

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #3

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2006 JUL 25 P 1: 26

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: State Treasurer's Office TITLE NUMBER: 112

CITE AUTHORITY: Legislative

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: Series 13

TITLE OF RULE BEING PROPOSED: Providing Services to Political Subdivisions

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.


Authorized Signature

B4.40

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 25, 2006

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) State Treasurer's Office 1900 Kanawha Blvd, E., Bldg. 1,
Room E-145, Charleston, WV 25305 (304) 558-5000

LEGISLATIVE RULE TITLE: Providing Services to Political Subdivisions

1. Authorizing statute(s) citation §12-3A-6

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 9, 2006

b. What other notice, including advertising, did you give of the hearing?
None.

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 5, 2006

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached N/A No comments received 0

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 25, 2006

- f. Name, title, address and **phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Diana Stout, General Counsel, State Treasurer's Office, 1900 Kanawha Blvd., E.,
Bldg. 1, Room E-122, Charleston, WV 25305 Ph: 558-5000; Fax 341-7094.

- g. **IF DIFFERENT FROM ITEM 'f'**, please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)
-
-
-
-

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A

112 CSR 13

PROVIDING SERVICES TO POLITICAL SUBDIVISIONS

RULE SUMMARY:

This agency approved rule establishes procedures for political subdivisions to utilize the State Treasurer's Office system for acceptance of credit card and other payment methods for electronic commerce purchases.

CIRCUMSTANCES WHICH REQUIRE THE PROPOSED RULE:

Passage of ENR S. B. 489 during the 2006 regular legislative session amended §12-3A-6 allowing the State Treasurer to offer these services to political subdivisions. §12-3A-6(e) requires the promulgation of legislative rules.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Providing Services to Political Subdivisions

Type of Rule: Legislative Interpretive Procedural

Agency: State Treasurer's Office

Address: 1900 Kanawha Blvd., E.
Bldg. 1, Room E-122
Charleston, WV 25305

Phone Number: (304) 558-5000 Email: diana.stout@wvsto.com

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

This rule will have no real fiscal impact on state government. The State Treasurer's Office currently provides electronic commerce services to state agencies. The cost of expanding those services to political subdivisions will be borne by the political subdivisions.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	2,500.00	5,000.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	2,500.00	5,000.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	2,500.00	5,000.00

Rule Title: _____

Rule Title: Providing Services to Political Subdivisions

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

The demands for electronic commerce cause major financial problems for political subdivisions. The Treasurer's Office is able to just add a political subdivision to its current operation at a minimal cost for which it will obtain reimbursement. This will allow the Treasurer's Office to provide the services requested by political subdivisions at a small cost to the political subdivisions and without cost to the State.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

Date: June 6, 2006

Signature of Agency Head or Authorized Representative

Diana Stout

112 CSR 13

FILED

TITLE 112
LEGISLATIVE RULE
STATE TREASURER'S OFFICE

2006 JUL 25 P 1:26

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 13
PROCEDURES
PROVIDING SERVICES TO POLITICAL SUBDIVISIONS

§112-13-1. General.

1.1. Scope. - This rule establishes the procedures for the State Treasurer's Office to provide Services to Political Subdivisions.

1.2. Authority. - W. Va. Code §12-3A-6.

1.3. Filing Date. - _____.

1.4. Effective Date. - _____.

§112-13-2. Definitions.

2.1. "ACH" means automated clearinghouse, a national EFT network which enables participating financial institutions to distribute electronic credit and debit entries to bank accounts and to settle the entries.

2.2. "Card Issuer" means a financial institution or other business issuing a charge, credit or debit card.

2.3. "Convenience Fee" means a fixed or charge assessed to a charge, credit or debit card or electronic payment to help defray the cost of processing a transaction.

2.4. "Credit Card" or "Charge Card" means a card issued for the purpose of obtaining money, property or services on credit. Interest is assessed on the unpaid balance or the unpaid balance is due in full.

2.5. "Customer" means any person or entity purchasing from a Merchant.

2.6. "Debit Card" means a card issued for the purpose of obtaining money, property or services with the amount charged directly to the holder's Financial Institution account electronically by EFT contemporaneously with the use.

2.7. "Discount Fee" means the charges assessed to the merchant on the total sale by charge, credit or debit card by a Card Issuer for accepting its card.

2.8. "Electronic Commerce" means the processing of transactions by electronic means, including, but not limited to, the telephone, IVR, POS terminal, Internet and Electronic Payment.

2.9. "EFT" means electronic funds transfer.

2.10. "Electronic Payment" means an EFT, including, but not limited to, payment by ACH, ACH based electronic check and Wire Transfer.

2.11. "Financial Institution" means any state-chartered banking institution, national banking institution, national banking association, federal savings and loan association, bank holding company, savings and loan holding company, federal savings bank, state-chartered credit union or federally-chartered credit union.

2.12. "Internet" means the computer-based global information system linking computer networks all over the world by satellite.

2.13. "Lockbox" or "Lockbox Services" refers to services in which a post office box receives payments and remittance forms that are retrieved and processed and the funds deposited into a financial institution account.

2.14. "Merchant" means any spending unit or Political Subdivision accepting payments.

2.15. "Political Subdivision" means a county, municipality, Board of Education, RESA, corporation or instrumentality of one or more counties or municipalities, and any other government organization.

2.16. "Point of Sale Terminal" or "POS Terminal" means a device used for the primary purposes of transferring moneys to or from a Financial Institution account or segregating moneys in

accounts within a Financial Institution, or both, for transactions, including, without limitation, devices used to implement and facilitate check guarantee and check authorization.

2.17. "Services" include, without limitation, charge, credit and debit card approval and clearing; EFT; internet ACH debit; lockbox services; POS activity; ACH batch processing, website development, website hosting, database management, remote data capture and consulting.

2.18. "STO" means the West Virginia State Treasurer's Office.

2.19. "Transaction" means one purchase or payment.

2.20. "Treasurer" means the West Virginia state treasurer or his or her designee.

2.21. "Wholesale Lockbox," "Wholesale Lockbox Services" or "Wholesale Lockbox Services" means a payment process where checks, forms and other authorized documents are sent to a post office box and then processed during which information is captured from the checks, forms and other documents.

2.22. "Wire Transfer" is an EFT on an electronic transfer network or system, usually for large dollar and time-sensitive payments, such as Fed Wire or CHIPS.

§112-13-3. Political Subdivisions Using STO Services.

3.1. Political Subdivisions may request to use the Services offered by or agreements made available by the STO.

3.2. A Political Subdivision shall complete the application and any documents provided by the STO.

3.3. An authorized signatory of the Political Subdivision shall sign the agreement, application and any other documents required by STO.

3.4. The STO will review each submitted application.

3.5. If an application is not complete or timely, or if the STO is not able to provide the requested Services, the STO may reject the application.

3.6. The STO shall return rejected applications with explanations of the reasons for rejection.

3.7. If the STO determines alternative Services to the Services requested by the Political Subdivision may be better suited to the activity, the STO shall inform the Political Subdivision of the alternative Services. The STO will provide only the Services selected by the Political Subdivision.

§112-13-4. Duties of Political Subdivisions.

4.1. Political Subdivisions are responsible for acquiring any goods or services necessary for the STO to provide Services.

4.2. For Internet transactions, the website of a Political Subdivision shall contain information required by the STO.

4.3. Political Subdivisions using the Services of the STO agree to maintain security and confidentiality standards that at a minimum comply with standards established by the STO.

4.4. Political Subdivisions are responsible for all discount and other fees and amounts assessed or charged in connection with the Services.

4.5. Political Subdivisions shall establish procedures to reconcile receipts with the amounts reported.

§112-13-5. STO Duties.

5.1. The STO shall:

(a) determine which, if any, of the Services its office may provide;

(b) determine the documents and the terms and conditions of any agreement a Political Subdivision shall sign;

(c) provide the training and assistance needed for a Political Subdivision to use the Services,

(d) obtain merchant account numbers for Political Subdivisions authorized to use the Services;

(e) test the acceptance process prior to implementing the

Services; and

(f) transfer by ACH all the funds approved for a Political Subdivision into a bank account or an investment account designated by the Political Subdivision.

5.2. The STO may assess or require the assessment of the system security of the Political Subdivision and how confidential information is managed at any time.

§112-13-6. Convenience Fees.

6.1. A Political Subdivision using the Services of the STO may require customers utilizing its Internet site to pay a Convenience Fee unless the fee is prohibited by law.

6.2. The process utilized for the Convenience Fee must follow and abide by any STO, industry or other applicable requirements.