



**WEST VIRGINIA
SECRETARY OF STATE**

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10/21/2016 3:04:05 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 4 -- NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY **Treasurer**
 RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **112-**
 RULE NAME **Procedure for Fees in Collections by Charge, Credit or Debit Card or by Electronic** **12**
Payment
 CITE AUTHORITY **§12-3A-6**

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.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS 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: 112-12



Rule Id: 10246



Document: 32057

TITLE 112
LEGISLATIVE RULE
STATE TREASURER'S OFFICE

SERIES 12
PROCEDURES FOR FEES IN COLLECTIONS
BY CHARGE, CREDIT OR DEBIT CARD OR BY ELECTRONIC PAYMENT

§112-12-1. General.

1.1. Scope. -- This rule establishes the procedures for authorizing and implementing fees by state spending units to cover the cost of collection of moneys by charge, credit or debit card or by electronic payment.

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 shall terminate and have no further force and effect upon the expiration of five years from its effective date.

§112-12-2. Definitions.

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

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

2.3. "Card Payment Service Provider" means an entity that accepts payment by charge, credit or debit card or electronic payment on behalf of a spending unit.

2.4. "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.

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

2.6. "Credit 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.

2.7. "Customer" means any person or entity purchasing from a spending unit.

2.8. "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.

2.9. "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.

2.10. "Electronic Commerce" means the processing of transactions by electronic , including, but not limited to, the telephone, IVR, POS terminal, internet electronic payment

2.11. "EFT" means electronic funds transfer.

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

2.13. "Financial Institution" means a state or national bank or a state or federal savings and loan association.

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

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

2.16. "Merchant" means any state spending unit that accepts charge, credit or debit cards.

2.17. "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.

. "Spending Unit" means any entity of the West Virginia state government for which an appropriation is requested or to which an appropriation is made by the Legislature.

. "Transaction" means one electronic purchase or payment.

. "Treasurer" means the West Virginia State Treasurer

§112-12-3. General Information.

3.1. Spending units shall use the methods provided by the Treasurer to accept payments

3.2. Electronic commerce methods available from the Treasurer include, but are not limited to, telephone, IVR, POS terminal, EFT and any other electronic payment method.

3.3. Governmental entities other than spending units may request to use the methods provided by the Treasurer to accept payments.

§112-12-4. Convenience Fees .

4.1. The Treasurer may authorize the use of convenience fees unless use is prohibited by law.

4.2. The Treasurer shall set the amount of the convenience fees authorized.

4.3. The use of convenience fees shall follow the merchant rules established by card .

4.4. The Treasurer may contract with one or more card payment service providers.

§112-12- . Duties of Spending Units.

. The spending unit shall acquire the necessary computer system, software, and other matters required to process transactions.

- . For internet transactions, the website of a spending unit shall contain:
 - . a complete description of the goods or services offered;
 - . the returning merchandise and refund policy;
 - . a customer service contact, including an electronic mail address and telephone number;
 - . a statement that the transaction currency is US dollars;
 - . any legal or other restrictions;
 - . the policy on order fulfillment, including, but not limited to, delivery policy and practices;
 - . re-direct services to re-direct customers to the Treasurer's payment gateway to select the method of payment and execute the payment. The spending unit shall also develop the "front end" website that will connect to the Treasurer's payment gateway;
 - . the privacy policy approved by the Treasurer;
 - . an opt-in system for customers to receive mail, electronic or regular US mail, that only retains information provided by a customer that has authorized maintenance of that information;
 - . a guarantee to not sell or share the names and addresses of customers unless specific authorization is granted in the West Virginia Code;
 - . appropriate security controls; and
 - . a conspicuous disclosure of the nature and amount of the convenience fees.
- . The spending unit is responsible for all discount and other fees and amounts assessed or charged for providing the selected methods of receiving payment.
- . The spending unit shall not store charge, credit or debit card or electronic payment account numbers. The only authorized use of a charge, credit or debit card or electronic payment is to process an authorized transaction. At most, a spending unit may have non-persistent cookies to ensure confidential information is not stored.
- . The spending unit shall deposit all convenience fees _____ it receives in an account in the State Treasury. The spending unit shall expend the convenience fees _____ received to defray the costs of providing internet services, to pay charge, credit or debit card fees and to make electronic payments to customers.
- . The spending unit shall reconcile receipts with the amounts reported.

§112-12- . Treasurer's Duties.

- . The Treasurer shall:
 - . provide the training and assistance needed for a spending unit to accept payments for electronic commerce;
 - . provide a list of the type of approved methods to accept payment for electronic commerce and make the methods available for use by spending units;
 - . obtain merchant account numbers for spending units authorized to collect payments for electronic commerce; and
 - . test the acceptance process prior to implementing the acceptance of payments.
- . The Treasurer may audit the spending units web site as needed.
- . The Treasurer may assess or require the assessment of the system security of the spending unit at any time.