



Sub. S.B. 241

127th General Assembly
(As Passed by the General Assembly)

Sens. Cates, Carey, Mumper, Schuring, Faber, Padgett, Seitz, Niehaus, Gardner, Grendell, Kearney, Spada, Schaffer, Stivers, Harris

Reps. Zehringer, Dodd, Adams, Barrett, Batchelder, Blessing, Bolon, Boyd, Brown, Budish, Chandler, Coley, Combs, Daniels, DeBose, Domenick, Dyer, Evans, Fessler, Flowers, Gardner, Gerberry, Gibbs, J. Hagan, R. Hagan, Harwood, Hite, Hughes, Letson, Luckie, Lundy, Mallory, Patton, Sayre, Schindel, Setzer, Slesnick, Stebelton, Uecker, Webster, Yates, Yuko

Effective date: July 18, 2008

ACT SUMMARY

- Expands the definition of "financial transaction device," as applies to a county's statutory authority to accept payments owed via such a device.
- Changes the term "county elected official" to "county official" in the use-of-financial-transaction-device law and expands the definition of the term to include certain other county and court personnel.
- Expands the meaning of "county expenses" to include county expenses owed to boards of health of health districts and treats these boards as if they were "county officials" and these districts as if they were county offices for purposes of the authority granted by the act.
- Specifies that the board of county commissioners must include in the authorizing resolution for the use of financial transaction devices, the county offices under the county officials that are authorized to accept the devices.

CONTENT AND OPERATION

Use of financial transaction devices to make payments owed to county offices

Background

(R.C. 301.28)

Continuing law permits a board of county commissioners to adopt a resolution authorizing the acceptance of payments by financial transaction devices (FTDs), which includes credit cards, debit cards, charge cards, and prepaid or stored value cards, to pay expenses owed to a county office that is under a county elected official's authority. The resolution must specify: the county elected officials¹ authorized to accept FTD payments, county expenses that may be paid by FTDs, FTDs that are acceptable means of payment, any amount authorized as an FTD surcharge or convenience fee,² and a penalty if a payment made by FTD is returned or dishonored.

A board must send a copy of the resolution to each county elected official the resolution authorizes to accept FTD payments. The county elected official must notify the board of the official's intent to implement the resolution. A county elected official or employee who lawfully accepts an FTD payment is immune from personal liability for the final collection of such payments. The adoption of an FTD resolution does not require a county office to accept payments by FTDs if the county elected official determines not to do so for certain county expenses.

Unless the county treasurer opts out or is removed from the duty by the board, the treasurer acts as an administrative agent to solicit proposals from financial institutions, issuers of FTDs, and processors of FTDs, to make recommendations about those proposals to the board, and to assist county offices in implementing the FTD program.

¹ Prior to the effective date of this act "county elected official" was defined to include the county auditor, county treasurer, county engineer, county recorder, county prosecuting attorney, county sheriff, and county coroner, and the clerk of the court of common pleas, the clerk of a county-operated municipal court, and the clerk of a county court (R.C. 301.28(A)).

² Every county office accepting payment by FTD must clearly post a notice and notify each person making the payment about the surcharge or fee. The notice must be provided regardless of the medium used to make the payment and in a manner appropriate to that medium. (R.C. 301.28(E).)

The act

(R.C. 301.28(A))

The act revises prior law in three ways:

First, the act expands the definition of "financial transaction device" to include 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.

Second, the act changes the term "county elected official" to "county official" and adds county park district, board of county commissioners, the clerk of the probate court, the clerk of the juvenile court, and the clerks of court for all divisions of the courts of common pleas to the definition of that term.³ The act also provides that the term "county expenses" includes county expenses owed to the board of health of the general health district or a combined health district in the county. If the board of county commissioners authorizes county expenses to be paid by financial transaction device, then the board of health or health districts may accept payments by financial transaction device as if the board were a "county official" and the district were a county office.⁴

Third, the act requires, in addition to the ongoing law requirements, the board of county commissioners to specify in the resolution authorizing the acceptance of financial transaction devices for county expenses, the county offices under the county officials that are authorized to accept the devices.

³ Although the definition of "county elected official" prior to the effective date of this act did not explicitly mention the officials added by the act, the definition was not exhaustive and may have been read to include these officials.

⁴ In the case of a general health district formed by unification of general health districts, (R.C. 3709.10 (not in the act)), this entitlement applies only if all the boards of county commissioners of all counties in the district have authorized acceptance of payments by financial transaction devices.

HISTORY

ACTION	DATE
Introduced	10-10-07
Reported, S. State & Local Gov't & Veterans Affairs	12-12-07
Passed Senate (32-0)	12-12-07
Reported, H. Financial Institutions, Real Estate & Securities	02-07-08
Passed House (95-0)	04-02-08

08-sb241-127.doc/kl

