

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

Form #4

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OFFICE WEST VIRGINIA  
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**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

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 RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

  
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Authorized Signature

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TITLE 112  
LEGISLATIVE RULE  
STATE TREASURER'S OFFICE

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

SERIES 13  
PROCEDURES FOR 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. -- ~~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~~ a state or national bank or a state or federal savings and loan association.

~~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 a telephone 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 system.~~

~~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.

~~2-22.~~ "STO" means the West Virginia State Treasurer's Office.

~~2-232.21.~~ "Transaction" means one purchase or payment.

~~2-242.22.~~ "Treasurer" means the West Virginia State Treasurer ~~or his or her~~ designee.

~~2-252.23.~~ "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.

~~2-262.24.~~ "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~~ Treasurer's Services.**

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

3.2. A political subdivision shall complete the application and any documents provided by the STO-Treasurer.

3.3. An authorized signatory of the political subdivision shall sign the agreement, application and any other documents required by the STO-Treasurer.

3.4. The STO-Treasurer shall review each submitted application.

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

3.6. The STO-Treasurer shall return rejected applications with an explanation of the reasons for rejection.

3.7. If the STO-Treasurer determines alternative services to the services requested by the political subdivision may be better suited to the activity, the STO-Treasurer shall inform the political subdivision of the alternative services. The STO-Treasurer shall provide only the services selected by the political subdivision.

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

4.1. Political subdivisions ~~are responsible for acquiring~~ shall acquire any goods or services necessary for the STO-Treasurer to provide services.

4.2. For Internet transactions, the ~~website of a political subdivision~~ website shall contain information required by the STO-Treasurer.

4.3. Political subdivisions using the services of the STO-Treasurer shall agree to maintain security and confidentiality standards that at a minimum comply with standards established by the STO-Treasurer.

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~~ Each political subdivision shall establish procedures to reconcile ~~receipts with the amounts reported~~ transactions processed with the amounts the Treasurer deposits into the account designated by the political subdivision.

#### **§112-13-5. STO-Treasurer's Duties.**

5.1. The STO-Treasurer 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~~ Treasurer may, at any time, 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~~ Treasurer may require customers using its ~~Internet site~~ website to pay a convenience fee, unless the fee is prohibited by law.

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