

1 AN ACT concerning electronic fund transfers.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Electronic Fund Transfer Act is amended  
5 by changing Section 45 as follows:

6 (205 ILCS 616/45)

7 Sec. 45. Nondiscriminatory access.

8 (a) Subject to ~~the provisions of~~ Section 35 of this Act,  
9 use of a terminal through access to a switch and use of any  
10 switch shall be available on a nondiscriminatory basis to any  
11 switch or financial institution that has its principal place  
12 of business within this State. The terms and conditions of  
13 use shall be governed by a written agreement between the  
14 network and the financial institution or other switch  
15 obtaining the use. The written agreement shall specify all  
16 of the terms and conditions under which the network may be  
17 utilized, including commercially reasonable fees and charges.  
18 In case of a dispute under the terms of the written  
19 agreement, the parties shall be deemed to have agreed to  
20 accept the Commissioner as final arbitrator unless the  
21 aggrieved party seeks court action.

22 (b) The use and operation of each terminal served by a  
23 switch shall be governed by a written agreement between the  
24 network and the person establishing the terminal. The  
25 written agreement shall specify all the terms and conditions  
26 under which the network provides service to the terminal,  
27 including commercially reasonable fees and charges. In case  
28 of a dispute under the terms of the written agreement, the  
29 parties shall be deemed to have agreed to accept the  
30 Commissioner as final arbitrator unless the aggrieved party  
31 seeks court action.

1           (c) The Commissioner shall have the power to arbitrate  
2 disputes arising under (1) contracts, in accordance with the  
3 terms of those contracts, governing the use, operation, and  
4 access to switches and terminals, and (2) the use, operation,  
5 and access to switches and terminals. Any decision by the  
6 Commissioner in connection with any arbitration shall be  
7 determined only after an opportunity for a hearing and shall  
8 be subject to judicial review pursuant to the provisions of  
9 the Administrative Review Law and the rules adopted pursuant  
10 to that Law. Anything to the contrary in this Act  
11 notwithstanding, any right of arbitration granted under this  
12 Act is subject to the right of either party to seek court  
13 action.

14       (Source: P.A. 89-310, eff. 1-1-96.)