



Credit Union National Association

cuna.org

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The Honorable Mike Johanns  
404 Russell Senate Office Building  
Washington, D.C. 20510

The Honorable Mark Warner  
475 Russell Senate Office Building  
Washington, D.C. 20510

Dear Senators Johanns and Warner:

On behalf of the Credit Union National Association (CUNA), I am writing regarding S. 3204. CUNA is the largest credit union advocacy organization in the United States, representing nearly 90% of America's 7,300 state and federally chartered credit unions and their 94 million members. CUNA strongly supports S. 3204 and appreciates your leadership on this issue.

As you know, the Electronic Fund Transfer Act and its implementing rule, Regulation E (12 CFR 205.16) requires ATM operators to provide two separate notices to consumers regarding the imposition of a fee for the use of the ATM. This fee is disclosed on the ATM, which must be affirmatively accepted by the user to proceed with their transaction. Regulation E also requires ATM operators to attach a physical placard to the ATM stating that a fee may be charged. If the placard is not attached, the statute prescribes that in a successful class action, plaintiffs are entitled to recover "the lesser of \$500,000 or 1 per centum of the net worth of the [ATM operator]", plus attorneys' fees and costs. This has led unscrupulous individuals to remove the physical placard and sue the ATM operator for noncompliance, costing financial institutions hundreds of thousands of dollars. The threat of lawsuits has caused many credit unions to go to extraordinary steps to document compliance, increasing the cost of operating ATMs to the detriment of credit unions' member-owners.

S. 3204 would eliminate the requirement that a physical disclosure be placed on the ATM, but would preserve the requirement that consumers are notified of potential fees associated with an ATM transaction through an electronic disclosure, and make an affirmative opt-in to accept such fee. This legislation will protect credit unions and other ATM operators from frivolous lawsuits while at the same time maintaining important consumer protections. This is a common sense piece of legislation that will reduce regulatory burden without harming ATM users.

On behalf of America's credit unions and their 94 million members, thank you for introducing this legislation.

Best regards,

Bill Cheney  
President & CEO



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