

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #3

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SECRETARY OF STATE
STATE OF WEST VIRGINIA

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

AGENCY: Treasurer's Office TITLE NUMBER: 112

CITE AUTHORITY: §12-3A-6

AMENDMENT TO AN EXISTING RULE: YES NO

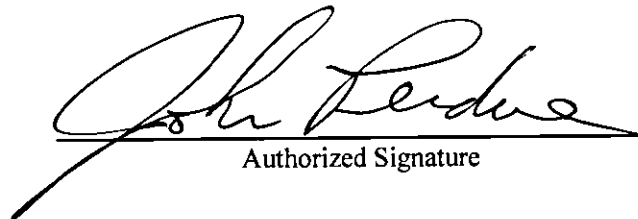
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 13

TITLE OF RULE BEING AMENDED: Providing Services to Political Subdivisions

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

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

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, 2013

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No.)* Diana Stout, General Counsel
State Treasurer's Office, 1900 Kanawha Blvd., E., Bldg. 1,
Room E-145, Charleston, WV 25305
(304) 558-5000 diana.stout@wvsto.com

LEGISLATIVE RULE TITLE: 112 CSR 13 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 24, 2013

b. What other notice, including advertising, did you give of the hearing?
Proposed Rules were posted on the Treasurer's Office website. Notices were sent to WV Banker's Association, Community Bankers of WV, Bowles Rice McDavid Graff & Love, the Governor's Office, Department of Revenue, Tax Division, Department of Administration, FARS and the State Auditor's Office.

c. Date of Public Hearing(s) *or* Public Comment Period ended:
Public Comment Period ended July 24, 2013 at 5:00 p.m.

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

Attached _____ No comments received X

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

July 26, 2013

- 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
West Virginia State Treasurer's Office
Bldg. 1, Room E-145
1900 Kanawha Blvd., E.
Charleston, WV 25305
Fax: (304) 341-7094
Ph: (304) 341-0745
Email: diana.stout@wvsto.com

- 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

Summary

Revisions being made to 112 CSR 13, Procedures for Providing Services to Political Subdivisions, are to update the rule to conform to the West Virginia Code and current practice, as well as to make technical corrections. Definitions are amended, the definitions of CHIPS and Fedwire are deleted since the terms are not used; and the definition of charge card is added.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE RULE

W. Va. Code §12-3A-6(e) provides, "The State Treasurer shall propose legislative rules for promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this Code to implement the provisions of this section."

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

112 CSR 13 Procedures for Providing Services to Political Subdivisions

Rule Title: _____

Type of Rule: Legislative Interpretive Procedural

Agency: Treasurer's Office

Address: Bldg. 1, Room E-145
1900 Kanawha Blvd., E.
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.

112 CSR 13 is being updated to conform to West Virginia Code and current practice, as well as make technical corrections. It is not anticipated to have any impact on costs and revenues of state government.

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	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
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	0.00	0.00

112 CSR 13 Procedures for Providing Services to Political Subdivisions

Rule Title: _____

Rule Title: _____

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

N/A

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.

N/A

Date: June 19, 2013

Signature of Agency Head or Authorized Representative

Diana Stout

TITLE 112
LEGISLATIVE RULE
STATE TREASURER'S OFFICE

SERIES 13
PROCEDURES FOR PROVIDING SERVICES TO POLITICAL SUBDIVISIONS

RECEIVED

2013 JUL 26 PH 4: 20

SECRETARY OF STATE
STATE OF WEST VIRGINIA

§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. -- ~~April 19, 2007~~ _____.

1.4. Effective Date. -- ~~July 1, 2007~~ _____.

§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 financial institution 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. "CHIPS" means Clearing House Interbank Payments System, a real-time bank-owned payments system for large dollar transfers that has the capability of carrying extensive remittance information.~~

2.3. "Charge card" means a card (usually plastic) issued for the purpose of obtaining money, property or services on credit, with the full balance due at the end of each statement period.

2.4. "Convenience fee" means a fixed or variable rate charge assessed to a charge, credit or debit card or electronic payment to help defray the cost of processing a transaction.

2.5. "Credit card" or ~~"charge card"~~ means a card (usually plastic) issued for the purpose of obtaining money, property or services on credit with the full balance or

minimum payments due at the end of each statement period. Interest is assessed on the unpaid balance or the unpaid balance ~~is due in full.~~

2.6. "Customer" means any person or entity purchasing from a merchant political subdivision.

2.7. "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.~~

2.8. "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.

2.9. "Electronic Commerce" means the processing of transactions by electronic means, including, but not limited to, the telephone, IVR, POS Terminal, Internet and electronic payment.

2.10. "EFT" means electronic funds transfer.

2.11. "Electronic payment" means an EFT, including, but not limited to, payment by ACH, ACH based electronic check and wire transfer.

~~2.12. "Fedwire" means the real-time settlement system operated by the Federal Reserve Board for large dollar transfers.~~

~~2.13.~~ "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.

~~2.14~~2.13. "Internet" means the computer-based global information system linking computer networks all over the world by satellite.

~~2.15~~2.14. "IVR" means interactive voice response, during which a person uses a touch-tone telephone to interact with a database to enter data into or retrieve data from the database.

~~2.16~~2.15. "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~~ "Lockbox services" means the process in which payments and remittance forms are mailed to a post office box, retrieved and processed, and the moneys then deposited into a financial institution account.

~~2.172.16.~~ "Merchant" means any spending unit or political subdivision accepting payments by charge, credit or debit cards.

~~2.182.17.~~ "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.

~~2.192.18.~~ "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.

~~2.202.19.~~ "RESA" means a West Virginia regional education service agency authorized in W. Va. Code §18-2-5b.

~~2.212.20.~~ "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.

~~2.222.21.~~ "STO" means the West Virginia State Treasurer's Office.

~~2.232.22.~~ "Transaction" means one purchase or payment.

~~2.242.23.~~ "Treasurer" means the West Virginia State Treasurer or his or her designee.

~~2.252.24.~~ "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.

~~2.262.25.~~ "Wire transfer" ~~is an EFT on an electronic transfer network or system, usually for large dollar and time-sensitive payments, such as Fedwire or CHIPS~~ means a type of EFT in which a bank to bank transaction occurs in real time.

§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 the STO.

3.4. The STO shall 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 an explanation 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 shall 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~~ it 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~~ moneys approved for a political subdivision into a bank financial institution 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 using its Internet site to pay a convenience fee, unless the fee is prohibited by law.

6.2. The process used for the convenience fee must follow and abide by any STO, industry and other applicable requirements.