

Interchange Fee Prohibition Act

Banking Brief: Financial Services Insights

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The Interchange Fee Prohibition Act (IFPA), signed into law in June of 2024 by Illinois Governor J.B. Pritzker, prohibits banks, savings associations, credit union, and others from receiving or charging an interchange fee on the tax and gratuity (tips) portions of debit and credit transactions, as well as placing restrictions on the use or transmittal of electronic payment transactions data. Interchange fees are those "established, charged, or received by a payment card network for the purpose of compensating the issuer for its involvement in an electronic payment transaction."

The American Bankers Association (ABA) joined the Illinois Bankers Association, America's Credit Unions, and the Illinois Credit Union League in filing a complaint in the U.S. District Court for the Northern District of Illinois challenging the IFPA and representing a vast coalition of financial institutions with vested interests in electronic payment transactions. These groups seek to have the state legislation declared preempted by federal banking laws, and as such, unconstitutional in its application.

Set to take effect on July 1, 2025, the IFPA allows merchants to either submit the amount of taxes and gratuities at the time of the transaction authorization or settlement or seek reimbursement within 180 days of the transaction date.

Additionally, the IFPA's data limitations demand, exclusive of the merchant, that any entity participating in an electronic transaction may not distribute, exchange, transfer, disseminate, or use the electronic payment transaction data except to facilitate or process the transaction is subject to the Illinois Consumer Fraud and Deceptive Business Practices Act.

The Illinois' Attorney General has several enforcement measures, such as injunctive relief and civil penalties. The civil penalties for a violation of the IFPA are \$1000 *per transaction*. Notably, one such national Acquiring Bank processed over 400 million credit and debit transactions with merchants in Illinois in 2023 alone. To have charged interchange fees in error on prohibited tax and gratuities in only 0.01% percent in 2023, the Acquiring Bank would have faced \$40 million in civil penalties.

Financial institutions with customers in Illinois should be mindful of the extent of their exposure in light of the IFPA. There are heavy cost, regulatory and legal considerations, suggesting financial institution should assess their own electronic payments infrastructure and operations by reviewing contracts, their relationships with merchants, and their own internal and external controls to take affirmative steps for compliance with the IFPA—all the while remaining conscious of the ABA and co-plaintiff's federal lawsuit.

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