



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

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8/26/2016 4:05:24 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 3 -- NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY	Treasurer				
RULE TYPE	Legislative	AMENDMENT TO EXISTING RULE	Yes	TITLE-SERIES	112-
RULE NAME	Procedures for Providing Services to Political Subdivisions				13

CITE AUTHORITY §12-3A-6

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.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Diana Stout -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 112-13



Rule Id: 10247



Document: 28921



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 1)

AGENCY	Treasurer				
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PRIMARY CONTACT

Diana Stout
1900 Kanawha Blvd., E.
Bldg. 1, Room E-145
Charleston, STATE ZIP

SECONDARY CONTACT

Wilma Harrison
1900 Kanawha Blvd., E.
Bldg. 1, Room E-145
Charleston, STATE SECONDARY ZIP SECONDARY

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AUTHORIZING STATUTE(S) CITATION
§12-3A-6

DATE FILED IN STATE REGISTER WITH NOTICE OF HEARING OR PUBLIC COMMENT PERIOD
Wednesday, July 27, 2016

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

The rule was posted on the State Treasurer's Office website: www.wvsto.gov/Legislative-Rules. Notices were sent to all State of West Virginia elected officials and Cabinet Secretaries offices with a request they be forwarded to interested parties within their agencies. Additionally, notices were sent to BB&T, Bowles Rice, City National Bank, United Bank, Wesbanco, West Virginia Association of Community Bankers and the West Virginia Bankers Association.

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED
Friday, August 26, 2016

Diana Stout -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 2)

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CITE AUTHORITY §12-3A-6

ATTACH LIST OF PERSONS WHO APPEARED AT HEARING, COMMENTS RECEIVED, AMENDMENTS, REASONS FOR AMENDMENTS.

Attached

DATE YOU FILED IN STATE REGISTER THE AGENCY APPROVED PROPOSED LEGISLATIVE RULE FOLLOWING PUBLIC HEARING: (BE EXACT)

Friday, August 26, 2016

Diana Stout -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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CITE AUTHORITY §12-3A-6

IF THE STATUTE UNDER WHICH YOU PROMULGATED THE SUBMITTED RULES REQUIRES CERTAIN FINDINGS AND DETERMINATIONS TO BE MADE AS A CONDITION PRECEDENT TO THE PROMULGATION. 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.

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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 4)

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CITE AUTHORITY §12-3A-6

DATE OF HEARING OR COMMENT PERIOD

ON WHAT DATE DID YOU FILE IN THE STATE REGISTER THE FINDINGS AND DETERMINATIONS REQUIRED TOGETHER WITH THE REASONS THEREFOR?

ATTACH FINDINGS AND DETERMINATIONS AND REASONS
Attached

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY	Treasurer				
RULE TYPE	Legislative	AMENDMENT TO EXISTING RULE	Yes	TITLE-SERIES	112-
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CITE AUTHORITY §12-3A-6

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CITE AUTHORITY §12-3A-6

SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

Revisions to the current rule will have no impact on the costs and revenues of state government.

Diana Stout -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 2)

AGENCY **Treasurer**
RULE TYPE **Legislative** **AMENDMENT TO EXISTING RULE** **Yes** **TITLE-SERIES** **112-**
RULE NAME **Procedures for Providing Services to Political Subdivisions** **13**

CITE AUTHORITY **§12-3A-6**

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.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
ESTIMATED TOTAL COST	0	0	0
PERSONAL SERVICES	0	0	0
CURRENT EXPENSES	0	0	0
REPAIRS AND ALTERATIONS	0	0	0
ASSETS	0	0	0
OTHER	0	0	0
ESTIMATED TOTAL REVENUES	0	0	0

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)

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CITE AUTHORITY §12-3A-6

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.

The Treasurer's Office does not believe there will be any costs or revenues associated with the revisions to this rule.

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CITE AUTHORITY §12-3A-6

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.

None.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)

AGENCY	Treasurer				
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RULE NAME	Procedures for Providing Services to Political Subdivisions				13

CITE AUTHORITY §12-3A-6

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

Rule revisions add a sunset provision, update definitions and other provisions to include current information technology terminology, add definitions of service fee, STO and virtual terminal, clarify the process of requesting the Treasurer assist political subdivisions accept payments by charge, credit or debit cards electronically and use convenience or service fees, and make technical clean ups.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
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Title-Series: 112-13



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TITLE 112
LEGISLATIVE RULE
STATE TREASURER'S OFFICE

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. -- ~~May 6, 2014.~~

1.4. Effective Date. -- ~~July 1, 2014.~~

1.5. Sunset Provision. -- This rule remains in effect for five years after the 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 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. "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" means a card 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.

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

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 techniques~~, including, but not limited to, the telephone, IVR, POS terminal, internet, ~~and~~ electronic payment, virtual terminal and online transaction processing.

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 and online transaction processing.

2.12. "Financial institution" means a state or national bank or a state or federal savings and loan association.

2.13. "Internet" means the computer-based global information system linking computer networks all over the world by ~~satellite~~ the use of internet protocol suite (TCP/IP).

2.14. "IVR" means a telephone interactive voice response system.

2.15. "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.

2.16. "Merchant" means any political subdivision accepting payments by charge, credit or debit cards.

2.17. "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.

2.18. "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.

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

2.20. "Service 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.

2.21 "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.

~~2.21~~2.23. "Transaction" means one purchase or payment.

~~2.22~~2.24. "Treasurer" means the West Virginia State Treasurer or his or her designee from the Treasurer's office.

2.25 "Virtual Terminal" means a web-browser based access to an acquirer, processor or third party service provider website to authorize payment card transactions where the merchant manually enters payment card data via a securely connected web browser. Unlike physical terminals, virtual terminals do not read data directly from a payment card.

~~2.23~~2.26. "Wire transfer" means a type of EFT in which a bank to bank transaction occurs in real time.

§112-13-3. Political Subdivisions Using Treasurer's Services.

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

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

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

3.4. The Treasurer shall review each submitted request and application.

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

3.6. The Treasurer shall ~~return rejected applications with~~ provide an explanation of the reasons for rejection of a request or application.

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

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

4.1. Political subdivisions shall acquire any goods or services necessary for the Treasurer to provide services.

4.2. For Internet transactions, the political subdivision website shall contain information required by the Treasurer.

4.3. Political subdivisions using the services of the Treasurer shall agree to maintain security and confidentiality standards that at a minimum comply with standards established by the 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. Each political subdivision shall establish procedures to reconcile transactions processed with the amounts the Treasurer deposits into the account designated by the political subdivision.

4.6. Political subdivisions using the services of the Treasurer shall comply with all regulations, certifications, and other matters required with the acceptance of charge, credit or debit cards.

§112-13-5. Treasurer's Duties.

5.1. The Treasurer shall:

5.1.a. determine which, if any, of the services it may provide;

5.1.b. determine the documents and the terms and conditions of any agreement a political subdivision shall sign;

5.1.c. provide the training and assistance needed for a political subdivision to use the services;

5.1.d. obtain merchant account numbers for political subdivisions authorized to use the services;

5.1.e. test the acceptance process prior to implementing the services; and

5.1.f. transfer by ACH all the moneys approved for a political subdivision into a financial institution account or an investment account designated by the political subdivision.

5.2. The Treasurer may, at any time, assess or require the assessment of the system security of the political subdivision and how confidential information is managed.

§112-13-6. Convenience Fees or Service Fees.

6.1. A political subdivision using the services of the Treasurer may require customers using its website to pay a convenience fee or service fee, unless the fee is prohibited by law.

6.2. ~~The process used for the convenience fee shall follow and abide by any Treasurer, industry and other applicable requirements.~~ The Treasurer shall set the amount of the convenience fees and service fees authorized.

6.3. The use of convenience fees or service fees shall follow the merchant rules or regulations established by card brands.