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Bill to Ban Credit Card Surcharges Fails in Senate After Lawmakers Cite Business Impact

Senator Blyden's proposal to prohibit card surcharges drew concern from senators and regulators who warned it could raise prices. Opponents argued the bill may hurt small businesses and burden cash-paying customers.

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A proposal to ban credit and debit card surcharges in the U.S. Virgin Islands faced strong opposition during a Senate hearing on Wednesday, with lawmakers ultimately voting to hold the measure in committee. Though supporters framed Bill 36-0019 as a way to ease the financial burden on consumers, most senators expressed concern about unintended consequences for small businesses and overall pricing models.

“I think it’s really an affront to the small business owners,” said Senator Novelle Francis as lawmakers debated the bill. The Senator Marvin Blyden-sponsored measure was before the Committee on Economic Development and Agriculture.

In seeking the support of his fellow lawmakers, Senator Blyden argued that implementing such legislation would benefit consumers, locals and visitors alike. “Customers have been hit with blow after blow…and higher prices and interest rates are just a few,” he argued. Consumers are now “confronted by another disaster” that “drains money from customers and businesses alike, and that harms our competitiveness as a tourist destination,” Blyden added.

“The name of that disaster is the credit card surcharge,” he declared. According to the lawmaker, the surcharge “harms every aspect of our economy.” He contended that “to the eyes of the visitor, credit card purchases in the Virgin Islands seem less attractive compared to making those purchases elsewhere in a region.” Doubling down on his argument, Blyden also suggested that the surcharges made online purchases preferable to local ones.

Bill 36-0019 would not only seek to “forbid” surcharges on credit card purchases, but would also create “a mechanism for merchants to offer a discount for other forms of payment, thus lowering the cost.”

“This bill seeks to address a problem that impacts the pocketbook of our residents on a daily basis,” Blyden said. Several of the stakeholders invited to testify on the measure firmly disagreed.

“It must be understood that credit card fees are the cost we all pay for the convenience of the use of credit,” testified John Woods from the St. Thomas/St. John Chamber of Commerce. He rubbished the claim that credit card surcharges are “hidden” and come as a surprise charge to consumers at the point of sale. “It may be added as a service charge or user charge, but it is there,” Mr. Woods said. He warned lawmakers that if the bill is passed, businesses would simply incorporate the fee into the listed price of the item. “It doesn't disappear, since the cost cannot be directly recovered. It will be indirectly recovered from the customer.”

Mr. Woods also disagreed with Mr. Blyden’s position that the surcharge harms competitiveness. “Our visitors are fairly sophisticated and realize they are paying for the use of their credit cards,” argued Mr. Woods. “Customers who want to avoid that fee pay cash…Let the business owner use their discretion as to whether or not to disclose this fee.”

Opposition also came from the Division of Banking, Insurance and Financial Regulation in the Lieutenant Governor’s Office. Division Director Glendina Matthew told the committee that if enacted, the bill runs the risk of pushing merchants to “revisit their pricing model to take into consideration the additional fee.” According to Ms. Matthew, “not all business models allow for easy price or cost increases.” She made specific reference to insurance companies that “do not allow a lot of flexibility if an agency is seeking to offset increasing expenses.” To reduce overhead expenses, she says insurance companies may have to lay off staff.

Senator Blyden's proposed legislation also failed to find favor with most other legislators. Senator Novelle Francis shared that he supported the argument of the Chamber of Commerce. The current 3% surcharge is a “controlled amount,” he noted. “When you leave it up to the merchant, then, to impose a fee, you don't know what the fee is,” Francis observed.

Committee chair Senator Hubert Frederick also disagreed with the premise of the measure. “I am convinced that this bill will cause more of a price increase over time…Businesses are not going to eat that cost. We need to be realistic," he opined.

Senator Marise James argued that the bill targets the poor, particularly those who do not have access to debit or credit cards. “For the people who use cash, if this law is passed, they will then see an increase also in the price of the item, because it's going to be baked into the product that's being sold,” she reasoned. “I also cannot support Bill 36-0019 because I believe the poor person is going to bear the burden of this type of legislation,” Senator James concluded.

“Doesn't it have the unintended consequence of potentially further driving up the cost of goods and services in the territory?” asked Senator Milton Potter of the bill, underscoring the arguments of those before him.

Those lawmakers who did support the bill seemed to approach it from the customer’s point of view. “This legislation has a commitment to the consumer,” noted Senator Angel Bolques Jr. “Virgin Islanders are already facing high cost of living, and the last thing they should be penalized for is using their cards.” Senator Avery Lewis agreed that consumers are at a “disadvantage.” “We never know what makes up the whole price,” he said. The 3% surcharge is not applied to card machines distributed by local banks, shared Mr. Lewis. “It's these outside companies with this 3%. It probably behooves us to just start dealing with our local banks.”

The “essence” of the bill also found good favor within the Department of Licensing and Consumer Affairs. Though DLCA suggested some minor amendments, primarily relating to where the amended law should reside within the V.I. Code, Assistant Commissioner Horace Graham reminded lawmakers of Bill 36-0019’s intended benefit.

Mr. Graham also attempted to quell the concerns of opposing legislators, reminding them of the language in the bill that will allow merchants to offer discounts on cash purchases. The possibility of a discount “actually levelizes that for those who deal almost exclusively in cash, it gives them an opportunity to not have to pay that additional fee,” he noted. Senator Alma Francis Heyliger, however, was not convinced. “If I'm a merchant and I have an opportunity to get an extra 3%, will I really offer you a discount?” she asked.

Cash discounts are already being offered by several businesses, Mr. Graham advised, although the practice is currently illegal. “What I believe this piece of legislation would do is give merchants the ability to do that without violating the law,” he said.

At the end of the debate, a decision was made to hold the bill in the Committee on Economic Development and Agriculture due to the lack of consensus from lawmakers. “Folks complain every day, all day, for the last couple of years. That's the reason why I brought the legislation. It's a problem, and if we can find a way to address the issue, we should,” declared Senator Blyden. It is anticipated that he will take additional perspectives into consideration and propose the bill once more.