



# Senate

General Assembly

**File No. 178**

January Session, 2013

Substitute Senate Bill No. 114

*Senate, March 27, 2013*

The Committee on Housing reported through SEN. BARTOLOMEO of the 13th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT PROHIBITING LANDLORDS FROM REQUIRING TENANTS TO PAY RENT BY ELECTRONIC FUNDS TRANSFER.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2013*) No landlord shall require  
2 electronic funds transfer as the exclusive form of payment of rent or a  
3 security deposit. For purposes of this section, "electronic funds  
4 transfer" means any transfer of funds that is initiated through an  
5 electronic terminal, telephone or computer or magnetic tape so as to  
6 order, instruct or authorize a financial institution to debit or credit an  
7 account but shall not include any transfer originated by check, draft or  
8 similar paper instrument.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2013</i>	New section
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**HSG**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note****State Impact:** None**Municipal Impact:** None**Explanation**

The bill, which prohibits landlords from exclusively requiring payment through electronic funds, has no state or municipal fiscal impact. The provision regulates private transactions between renters and landlords.

**The Out Years****State Impact:** None**Municipal Impact:** None

**OLR Bill Analysis****sSB 114*****AN ACT PROHIBITING LANDLORDS FROM REQUIRING TENANTS TO PAY RENT BY ELECTRONIC FUNDS TRANSFER.*****SUMMARY:**

This bill prohibits landlords (residential or commercial) from requiring that rent or security deposits be paid by electronic funds transfer. The bill defines “electronic funds transfer” as a funds transfer that is initiated through an electronic terminal, telephone, computer, or magnetic tape that orders, instructs, or authorizes a financial institution to debit or credit an account. It does not include any transfer originated by check, draft, or similar paper instrument.

The bill does not exclude leases that contain such a requirement and are entered into before its effective date. Thus, it is unclear how it comports with the Contracts Clause of the U.S. Constitution.

EFFECTIVE DATE: October 1, 2013

**BACKGROUND*****Contracts Clause***

The Contracts Clause of the U.S. Constitution (Article I, Section 10) bars states from passing any law that impairs the obligation of contracts. However, the U.S. Supreme Court has held that claims of a contract clause violation must first undergo a three-step analysis. Courts must determine whether (1) there is a contractual relationship, (2) a change in a law has impaired that relationship, and (3) the impairment is substantial (*General Motors Corp. v. Romein*, 503 U.S. 181 (1992)). If the court determines that the contract has been substantially impaired, it must then determine whether the law at issue has a legitimate and important public purpose and whether the adjustment of the rights of the parties to the contractual relationship was

reasonable and appropriate in light of that purpose. A challenged law will not be held to impair the contract clause if the impairment, although substantial, is reasonable and necessary to fulfill an important public purpose (*Energy Reserves Group v. Kansas Power & Light*, 459 U.S. 400, 411-412 (1983)).

**COMMITTEE ACTION**

Housing Committee

Joint Favorable Substitute

Yea 12 Nay 0 (03/12/2013)