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Senator Cates

**Cosponsors: Senators Carey, Mumper, Schuring, Faber, Padgett, Seitz,
Niehaus, Gardner, Grendell, Kearney, Spada, Schaffer, Stivers, Harris**

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

(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, 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 that the board authorizes as acceptable means of payment for county expenses. Uniform acceptance of financial transaction devices among different types of county expenses is not required.	51 52 53 54
(4) The amount, if any, authorized as a surcharge or convenience fee under division (E) of this section for persons using a financial transaction device. Uniform application of surcharges or convenience fees among different types of county expenses is not required.	55 56 57 58 59
(5) A specific provision as provided in division (G) of this section requiring the payment of a penalty if a payment made by means of a financial transaction device is returned or dishonored for any reason.	60 61 62 63
The board's resolution shall also designate the county treasurer as an administrative agent to solicit proposals, within guidelines established by the board in the resolution and in compliance with the procedures provided in division (C) of this section, from financial institutions, issuers of financial transaction devices, and processors of financial transaction devices, to make recommendations about those proposals to the board, and to assist county offices in implementing the county's financial transaction devices program. The county treasurer may decline this responsibility within thirty days after receiving a copy of the board's resolution by notifying the board in writing within that period. If the treasurer so notifies the board, the board shall perform the duties of the administrative agent.	64 65 66 67 68 69 70 71 72 73 74 75 76
If the county treasurer is the administrative agent and fails to administer the county financial transaction devices program in accordance with the guidelines in the board's resolution, the board shall notify the treasurer in writing of the board's findings, explain the failures, and give the treasurer six months to correct the failures. If the treasurer fails to make the	77 78 79 80 81 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 processor that submitted a proposal, but with which the board does not enter into a contract, notice that its proposal is rejected.	115 116 117
The notice shall state the reasons for the rejection, indicate whose proposals were accepted, and provide a copy of the terms and conditions of the successful bids.	118 119 120
(D) A board of county commissioners adopting a resolution under this section shall send a copy of the resolution to each county elected official in the county who is authorized by the resolution to accept payments by financial transaction devices. After receiving the resolution and before accepting payments by financial transaction devices, a county elected official shall provide written notification to the board of county commissioners of the official's intent to implement the resolution within the official's office. Each county office subject to the board's resolution adopted under division (B) of this section may use only the financial institutions, issuers of financial transaction devices, and processors of financial transaction devices with which the board of county commissioners contracts, and each such office is subject to the terms of those contracts.	121 122 123 124 125 126 127 128 129 130 131 132 133 134
If a county office under the authority of a county elected official is directly responsible for collecting one or more county expenses and the county elected official determines not to accept payments by financial transaction devices for one or more of those expenses, the office shall not be required to accept payments by financial transaction devices, notwithstanding the adoption of a resolution by the board of county commissioners under this section.	135 136 137 138 139 140 141 142
Any office of a clerk of the court of common pleas that accepts financial transaction devices on or before July 1, 1999, and any other county office that accepted such devices before January 1, 1998, may continue to accept such devices without being	143 144 145 146

subject to any resolution passed by the board of county commissioners under division (B) of this section, or any other oversight by the board of the office's financial transaction devices program. Any such office may use surcharges or convenience fees in any manner the county elected official in charge of the office determines to be appropriate, and, if the county treasurer consents, may appoint the county treasurer to be the office's administrative agent for purposes of accepting financial transaction devices. In order not to be subject to the resolution of the board of county commissioners adopted under division (B) of this section, a county office shall notify the board in writing within thirty days after March 30, 1999, that it accepted financial transaction devices prior to January 1, 1998, or, in the case of the office of a clerk of the court of common pleas, the clerk has accepted or will accept such devices on or before July 1, 1999. Each such notification shall explain how processing costs associated with financial transaction devices are being paid and shall indicate whether surcharge or convenience fees are being passed on to consumers.	147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165
(E) A board of county commissioners may establish a surcharge or convenience fee that may be imposed upon a person making payment by a financial transaction device. The surcharge or convenience fee shall not be imposed unless authorized or otherwise permitted by the rules prescribed by an agreement governing the use and acceptance of the financial transaction device.	166 167 168 169 170 171 172
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	173 174 175 176 177 178

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:	179 180 181
(1) A statement that there is a surcharge or convenience fee for using a financial transaction device;	182 183
(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;	184 185 186 187
(3) A clear statement that the surcharge or convenience fee is nonrefundable.	188 189
(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.	190 191 192 193
(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 the returned or dishonored payment. The remedies and procedures provided in this section are in addition to any other available civil or criminal remedies provided by law.	194 195 196 197 198 199 200 201 202 203 204
(H) No person making any payment by financial transaction device to a county office shall be relieved from liability for the underlying obligation except to the extent that the county realizes final payment of the underlying obligation in cash or its equivalent. If final payment is not made by the financial	205 206 207 208 209

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