

As Introduced

**127th General Assembly
Regular Session
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S. B. No. 241

Senator Cates

Cosponsors: Senators Carey, Mumper, Schuring, Faber, Padgett

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A B I L L

To amend section 301.28 of the Revised Code to modify
the law governing payment of county expenses by a
financial transaction device.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 301.28 of the Revised Code be amended
to read as follows:

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Sec. 301.28. (A) As used in this section:

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(1) "Financial transaction device" includes a credit card,
debit card, charge card, or prepaid or stored value card, or
automated clearinghouse network credit, debit, or e-check entry
that includes, but is not limited to, accounts receivable and
internet-initiated, point of purchase, and telephone-initiated
applications.

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(2) "County expenses" includes fees, costs, taxes,
assessments, fines, penalties, payments, or any other expense a
person owes to a county office under the authority of a county
elected official other than dog registration and kennel fees
required to be paid under Chapter 955. of the Revised Code.

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(3) "County elected official" includes the county auditor,

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county treasurer, county engineer, county recorder, county 19
prosecuting attorney, county sheriff, ~~and~~ county coroner, and 20
county commissioners, and the clerk of the court of common pleas, 21
the clerk of a county-operated municipal court, and the clerk of a 22
county court. 23

(B) Notwithstanding any other section of the Revised Code and 24
except as provided in division (D) of this section, a board of 25
county commissioners may adopt a resolution authorizing the 26
acceptance of payments by financial transaction devices for county 27
expenses. The resolution shall include the following: 28

(1) A specification of those county elected officials who are 29
authorized to accept payments by financial transaction devices; 30

(2) A list of county expenses that may be paid for through 31
the use of a financial transaction device; 32

(3) Specific identification of financial transaction devices 33
that the board authorizes as acceptable means of payment for 34
county expenses. Uniform acceptance of financial transaction 35
devices among different types of county expenses is not required. 36

(4) The amount, if any, authorized as a surcharge or 37
convenience fee under division (E) of this section for persons 38
using a financial transaction device. Uniform application of 39
surcharges or convenience fees among different types of county 40
expenses is not required. 41

(5) A specific provision as provided in division (G) of this 42
section requiring the payment of a penalty if a payment made by 43
means of a financial transaction device is returned or dishonored 44
for any reason. 45

The board's resolution shall also designate the county 46
treasurer as an administrative agent to solicit proposals, within 47
guidelines established by the board in the resolution and in 48
compliance with the procedures provided in division (C) of this 49

section, from financial institutions, issuers of financial 50
transaction devices, and processors of financial transaction 51
devices, to make recommendations about those proposals to the 52
board, and to assist county offices in implementing the county's 53
financial transaction devices program. The county treasurer may 54
decline this responsibility within thirty days after receiving a 55
copy of the board's resolution by notifying the board in writing 56
within that period. If the treasurer so notifies the board, the 57
board shall perform the duties of the administrative agent. 58

If the county treasurer is the administrative agent and fails 59
to administer the county financial transaction devices program in 60
accordance with the guidelines in the board's resolution, the 61
board shall notify the treasurer in writing of the board's 62
findings, explain the failures, and give the treasurer six months 63
to correct the failures. If the treasurer fails to make the 64
appropriate corrections within that six-month period, the board 65
may pass a resolution declaring the board to be the administrative 66
agent. The board may later rescind that resolution at its 67
discretion. 68

(C) The county shall follow the procedures provided in this 69
division whenever it plans to contract with financial 70
institutions, issuers of financial transaction devices, or 71
processors of financial transaction devices for the purposes of 72
this section. The administrative agent shall request proposals 73
from at least three financial institutions, issuers of financial 74
transaction devices, or processors of financial transaction 75
devices, as appropriate in accordance with the resolution adopted 76
under division (B) of this section. Prior to sending any financial 77
institution, issuer, or processor a copy of any such request, the 78
county shall advertise its intent to request proposals in a 79
newspaper of general circulation in the county once a week for two 80
consecutive weeks. The notice shall state that the county intends 81

to request proposals; specify the purpose of the request; indicate 82
the date, which shall be at least ten days after the second 83
publication, on which the request for proposals will be mailed to 84
financial institutions, issuers, or processors; and require that 85
any financial institution, issuer, or processor, whichever is 86
appropriate, interested in receiving the request for proposals 87
submit written notice of this interest to the county not later 88
than noon of the day on which the request for proposals will be 89
mailed. 90

Upon receiving the proposals, the administrative agent shall 91
review them and make a recommendation to the board of county 92
commissioners on which proposals to accept. The board of county 93
commissioners shall consider the agent's recommendation and review 94
all proposals submitted, and then may choose to contract with any 95
or all of the entities submitting proposals, as appropriate. The 96
board shall provide any financial institution, issuer, or 97
processor that submitted a proposal, but with which the board does 98
not enter into a contract, notice that its proposal is rejected. 99
The notice shall state the reasons for the rejection, indicate 100
whose proposals were accepted, and provide a copy of the terms and 101
conditions of the successful bids. 102

(D) A board of county commissioners adopting a resolution 103
under this section shall send a copy of the resolution to each 104
county elected official in the county who is authorized by the 105
resolution to accept payments by financial transaction devices. 106
After receiving the resolution and before accepting payments by 107
financial transaction devices, a county elected official shall 108
provide written notification to the board of county commissioners 109
of the official's intent to implement the resolution within the 110
official's office. Each county office subject to the board's 111
resolution adopted under division (B) of this section may use only 112
the financial institutions, issuers of financial transaction 113

devices, and processors of financial transaction devices with 114
which the board of county commissioners contracts, and each such 115
office is subject to the terms of those contracts. 116

If a county office under the authority of a county elected 117
official is directly responsible for collecting one or more county 118
expenses and the county elected official determines not to accept 119
payments by financial transaction devices for one or more of those 120
expenses, the office shall not be required to accept payments by 121
financial transaction devices, notwithstanding the adoption of a 122
resolution by the board of county commissioners under this 123
section. 124

Any office of a clerk of the court of common pleas that 125
accepts financial transaction devices on or before July 1, 1999, 126
and any other county office that accepted such devices before 127
January 1, 1998, may continue to accept such devices without being 128
subject to any resolution passed by the board of county 129
commissioners under division (B) of this section, or any other 130
oversight by the board of the office's financial transaction 131
devices program. Any such office may use surcharges or convenience 132
fees in any manner the county elected official in charge of the 133
office determines to be appropriate, and, if the county treasurer 134
consents, may appoint the county treasurer to be the office's 135
administrative agent for purposes of accepting financial 136
transaction devices. In order not to be subject to the resolution 137
of the board of county commissioners adopted under division (B) of 138
this section, a county office shall notify the board in writing 139
within thirty days after March 30, 1999, that it accepted 140
financial transaction devices prior to January 1, 1998, or, in the 141
case of the office of a clerk of the court of common pleas, the 142
clerk has accepted or will accept such devices on or before July 143
1, 1999. Each such notification shall explain how processing costs 144
associated with financial transaction devices are being paid and 145

shall indicate whether surcharge or convenience fees are being 146
passed on to consumers. 147

(E) A board of county commissioners may establish a surcharge 148
or convenience fee that may be imposed upon a person making 149
payment by a financial transaction device. The surcharge or 150
convenience fee shall not be imposed unless authorized or 151
otherwise permitted by the rules prescribed by an agreement 152
governing the use and acceptance of the financial transaction 153
device. 154

If a surcharge or convenience fee is imposed, every county 155
office accepting payment by a financial transaction device, 156
regardless of whether that office is subject to a resolution 157
adopted by a board of county commissioners, shall clearly post a 158
notice in that office and shall notify each person making a 159
payment by such a device about the surcharge or fee. Notice to 160
each person making a payment shall be provided regardless of the 161
medium used to make the payment and in a manner appropriate to 162
that medium. Each notice shall include all of the following: 163

(1) A statement that there is a surcharge or convenience fee 164
for using a financial transaction device; 165

(2) The total amount of the charge or fee expressed in 166
dollars and cents for each transaction, or the rate of the charge 167
or fee expressed as a percentage of the total amount of the 168
transaction, whichever is applicable; 169

(3) A clear statement that the surcharge or convenience fee 170
is nonrefundable. 171

(F) If a person elects to make a payment to the county by a 172
financial transaction device and a surcharge or convenience fee is 173
imposed, the payment of the surcharge or fee shall be considered 174
voluntary and the surcharge or fee is not refundable. 175

(G) If a person makes payment by financial transaction device 176

and the payment is returned or dishonored for any reason, the 177
person is liable to the county for payment of a penalty over and 178
above the amount of the expense due. The board of county 179
commissioners shall determine the amount of the penalty, which may 180
be either a fee not to exceed twenty dollars or payment of the 181
amount necessary to reimburse the county for banking charges, 182
legal fees, or other expenses incurred by the county in collecting 183
the returned or dishonored payment. The remedies and procedures 184
provided in this section are in addition to any other available 185
civil or criminal remedies provided by law. 186

(H) No person making any payment by financial transaction 187
device to a county office shall be relieved from liability for the 188
underlying obligation except to the extent that the county 189
realizes final payment of the underlying obligation in cash or its 190
equivalent. If final payment is not made by the financial 191
transaction device issuer or other guarantor of payment in the 192
transaction, the underlying obligation shall survive and the 193
county shall retain all remedies for enforcement that would have 194
applied if the transaction had not occurred. 195

(I) A county elected official or employee who accepts a 196
financial transaction device payment in accordance with this 197
section and any applicable state or local policies or rules is 198
immune from personal liability for the final collection of such 199
payments. 200

Section 2. That existing section 301.28 of the Revised Code 201
is hereby repealed. 202