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INSURANCE AND FINANCIAL SERVICES

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

128TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT “ ” to S.P. 222, L.D. 660, Bill, “An Act To Allow Credit and Debit Card Surcharges”

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 9-A MRSA §8-509, as enacted by PL 2011, c. 427, Pt. A, §15, is amended to read:

§8-509. Credit card and debit card surcharge limitation

1. Surcharge limitation. A seller in a sales transaction may not impose a surcharge on a cardholder who elects to use a credit card or debit card in lieu of payment by cash, check or similar means as long as the amount of the surcharge does not exceed the costs assessed by an authorized 3rd-party payment service provider for the credit card or debit card transaction and the amount of the surcharge is disclosed clearly to the cardholder prior to payment. For purposes of this section, "surcharge" means any means of increasing the regular price to a cardholder that is not imposed on a customer paying by cash, check or similar means. A discount or reduction from the regular price is not a surcharge.

2. Surcharge permitted for governmental entity. Notwithstanding subsection 1, a governmental entity may impose a surcharge for payments made with a credit card or debit card for taxes, fines, charges, utility fees, regulatory fees, license or permit fees or the provision of a specific service provided by that governmental entity if the surcharge:

- A. Is disclosed clearly to the consumer prior to payment; and
- B. Does not exceed the costs associated with providing the credit card or debit card service that are directly incurred by the governmental entity or assessed by an authorized 3rd-party payment service provider for a credit card or debit card transaction. If there is not a cost assessed by an authorized 3rd-party payment service provider for a debit card transaction, the governmental entity may not impose a surcharge associated with a debit card transaction.

COMMITTEE AMENDMENT

1 A governmental entity shall disclose to the consumer that the surcharge may be avoided if
2 the consumer makes payments by cash, check or other means not a credit card or debit
3 card. A governmental entity is not subject to any liability to the issuer of a credit card or
4 an authorized 3rd-party payment service provider for nonpayment of credit card charges
5 by the consumer. As used in this subsection, "governmental entity" includes, but is not
6 limited to, a county established or governed by Title 30-A, Part 1, a municipality as
7 defined in Title 30-A, section 2001, subsection 8, a quasi-municipal corporation as
8 defined in Title 30-A, section 2604, subsection 3, the Judicial Department as described in
9 Title 4, the University of Maine System, the Maine Community College System and the
10 Maine Maritime Academy.'

11 **SUMMARY**

12 This amendment is the minority report of the committee and replaces the bill. The
13 amendment authorizes a seller in a sales transaction to impose a surcharge on a
14 cardholder who elects to use a credit card or debit card as long as the amount of the
15 surcharge does not exceed the costs assessed by an authorized 3rd-party payment service
16 provider for the credit card or debit card transaction and the amount of the surcharge is
17 clearly disclosed to the consumer prior to payment.

18 **FISCAL NOTE REQUIRED**

19 **(See attached)**