

118TH CONGRESS
2D SESSION

S. 4943

To amend the Electronic Fund Transfer Act to treat fraudulently induced electronic fund transfers in the same manner as unauthorized electronic fund transfers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2024

Mr. BLUMENTHAL (for himself and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Electronic Fund Transfer Act to treat fraudulently induced electronic fund transfers in the same manner as unauthorized electronic fund transfers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Consumers
5 From Payment Scams Act”.

1 **SEC. 2. TREATMENT OF FRAUDULENTLY INDUCED ELEC-**
2 **TRONIC FUND TRANSFERS.**

3 (a) DEFINITIONS.—Section 903 of the Electronic
4 Fund Transfer Act (15 U.S.C. 1693a) is amended—

5 (1) in paragraph (7)—

6 (A) by striking subparagraphs (B) and
7 (E);

8 (B) by redesignating subparagraphs (C)
9 and (D) as subparagraphs (B) and (C), respec-
10 tively;

11 (C) in subparagraph (B), as so redesign-
12 nated, by adding “or” at the end; and

13 (D) in subparagraph (C), as so redesign-
14 nated, by striking “or” at the end;

15 (2) by striking paragraph (9) and inserting the
16 following:

17 “(9) the term ‘financial institution’ means—

18 “(A) a State or National bank, a State or
19 Federal savings and loan association, a mutual
20 savings bank, a State or Federal credit union,
21 or any other person who, directly or indirectly,
22 holds an account belonging to a consumer; or

23 “(B) any person that—

24 “(i) issues an accepted card or other
25 means of access or provides other means to
26 facilitate an electronic fund transfer; and

1 “(ii) agrees, directly or indirectly,
2 with a consumer to provide electronic fund
3 transfer services;” and

4 (3) by striking paragraph (12) and inserting
5 the following:

6 “(12) the term ‘unauthorized or fraudulently
7 induced electronic fund transfer’—

8 “(A) means an electronic fund transfer
9 from a consumer’s account initiated by—

10 “(i) a person other than the consumer
11 without actual authority to initiate such
12 transfer; or

13 “(ii) the consumer, if the consumer’s
14 authorization or initiation of the electronic
15 fund transfer was fraudulently induced;
16 and

17 “(B) does not include any electronic fund
18 transfer—

19 “(i) initiated by a natural person
20 other than the consumer who was fur-
21 nished with the card, code, or other means
22 of access to such consumer’s account by
23 such consumer, unless—

24 “(I) the consumer has notified
25 the financial institution involved that

1 transfers by such other person are no
 2 longer authorized; or

3 “(II) the consumer was fraudu-
 4 lently or coercively induced to furnish
 5 the card, code, or other means of ac-
 6 cess;

7 “(ii) initiated by a consumer who has
 8 fraudulent intent, or anyone acting in con-
 9 cert with such a consumer; or

10 “(iii) which constitutes an error com-
 11 mitted by a financial institution.”.

12 (b) DEFINITION OF ERROR.—Section 908(f) of the
 13 Electronic Fund Transfer Act (15 U.S.C. 1693f(f)) is
 14 amended—

15 (1) in paragraph (2), by inserting “, including
 16 a mistake or other error made by a consumer” be-
 17 fore the semicolon;

18 (2) by redesignating paragraphs (6) and (7) as
 19 paragraphs (8) and (9), respectively; and

20 (3) by inserting after paragraph (5) the fol-
 21 lowing:

22 “(6) the consumer’s inability to access funds in
 23 a frozen, closed, or otherwise inaccessible account,
 24 except as required by a court order or law enforce-
 25 ment or unless the financial institution determines

1 that the consumer obtained the funds through un-
2 lawful or fraudulent means;

3 “(7) a reflection on a periodic statement of
4 goods or services not accepted by the consumer or
5 the designee of the consumer or not delivered to the
6 consumer or the designee of the consumer;”.

7 (c) CONSUMER LIABILITY FOR UNAUTHORIZED OR
8 FRAUDULENTLY INDUCED TRANSFERS.—Section 909 of
9 the Electronic Fund Transfer Act (15 U.S.C. 1693g) is
10 amended—

11 (1) in the heading, by striking “**UNAUTHOR-**
12 **IZED TRANSFERS**” and inserting “**UNAUTHOR-**
13 **IZED OR FRAUDULENTLY INDUCED ELEC-**
14 **TRONIC FUND TRANSFERS**”;

15 (2) by striking “unauthorized electronic fund
16 transfer” each place such term appears and insert-
17 ing “unauthorized or fraudulently induced electronic
18 fund transfer”;

19 (3) by striking “unauthorized electronic fund
20 transfers” each place such term appears and insert-
21 ing “unauthorized or fraudulently induced electronic
22 fund transfers”;

23 (4) in subsection (a)—

1 (A) by striking “unauthorized transfer”
 2 and inserting “unauthorized or fraudulently in-
 3 duced electronic fund transfer”; and

4 (B) by inserting “fraudulently induced
 5 transfer or” before “loss or theft” each place
 6 such term appears;

7 (5) in subsection (b)—

8 (A) by striking “financial institution to
 9 show that” and inserting “financial institu-
 10 tion—

11 “(1) to show that”;

12 (B) by striking “was authorized or, if the
 13 electronic fund transfer was unauthorized, then
 14 the burden of proof is upon the financial insti-
 15 tution” and inserting “was authorized or was
 16 not fraudulently induced, as applicable; or

17 “(2) if the showing under paragraph (1) is not
 18 made,”; and

19 (C) by striking “, if the transfer was initi-
 20 ated after the effective date of section 905,”;
 21 and

22 (6) by adding at the end the following:

23 “(f) SHARED LIABILITY OF INSTITUTIONS INVOLVED
 24 IN AN UNAUTHORIZED OR FRAUDULENTLY INDUCED
 25 ELECTRONIC FUND TRANSFER.—

1 “(1) CREDITING OF CONSUMER ACCOUNT.—A
 2 financial institution shall reimburse the consumer
 3 for the amount of an electronic fund transfer that
 4 was unauthorized or fraudulently induced, subject to
 5 any liability of the consumer under subsection (a).

6 “(2) LIABILITY SHARING.—Subject to para-
 7 graph (3) and with respect to a loss suffered by a
 8 financial institution in connection with crediting a
 9 consumer’s account for an electronic fund transfer
 10 that was unauthorized or fraudulently induced, the
 11 liability for such loss shall be evenly shared between
 12 the financial institution holding the consumer’s ac-
 13 count and the financial institution that received the
 14 transfer.

15 “(3) LIABILITY OF CERTAIN INSTITUTIONS
 16 THAT MATERIALLY SUPPORT OTHER FINANCIAL IN-
 17 STITUTIONS.—

18 “(A) RULEMAKING.—The Bureau may
 19 issue—

20 “(i) a rule to identify certain financial
 21 institutions or classes of financial institu-
 22 tions described in section 903(9)(B) that
 23 materially support other financial institu-
 24 tions in carrying out electronic fund trans-
 25 fers; and

1 “(ii) such other rules as the Bureau
2 determines are necessary or appropriate to
3 implement the shared liability provisions
4 under this subsection.

5 “(B) LIABILITY.—With respect to a loss
6 described in paragraph (2) in connection with
7 an electronic fund transfer, if any financial in-
8 stitution identified under subparagraph (A) is
9 described in section 903(9)(B) with respect to
10 such transfer, each financial institution and the
11 2 financial institutions described in paragraph
12 (2) shall evenly share the liability for such
13 loss.”.

14 (d) RULE OF CONSTRUCTION.—Nothing in this Act
15 or the amendments made by this Act may be construed
16 to limit the authority of the Bureau of Consumer Finan-
17 cial Protection or the applicability of relevant consumer
18 financial protection laws that may otherwise impose re-
19 quirements that are being amended by this Act.

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