

**As Passed by the House**

**127th General Assembly  
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2007-2008**

**Sub. S. B. No. 241**

**Senator Cates**

**Cosponsors: Senators Carey, Mumper, Schuring, Faber, Padgett, Seitz,  
Niehaus, Gardner, Grendell, Kearney, Spada, Schaffer, Stivers, Harris  
Representatives Zehringer, Dodd, Adams, Barrett, Batchelder, Blessing,  
Bolon, Boyd, Brown, Budish, Chandler, Coley, Combs, Daniels, DeBose,  
Domenick, Dyer, Evans, Fessler, Flowers, Gardner, Gerberry, Gibbs,  
Hagan, J., Hagan, R., Harwood, Hite, Hughes, Letson, Luckie, Lundy, Mallory,  
Patton, Sayre, Schindel, Setzer, Slesnick, Stebelton, Uecker, Webster, Yates,**

**Yuko**

**—**

**A B I L L**

To amend section 301.28 of the Revised Code to modify 1  
the law governing payment of county expenses by a 2  
financial transaction device. 3

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

**Section 1.** That section 301.28 of the Revised Code be amended 4  
to read as follows: 5

**Sec. 301.28.** (A) As used in this section: 6

(1) "Financial transaction device" includes a credit card, 7  
debit card, charge card, or prepaid or stored value card, or 8  
automated clearinghouse network credit, debit, or e-check entry 9  
that includes, but is not limited to, accounts receivable and 10  
internet-initiated, point of purchase, and telephone-initiated 11

applications or any other device or method for making an 12  
electronic payment or transfer of funds. 13

(2) "County expenses" includes fees, costs, taxes, 14  
assessments, fines, penalties, payments, or any other expense a 15  
person owes to a county office under the authority of a county 16  
~~elected~~ official other than dog registration and kennel fees 17  
required to be paid under Chapter 955. of the Revised Code. 18

(3) "County ~~elected~~ official" includes the county auditor, 19  
county treasurer, county engineer, county recorder, county 20  
prosecuting attorney, county sheriff, ~~and~~ county coroner, county 21  
park district and board of county commissioners, the clerk of the 22  
probate court, the clerk of the juvenile court, the clerks of 23  
court for all divisions of the courts of common pleas, and the 24  
clerk of the court of common pleas, the clerk of a county-operated 25  
municipal court, and the clerk of a county court. 26

The term "county expenses" includes county expenses owed to 27  
the board of health of the general health district or a combined 28  
health district in the county. If the board of county 29  
commissioners authorizes county expenses to be paid by financial 30  
transaction devices under this section, then the board of health 31  
and the general health district and the combined health district 32  
may accept payments by financial transaction devices under this 33  
section as if the board were a "county official" and the district 34  
were a county office. However, in the case of a general health 35  
district formed by unification of general health districts under 36  
section 3709.10 of the Revised Code, this entitlement applies only 37  
if all the boards of county commissioners of all counties in the 38  
district have authorized payments to be accepted by financial 39  
transaction devices. 40

(B) Notwithstanding any other section of the Revised Code and 41  
except as provided in division (D) of this section, a board of 42  
county commissioners may adopt a resolution authorizing the 43

acceptance of payments by financial transaction devices for county 44  
expenses. The resolution shall include the following: 45

(1) A specification of those county ~~elected~~ officials who, 46  
and of the county offices under those county officials that, are 47  
authorized to accept payments by financial transaction devices; 48

(2) A list of county expenses that may be paid for through 49  
the use of a financial transaction device; 50

(3) Specific identification of financial transaction devices 51  
that the board authorizes as acceptable means of payment for 52  
county expenses. Uniform acceptance of financial transaction 53  
devices among different types of county expenses is not required. 54

(4) The amount, if any, authorized as a surcharge or 55  
convenience fee under division (E) of this section for persons 56  
using a financial transaction device. Uniform application of 57  
surcharges or convenience fees among different types of county 58  
expenses is not required. 59

(5) A specific provision as provided in division (G) of this 60  
section requiring the payment of a penalty if a payment made by 61  
means of a financial transaction device is returned or dishonored 62  
for any reason. 63

The board's resolution shall also designate the county 64  
treasurer as an administrative agent to solicit proposals, within 65  
guidelines established by the board in the resolution and in 66  
compliance with the procedures provided in division (C) of this 67  
section, from financial institutions, issuers of financial 68  
transaction devices, and processors of financial transaction 69  
devices, to make recommendations about those proposals to the 70  
board, and to assist county offices in implementing the county's 71  
financial transaction devices program. The county treasurer may 72  
decline this responsibility within thirty days after receiving a 73  
copy of the board's resolution by notifying the board in writing 74

within that period. If the treasurer so notifies the board, the 75  
board shall perform the duties of the administrative agent. 76

If the county treasurer is the administrative agent and fails 77  
to administer the county financial transaction devices program in 78  
accordance with the guidelines in the board's resolution, the 79  
board shall notify the treasurer in writing of the board's 80  
findings, explain the failures, and give the treasurer six months 81  
to correct the failures. If the treasurer fails to make the 82  
appropriate corrections within that six-month period, the board 83  
may pass a resolution declaring the board to be the administrative 84  
agent. The board may later rescind that resolution at its 85  
discretion. 86

(C) The county shall follow the procedures provided in this 87  
division whenever it plans to contract with financial 88  
institutions, issuers of financial transaction devices, or 89  
processors of financial transaction devices for the purposes of 90  
this section. The administrative agent shall request proposals 91  
from at least three financial institutions, issuers of financial 92  
transaction devices, or processors of financial transaction 93  
devices, as appropriate in accordance with the resolution adopted 94  
under division (B) of this section. Prior to sending any financial 95  
institution, issuer, or processor a copy of any such request, the 96  
county shall advertise its intent to request proposals in a 97  
newspaper of general circulation in the county once a week for two 98  
consecutive weeks. The notice shall state that the county intends 99  
to request proposals; specify the purpose of the request; indicate 100  
the date, which shall be at least ten days after the second 101  
publication, on which the request for proposals will be mailed to 102  
financial institutions, issuers, or processors; and require that 103  
any financial institution, issuer, or processor, whichever is 104  
appropriate, interested in receiving the request for proposals 105  
submit written notice of this interest to the county not later 106

than noon of the day on which the request for proposals will be 107  
mailed. 108

Upon receiving the proposals, the administrative agent shall 109  
review them and make a recommendation to the board of county 110  
commissioners on which proposals to accept. The board of county 111  
commissioners shall consider the agent's recommendation and review 112  
all proposals submitted, and then may choose to contract with any 113  
or all of the entities submitting proposals, as appropriate. The 114  
board shall provide any financial institution, issuer, or 115  
processor that submitted a proposal, but with which the board does 116  
not enter into a contract, notice that its proposal is rejected. 117  
The notice shall state the reasons for the rejection, indicate 118  
whose proposals were accepted, and provide a copy of the terms and 119  
conditions of the successful bids. 120

(D) A board of county commissioners adopting a resolution 121  
under this section shall send a copy of the resolution to each 122  
county ~~elected~~ official in the county who is authorized by the 123  
resolution to accept payments by financial transaction devices. 124  
After receiving the resolution and before accepting payments by 125  
financial transaction devices, a county ~~elected~~ official shall 126  
provide written notification to the board of county commissioners 127  
of the official's intent to implement the resolution within the 128  
official's office. Each county office subject to the board's 129  
resolution adopted under division (B) of this section may use only 130  
the financial institutions, issuers of financial transaction 131  
devices, and processors of financial transaction devices with 132  
which the board of county commissioners contracts, and each such 133  
office is subject to the terms of those contracts. 134

If a county office under the authority of a county ~~elected~~ 135  
official is directly responsible for collecting one or more county 136  
expenses and the county ~~elected~~ official determines not to accept 137  
payments by financial transaction devices for one or more of those 138

expenses, the office shall not be required to accept payments by 139  
financial transaction devices, notwithstanding the adoption of a 140  
resolution by the board of county commissioners under this 141  
section. 142

Any office of a clerk of the court of common pleas that 143  
accepts financial transaction devices on or before July 1, 1999, 144  
and any other county office that accepted such devices before 145  
January 1, 1998, may continue to accept such devices without being 146  
subject to any resolution passed by the board of county 147  
commissioners under division (B) of this section, or any other 148  
oversight by the board of the office's financial transaction 149  
devices program. Any such office may use surcharges or convenience 150  
fees in any manner the county ~~elected~~ official in charge of the 151  
office determines to be appropriate, and, if the county treasurer 152  
consents, may appoint the county treasurer to be the office's 153  
administrative agent for purposes of accepting financial 154  
transaction devices. In order not to be subject to the resolution 155  
of the board of county commissioners adopted under division (B) of 156  
this section, a county office shall notify the board in writing 157  
within thirty days after March 30, 1999, that it accepted 158  
financial transaction devices prior to January 1, 1998, or, in the 159  
case of the office of a clerk of the court of common pleas, the 160  
clerk has accepted or will accept such devices on or before July 161  
1, 1999. Each such notification shall explain how processing costs 162  
associated with financial transaction devices are being paid and 163  
shall indicate whether surcharge or convenience fees are being 164  
passed on to consumers. 165

(E) A board of county commissioners may establish a surcharge 166  
or convenience fee that may be imposed upon a person making 167  
payment by a financial transaction device. The surcharge or 168  
convenience fee shall not be imposed unless authorized or 169  
otherwise permitted by the rules prescribed by an agreement 170

governing the use and acceptance of the financial transaction device. 171  
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If a surcharge or convenience fee is imposed, every county office accepting payment by a financial transaction device, regardless of whether that office is subject to a resolution adopted by a board of county commissioners, shall clearly post a notice in that office and shall notify each person making a payment by such a device about the surcharge or fee. Notice to each person making a payment shall be provided regardless of the medium used to make the payment and in a manner appropriate to that medium. Each notice shall include all of the following: 173  
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(1) A statement that there is a surcharge or convenience fee for using a financial transaction device; 182  
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(2) The total amount of the charge or fee expressed in dollars and cents for each transaction, or the rate of the charge or fee expressed as a percentage of the total amount of the transaction, whichever is applicable; 184  
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(3) A clear statement that the surcharge or convenience fee is nonrefundable. 188  
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(F) If a person elects to make a payment to the county by a financial transaction device and a surcharge or convenience fee is imposed, the payment of the surcharge or fee shall be considered voluntary and the surcharge or fee is not refundable. 190  
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(G) If a person makes payment by financial transaction device and the payment is returned or dishonored for any reason, the person is liable to the county for payment of a penalty over and above the amount of the expense due. The board of county commissioners shall determine the amount of the penalty, which may be either a fee not to exceed twenty dollars or payment of the amount necessary to reimburse the county for banking charges, legal fees, or other expenses incurred by the county in collecting 194  
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the returned or dishonored payment. The remedies and procedures 202  
provided in this section are in addition to any other available 203  
civil or criminal remedies provided by law. 204

(H) No person making any payment by financial transaction 205  
device to a county office shall be relieved from liability for the 206  
underlying obligation except to the extent that the county 207  
realizes final payment of the underlying obligation in cash or its 208  
equivalent. If final payment is not made by the financial 209  
transaction device issuer or other guarantor of payment in the 210  
transaction, the underlying obligation shall survive and the 211  
county shall retain all remedies for enforcement that would have 212  
applied if the transaction had not occurred. 213

(I) A county ~~elected~~ official or employee who accepts a 214  
financial transaction device payment in accordance with this 215  
section and any applicable state or local policies or rules is 216  
immune from personal liability for the final collection of such 217  
payments. 218

**Section 2.** That existing section 301.28 of the Revised Code 219  
is hereby repealed. 220