Charges

(a) In addition to any other charges permitted for the advance of money or the extension of credit, a lender may collect a convenience fee at the time of receiving a payment.

(b) A Convenience Fee which is imposed pursuant to paragraph (a) must be an amount equal to or less than the Actual Cost or Average Cost.

(c) A Convenience Fee shall not be charged unless the Licensee provides a direct payment option by check, cash, or money order in which no fee is imposed.

(d) A Licensee shall not charge a Convenience Fee to any borrower unless the Convenience Fee is disclosed prior to the payment which gives rise to the Convenience Fee.

Authority: O.C.G.A. §§7-3-7 and 13-1-15.

120-1-17-.05 Calculating Average Cost

(a) A Licensee shall calculate the Average Cost by:

(1) Totaling the amount of money that a Licensee paid to third parties for the processing of electronic payments for the preceding calendar year;

(2) Totaling the number of transactions where a Licensee processed an electronic payment in the preceding calendar year; and

(3) Dividing the sum derived in subparagraph (a)(1) by the sum derived in subparagraph (a)(2). The Average Cost shall be the quotient of the calculation performed under this subparagraph.

(b) A Licensee shall maintain the Average Cost and the documentation used to make the calculation set forth in paragraph (a) at each store where the Licensee charges the Average Cost. Such documentation shall be made available to the Commissioner, or his designee, upon request.

Authority: O.C.G.A. §§7-3-7 and 13-1-15.

120-1-17-.06 Applicability of Usury Law

Nothing contained in O.C.G.A. §7-4-18 shall be construed to amend or modify the provisions of this Regulation.

Authority: O.C.G.A. §§7-3-7 and 13-1-15.

120-1-17-.07 Severability

If any provision of this Regulation Chapter or the application thereof to any person or circumstance is for any reason held to be invalid by a court of competent jurisdiction, the remainder of the Regulation Chapter or applicability of such provision to other persons or circumstances shall not be affected.

Authority: O.C.G.A. §§7-3-7 and 13-1-15.