



**WEST VIRGINIA
SECRETARY OF STATE**

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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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 112-13
RULE NAME	Procedures for Providing Services to Political Subdivisions		

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 MOFICATIONS 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: 112-13



Rule Id: 10247



Document: 32058

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