



Substitute House Bill No. 7015

Public Act No. 17-26

AN ACT CONCERNING DEBIT CARD FRAUD AND PENALTIES FOR COLLECTION OF RENTAL PAYMENTS ON FORECLOSED PROPERTY.

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

Section 1. Section 53a-128a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

As used in this section and sections 53a-128b to 53a-128i, inclusive, as amended by this act:

(a) "Cardholder" or "holder of a card" means the person named on the face of a [credit] payment card to whom or for whose benefit the [credit] payment card is issued by an issuer or, in the case of a payment card that does not bear that name of a person on its face, the person who lawfully acquired the payment card;

(b) "Credit card" means any instrument or device, whether known as a credit card, as a credit plate, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit;

(c) "Debit card" means any card, code, device or other means of access, or any combination thereof, that is issued or authorized for use

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to debit an asset account held directly or indirectly by a financial institution and that may be used by the cardholder to obtain money, goods, services or anything else of value, regardless of whether the card, code, device or other means of access, or any combination thereof, is known as a debit card. "Debit card" includes, but is not limited to, cards, codes, devices or other means of access or some combination thereof, commonly known as payroll cards and automated teller machine cards. "Debit card" does not include a check, draft or similar paper instrument, or an electronic representation thereof;

(d) "Digital wallet" means a software application that is used on a computer or other device, including, but not limited to, a mobile device, to store digital forms of one or more payment cards that may be used to obtain money, goods, services or anything else of value;

[(c) "Expired credit card"] (e) "Expired payment card" means a [credit] payment card [which] that is no longer valid because the term shown on it has elapsed;

[(d)] (f) "Issuer" means the person [which] that issues a [credit] payment card, or its agent duly authorized for that purpose;

[(e)] (g) "Participating party" means any person or any duly authorized agent of such person, [which] that is obligated by contract to acquire from another person providing money, goods, services or anything else of value, a sales slip, sales draft or instrument for the payment of money, evidencing a [credit] payment card transaction, and from whom, directly or indirectly, the issuer is obligated by contract to acquire such sales slip, sales draft, instrument for the payment of money and the like;

(h) "Payment card" means either a credit card or a debit card;

[(f)] (i) "Receives" or "receiving" means acquiring possession,

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custody or control;

[(g) "Revoked credit card"] (j) "Revoked payment card" means a [credit] payment card [which] that is no longer valid because permission to use it has been suspended or terminated by the issuer.

Sec. 2. Section 53a-128b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

Any person who makes or causes to be made, either directly or indirectly, any false statement in writing, knowing it to be false and with intent that it be relied on, respecting [his] such person's identity or [that] the identity of any other person or [his] such person's financial condition or that of any other person, for the purpose of procuring the issuance of a [credit] payment card or loading the payment card into a digital wallet, violates this section and is subject to the penalties set forth in subsection (a) of section 53a-128i.

Sec. 3. Section 53a-128c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) Any person who takes a [credit] payment card from the person, possession, custody or control of another without the consent of the cardholder or of the issuer or who, with knowledge that it has been so taken, receives the [credit] payment card with intent to use it or to sell it, or to transfer it to any person other than the issuer or the cardholder is guilty of [credit] payment card theft and is subject to the penalties set forth in subsection (a) of section 53a-128i. Taking a [credit] payment card without consent includes obtaining it by conduct defined or known as statutory larceny, common law larceny by trespassory taking, common law larceny by trick, embezzlement, or obtaining property by false pretense, false promise or extortion.

(b) Any person who receives a [credit] payment card that [he] such person knows to have been lost, mislaid, or delivered under a mistake

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as to the identity or address of the cardholder, and who retains possession, custody or control thereof with intent to use it or to sell it or to transfer it to any person other than the issuer or the cardholder, is guilty of [credit] payment card theft and is subject to the penalties set forth in subsection (a) of section 53a-128i.

(c) Any person other than the issuer who sells a [credit] payment card or any person who buys a [credit] payment card from a person other than the issuer violates this subsection and is subject to the penalties set forth in subsection (a) of section 53a-128i.

(d) Any person who, with intent to defraud the issuer, a participating party, or a person providing money, goods, services or anything else of value, or any other person, obtains control over a [credit] payment card as security for debt violates this subsection and is subject to the penalties set forth in subsection (a) of section 53a-128i.

(e) Any person, other than the issuer, who, during any twelve-month period, receives [credit] payment cards issued in the names of two or more persons which [he] such person has reason to know were taken or retained under circumstances which constitute [credit] payment card theft or a violation of section 53a-128b, as amended by this act, or subsection (c) or (d) of this section violates this subsection and is subject to the penalties set forth in subsection (b) of section 53a-128i.

(f) Any person who, with intent to defraud a purported issuer, a participating party, or a person providing money, goods, services or anything else of value, or any other person, falsely makes or falsely embosses a purported [credit] payment card or falsely loads or causes to be falsely loaded a payment card into a digital wallet or utters such a [credit] payment card is guilty of [credit] payment card forgery and is subject to the penalties set forth in subsection (b) of section 53a-128i. A person "falsely makes" a [credit] payment card when [he] such

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person makes or draws, in whole or in part, a device or instrument which purports to be the [credit] payment card of a named issuer but which is not such a [credit] payment card because the issuer did not authorize the making or drawing, or when such person so alters a [credit] payment card which was validly issued. A person "falsely embosses" a [credit] payment card when, without the authorization of the named issuer, [he] such person completes a [credit] payment card by adding any of the matter, other than the signature of the cardholder, which an issuer requires to appear on the [credit] payment card before it can be used by a cardholder. A person "falsely loads" or "causes to be falsely loaded" a payment card into a digital wallet when such person stores or causes to be stored on a digital wallet the digital form of (1) a payment card falsely made or falsely embossed by such person, (2) a payment card taken, procured, received or retained by such person under circumstances that constitute a violation of this section or section 53a-128b, as amended by this act, or (3) a payment card that such person knows is falsely made, falsely embossed, forged, expired or revoked.

(g) Any person other than the cardholder or any person authorized by [him] the cardholder who, with intent to defraud the issuer, a participating party, or a person providing money, goods, services or anything else of value, or any other person, signs a [credit] payment card, violates this subsection and is subject to the penalties set forth in subsection (a) of section 53a-128i.

Sec. 4. Section 53a-128d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

Any person who, with intent to defraud the issuer, a participating party, or a person providing money, goods, services or anything else of value, or any other person, (1) uses for the purpose of obtaining money, goods, services or anything else of value a [credit] payment card obtained or retained in violation of section 53a-128b, as amended

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by this act, or a [credit] payment card which [he] such person knows is forged, expired or revoked, or (2) obtains money, goods, services or anything else of value by representing without the consent of the cardholder that [he] such person is the holder of a specified card or by representing that [he] such person is the holder of a card and such card has not in fact been issued, or (3) uses a [credit] payment card obtained or retained in violation of section 53a-128c, as amended by this act, or a [credit] payment card which [he] such person knows is forged, expired or revoked, as authority or identification to cash or to attempt to cash or otherwise to negotiate or transfer or to attempt to negotiate or transfer any check or other order for the payment of money, whether or not negotiable, if such negotiation or transfer or attempt to negotiate or transfer would constitute a violation of section 53a-128 violates this subsection and is subject to the penalties set forth in subsection (a) of section 53a-128i, if the value of all money, goods, services and other things of value obtained in violation of this subsection does not exceed five hundred dollars in any six-month period; and is subject to the penalties set forth in subsection (b) of section 53a-128i, if such value does exceed five hundred dollars in any such six-month period. Knowledge of revocation shall be presumed to have been received by a cardholder four days after it has been mailed to [him] such cardholder, at the address set forth on the [credit] payment card or at [his] such cardholder's last-known address. [, by registered or certified mail, return receipt requested, and, if, the address is more than five hundred miles from the place of mailing, by air mail.] If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone or Canada, notice shall be presumed to have been received ten days after mailing by registered or certified mail.

Sec. 5. Section 53a-128e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) Any person who is authorized by an issuer or a participating

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party to furnish money, goods, services or anything else of value upon presentation of a [credit] payment card by the cardholder, or any agent or employee of such person, who, with intent to defraud the issuer, or participating party, the cardholder, or any other person furnishes money, goods, services or anything else of value upon presentation of a [credit] payment card obtained or retained in violation of section 53a-128c, as amended by this act, or a [credit] payment card which [he] such person knows is forged, expired or revoked, violates this subsection and is subject to the penalties set forth in subsection (a) of section 53a-128i, if the value of all money, goods, services and other things of value furnished in violation of this subsection does not exceed five hundred dollars in any six-month period; and is subject to the penalties set forth in subsection (b) of section 53a-128i if such value does exceed five hundred dollars in any such six-month period.

(b) Any person who is authorized by an issuer or a participating party to furnish money, goods, services or anything else of value upon presentation of a [credit] payment card by the cardholder, or any agent or employee of such person, who, with intent to defraud the issuer, a participating party, the cardholder, or any other person fails to furnish money, goods, services or anything else of value which [he] such person represents in writing to the issuer or participating party that [he] such person has furnished violates this subsection and is subject to the penalties set forth in subsection (a) of section 53a-128i, if the difference between the value of all money, goods, services and anything else of value actually furnished and the value represented to the issuer or participating party to have been furnished does not exceed five hundred dollars in any six-month period; and is subject to the penalties set forth in subsection (b) of section 53a-128i if such difference does exceed five hundred dollars in any such six-month period.

Sec. 6. Section 53a-128f of the general statutes is repealed and the

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following is substituted in lieu thereof (*Effective October 1, 2017*):

Any person, other than the cardholder, having under [his] such person's possession, custody or control two or more incomplete [credit] payment cards, or possessing a purported distinctive element of a [credit] payment card, with intent to complete such incomplete [credit] payment cards or to utilize such purported distinctive element in the production or reproduction of any [credit] payment card, without the consent of the issuer, or a person having under [his] such person's possession, custody or control, with knowledge of its character, a distinctive element of any [credit] payment card or any machinery, plates or any contrivance designed to produce or reproduce instruments purporting to be the [credit] payment cards of an issuer, or of any issuer in a group of issuers utilizing a common distinctive element or elements in [credit] payment cards issued by all members of such group, who has not consented to the production or reproduction of such cards, violates this section and is subject to the penalties set forth in subsection (b) of section 53a-128i. A [credit] payment card is "incomplete" if part of the matter other than the signature of the cardholder, which an issuer, or any issuer in a group of issuers utilizing a common distinctive element or elements in [credit] payments cards issued by all members of such group, requires to appear on the [credit] payment card, before it can be used by a cardholder, has not yet been stamped, embossed, imprinted or written on it. A "distinctive element" of a [credit] payment card is any material or component used in the fabrication of [credit] payment cards, which, by virtue of such element's chemical or physical composition, color or design, is unique to the [credit] payment cards issued by a particular issuer or group of issuers utilizing a common distinctive element or elements in [credit] payment cards issued by all members of such group.

Sec. 7. (NEW) (*Effective October 1, 2017*) Any previous mortgagor of

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real property against whom a final judgment of foreclosure has been entered, who continues to collect rental payments on such property after passage of such mortgagor's law day, and who has no legal right to do so, shall be subject to the penalties for larceny under sections 53a-122 to 53a-125b, inclusive, of the general statutes depending on the amount involved.