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DIVISION 3. OBLIGATIONS [1427 - 3273.69] (*Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.*)

PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS [1738 - 3273.69] (*Part 4 enacted 1872.*)

TITLE 1.3C. DEBIT CARDS [1748.30 - 1748.32] (*Title 1.3C added by Stats. 1999, Ch. 244, Sec. 1.*)

1748.30. For purposes of this title, the following definitions shall apply:

- (a) "Accepted debit card" means any debit card which the debit cardholder has requested and received or has signed, or has used, or has authorized another person to use, for the purpose of obtaining money, property, labor, or services. Any debit card issued in renewal of, or in substitution for, an accepted debit card becomes an accepted debit card when received by the debit cardholder, whether the debit card is issued by the same or by a successor card issuer.
- (b) "Account" means a demand deposit (checking), savings, or other consumer asset account, other than an occasional or incidental credit balance in a credit plan, established primarily for personal, family, or household purposes.
- (c) "Adequate notice" has the same meaning as found in subdivision (k) of Section 1747.02.
- (d) "Debit card" means an accepted debit card or other means of access to a debit cardholder's account that may be used to initiate electronic funds transfers and may be used without unique identifying information such as a personal identification number to initiate access to the debit cardholder's account.
- (e) "Debit card issuer" means any person who issues a debit card or the agent of that person for that purpose.
- (f) "Debit cardholder" means a natural person to whom a debit card is issued.
- (g) "Unauthorized use" means the use of a debit card by a person, other than the debit cardholder, to initiate an electronic fund transfer from the debit cardholder's account without actual authority to initiate the transfer and from which the debit cardholder receives no benefit. The term does not include an electronic fund transfer initiated in any of the following manners:
 - (1) By a person who was furnished the debit card to the debit cardholder's account by the debit cardholder, unless the debit cardholder has notified the debit card issuer that transfers by that person are no longer authorized.
 - (2) With fraudulent intent by the debit cardholder or any person acting in concert with the debit cardholder.
 - (3) By the debit card issuer or its employee.

(*Added by Stats. 1999, Ch. 244, Sec. 1. Effective January 1, 2000.*)

1748.31. (a) A debit cardholder shall be liable for an unauthorized use of a debit card only if all of the following conditions are met:

- (1) The card is an accepted debit card.
- (2) Except as provided in subdivision (b), the liability is not in excess of fifty dollars (\$50).
- (3) The debit card issuer has given adequate notice to the debit cardholder of the potential liability.
- (4) The debit card issuer has provided the debit cardholder with a description of the means by which the debit card issuer may be notified of loss or theft of the card.
- (5) The unauthorized use occurs before the debit card issuer has been notified by the debit cardholder that an unauthorized use of the debit card has occurred or may occur as a result of loss, theft, or otherwise.
- (6) The debit card issuer has provided a means to identify the debit cardholder to whom the debit card was issued.

(b) Notwithstanding subdivision (a), if the debit cardholder fails to report an unauthorized use that appears on a periodic statement within 60 days of the debit card issuer's transmittal of the statement, and if the issuer establishes that an unauthorized use would not have occurred had the debit cardholder notified the issuer within the 60-day period, the debit cardholder shall be liable for the amount of each unauthorized transfer that occurs after the close of the 60 days and before notice to the issuer. If the debit cardholder's delay in notifying the debit card issuer was due to extenuating circumstances beyond the debit cardholder's reasonable control, the time specified above shall be extended by a reasonable period. For the purposes of this subdivision, examples of extenuating circumstances include, but are not limited to, extended travel, the death or serious illness of the debit cardholder or a member of the debit cardholder's family, hospitalization, permanent mental impairment, or serious physical impairment, unless the circumstance did not reasonably contribute to the cardholder's delay in notifying the debit card issuer within the 60-day period.

(c) A debit cardholder shall have no liability for erroneous or fraudulent transfers initiated by a debit card issuer, its agent, or employee.

(Added by Stats. 1999, Ch. 244, Sec. 1. Effective January 1, 2000.)

1748.32. Any waiver of the provisions of this title is contrary to public policy, and is void and unenforceable.

(Added by Stats. 2002, Ch. 815, Sec. 5. Effective January 1, 2003.)