

ASSEMBLY, No. 5148

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED DECEMBER 14, 2020

Sponsored by:

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

SYNOPSIS

Authorizes local governments to impose convenience fees for accepting electronic payments.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT authorizing convenience fees for electronic payments to
2 local governments and amending P.L.1995, c.325.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 2 of P.L.1995, c.325 (C.40A:5-44) is amended to read
8 as follows:

9 2. As used in this act:

10 "Association" means an organization whose members are issuers.

11 "Cardholder" means the person or organization named on the
12 face of a credit card or debit card to whom or for whose benefit the
13 credit card or debit card is issued by an issuer.

14 "Card based payment" means a monetary obligation tendered by
15 the user of a credit card or debit card.

16 "Card payment system" means a technical procedure by which
17 obligations owed a local unit or court may be paid by credit card or
18 debit card.

19 "Convenience fee" means a fee charged by a local unit in excess
20 of the total obligation and any service charge owed by a person or
21 organization to offset the costs of administering a card payment
22 system or an electronic funds transfer system.

23 "Credit card" means any instrument or device linked to an
24 established line of credit, whether known as a credit card, charge
25 card, credit plate, or by any other name, issued with or without fee
26 by an issuer for the use of the cardholder in satisfying outstanding
27 financial obligations, obtaining money, goods, services or anything
28 else of value on credit.

29 "Debit card" means any instrument or device, whether known as
30 a debit card, automated teller machine card, or by any other name,
31 issued with or without fee by an issuer for the use of the cardholder
32 in obtaining money, goods, services or anything else of value
33 through the electronic authorization of a financial institution to
34 debit the cardholder's account.

35 "Director" means the Director of the Division of Local
36 Government Services in the Department of Community Affairs.

37 "Electronic funds transfer" means any transfer of funds, other
38 than a transaction originated by check, draft, or similar paper
39 instrument, that is initiated through an electronic terminal,
40 telephone, or computer or magnetic tape for the purpose of
41 ordering, instructing or authorizing a financial institution to debit or
42 credit an account, and includes an in-person funds transfer and an
43 online funds transfer.

44 "Electronic funds transfer system" means a technical procedure
45 by which obligations owed to or collected by the Supreme Court,

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 the Superior Court, Tax Court or a local unit may be paid by an
2 electronic transaction between the financial institution of the person
3 or organization owing the obligation and the financial institution of
4 the governmental entity.

5 "In-person funds transfer" means any transfer of funds through a
6 service that accepts a payment made in-person, by any method, and
7 then transmits those funds to a payee by electronic funds transfer,
8 but shall not include a service that requires a local unit to maintain,
9 and funds to be transmitted to, an account that is not a designated
10 depository of the local unit pursuant to N.J.S.A.40A:5-14.

11 "Issuer" means the business organization or financial institution
12 which issues a credit card or debit card, or its duly authorized agent.

13 "Local unit" means any unit of government subject to the
14 provisions of chapter 5 or 5A of Title 40A of the New Jersey
15 Statutes, and the constituent parts of those units, including but not
16 limited to independent local authorities, public libraries, municipal
17 courts and joint municipal courts.

18 "Online funds transfer" means any Internet-based transfer of
19 funds through an Internet-based payment system, but shall not
20 include a service that requires a local unit to maintain, and funds to
21 be transmitted to, an account that is not a designated depository of
22 the local unit pursuant to N.J.S.A.40A:5-14.

23 "Service charge" means a fee charged by the Supreme Court, the
24 Superior Court, Tax Court or local unit in excess of the total
25 obligation owed by a person or organization to offset processing
26 charges or discount fees for the use of a card payment system or an
27 electronic funds transfer system.

28 (cf: P.L.2020, c.34, s.9)

29
30 2. Section 4 of P.L.1995, c.325 (C.40A:5-46) is amended to
31 read as follows:

32 4. a. Notwithstanding the provisions of any other law to the
33 contrary and if not legally prohibited by an association or by an
34 issuer, local units are authorized to assess and collect service
35 charges related to obligations owed to or collected by the local unit
36 when credit cards, debit cards or electronic funds transfer systems,
37 are utilized.

38 b. Notwithstanding the provisions of any other law to the
39 contrary and in addition to a service charge assessed and collected
40 pursuant to subsection a. of this section, a local unit is authorized to
41 assess and collect a convenience fee in an amount not to exceed \$3
42 for each obligation owed to or collected by the local unit when
43 credit cards, debit cards, or electronic funds transfer systems are
44 utilized.

45 (cf: P.L.1995, c.325, s.4)

1 3. This act shall take effect immediately.

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STATEMENT

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6 This bill would authorize local government units to assess and
7 collect a convenience fee of up to \$3 for accepting an electronic
8 payment. The Supreme Court of New Jersey recently affirmed an
9 Appellate Division decision ruling that the "Government Electronic
10 Payment Acceptance Act" does not authorize the imposition of a
11 convenience fee for accepting electronic payments, which several
12 counties had been imposing. This bill would amend that law to
13 authorize such fees in order to offset the administrative expenses
14 borne by local government units in accepting electronic payments.