

GENERAL ASSEMBLY OF NORTH CAROLINA  
1989 SESSION

CHAPTER 161  
HOUSE BILL 1106

AN ACT TO PROVIDE THAT INTENTIONAL FACTORING OF FINANCIAL TRANSACTION CARD RECORDS OF SALE SHALL BE PUNISHABLE AS FRAUD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-113.8(1) reads as rewritten:

"§ 14-113.8. Definitions.

The following words and phrases as used in this Chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

- (1) Acquirer. – 'Acquirer' means a business organization, financial institution, or an agent of a business organization or financial institution that authorizes a merchant to accept payment by financial transaction card for money, goods, services or anything else of value.
- ~~(1)~~(1a) Automated Banking Device. – 'Automated banking device' means any machine which when properly activated by a financial transaction card and/or personal identification code may be used for any of the purposes for which a financial transaction card may be used.
- (2) Cardholder. – 'Cardholder' means the person or organization named on the face of a financial transaction card to whom or for whose benefit the financial transaction card is issued by an issuer.
- (3) Expired Financial Transaction Card. – 'Expired financial transaction card' means a financial transaction card which is no longer valid because the term shown on it has elapsed.
- (4) Financial Transaction Card. – 'Financial transaction card' or 'FTC' means any instrument or device whether known as a credit card, credit plate, bank services card, banking card, check guarantee card, debit card, or by any other name, issued with or without fee by an issuer for the use of the cardholder:
  - a. In obtaining money, goods, services, or anything else of value on credit; or
  - b. In certifying or guaranteeing to a person or business the availability to the cardholder of funds on deposit that are equal to or greater than the amount necessary to honor a draft or check payable to the order of such person or business; or
  - c. In providing the cardholder access to a demand deposit account or time deposit account for the purpose of:

1. Making deposits of money or checks therein; or
  2. Withdrawing funds in the form of money, money orders, or traveler's checks therefrom; or
  3. Transferring funds from any demand deposit account or time deposit account to any other demand deposit account or time deposit account; or
  4. Transferring funds from any demand deposit account or time deposit account to any credit card accounts, overdraft privilege accounts, loan accounts, or any other credit accounts in full or partial satisfaction of any outstanding balance owed existing therein; or
  5. For the purchase of goods, services or anything else of value; or
  6. Obtaining information pertaining to any demand deposit account or time deposit account;
- d. But shall not include a telephone number, credit number, or other credit device which is covered by the provisions of Article 19A of this Chapter.
- (5) Issuer. – 'Issuer' means the business organization or financial institution or its duly authorized agent which issues a financial transaction card.
  - (6) Personal Identification Code. – 'Personal identification code' means a numeric and/or alphabetical code assigned to the cardholder of a financial transaction card by the issuer to permit authorized electronic use of that FTC.
  - (7) Presenting. – 'Presenting' means, as used herein, those actions taken by a cardholder or any person to introduce a financial transaction card into an automated banking device, including utilization of a personal identification code, or merely displaying or showing a financial transaction card to the issuer, or to any person or organization providing money, goods, services, or anything else of value, or any other entity with intent to defraud.
  - (8) Receives. – 'Receives' or 'receiving' means acquiring possession or control or accepting a financial transaction card as security for a loan.
  - (9) Revoked Financial Transaction Card. – 'Revoked financial transaction card' means a financial transaction card which is no longer valid because permission to use it has been suspended or terminated by the issuer."

Sec. 2. G.S. 14-113.13 is amended by adding a new subsection to read:

"(c1) A person authorized by an acquirer to furnish money, goods, services or anything else of value upon presentation of a financial transaction card or a financial transaction card account number by a cardholder, or any agent or employee of such person, who, with intent to defraud the issuer, acquirer, or cardholder, remits to an issuer or acquirer, for payment, a financial transaction card record of a sale, which sale

was not made by such person, his agent or employee, is guilty of financial transaction card fraud.

Conviction of financial transaction card fraud as provided in this subsection is punishable as provided in G.S. 14-113.17(a)."

Sec. 3. Article 19B of Chapter 14 of the General Statutes is amended by adding a new section to read:

**"§ 14-113.15A. Criminal factoring of financial transaction card records.**

Any person who, without the acquirer's express authorization, employs or solicits an authorized merchant, or any agent or employee of such merchant, to remit to an issuer or acquirer, for payment, a financial transaction card record of a sale, which sale was not made by such merchant, his agent or employee, is guilty of a felony punishable as provided in G.S. 14-113.17(b)."

Sec. 4. This act shall become effective October 1, 1989, and shall apply to offenses occurring on or after that date.

In the General Assembly read three times and ratified this the 29th day of May, 1989.