

**As Reported by the House Financial Institutions, Real Estate and
Securities Committee**

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Senator Cates

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

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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 171
device. 172

If a surcharge or convenience fee is imposed, every county 173
office accepting payment by a financial transaction device, 174

regardless of whether that office is subject to a resolution 175
adopted by a board of county commissioners, shall clearly post a 176
notice in that office and shall notify each person making a 177
payment by such a device about the surcharge or fee. Notice to 178
each person making a payment shall be provided regardless of the 179
medium used to make the payment and in a manner appropriate to 180
that medium. Each notice shall include all of the following: 181

(1) A statement that there is a surcharge or convenience fee 182
for using a financial transaction device; 183

(2) The total amount of the charge or fee expressed in 184
dollars and cents for each transaction, or the rate of the charge 185
or fee expressed as a percentage of the total amount of the 186
transaction, whichever is applicable; 187

(3) A clear statement that the surcharge or convenience fee 188
is nonrefundable. 189

(F) If a person elects to make a payment to the county by a 190
financial transaction device and a surcharge or convenience fee is 191
imposed, the payment of the surcharge or fee shall be considered 192
voluntary and the surcharge or fee is not refundable. 193

(G) If a person makes payment by financial transaction device 194
and the payment is returned or dishonored for any reason, the 195
person is liable to the county for payment of a penalty over and 196
above the amount of the expense due. The board of county 197
commissioners shall determine the amount of the penalty, which may 198
be either a fee not to exceed twenty dollars or payment of the 199
amount necessary to reimburse the county for banking charges, 200
legal fees, or other expenses incurred by the county in collecting 201
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