



## Ohio Revised Code

### Section 940.111 Acceptance of payments by financial transaction devices.

Effective: September 30, 2021

Legislation: House Bill 110 - 134th General Assembly

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(A) As used in this section:

(1) "Financial transaction device" includes a credit card, debit card, charge card, or prepaid or stored value card, or automated clearinghouse network credit, debit, or e-check entry that includes, but is not limited to, accounts receivable and internet-initiated, point of purchase, and telephone-initiated applications or any other device or method for making an electronic payment or transfer of funds.

(2) "Soil and water district officials" includes the board of supervisors of a soil and water conservation district and employees of the district.

(3) "Soil and water district expenses" includes payments or any other expense a person owes or otherwise pays to a soil and water conservation district under the authority of this chapter.

(B) Notwithstanding any other section of the Revised Code, the board of supervisors of a soil and water conservation district may adopt a resolution authorizing the acceptance of payments by financial transaction devices for soil and water district expenses.

The resolution shall include the following:

(1) A specification of those soil and water district officials who are authorized to accept payments by financial transaction device;

(2) A list of soil and water district expenses that may be paid for through the use of a financial transaction device;

(3) Specific identification of financial transaction devices that the board authorizes as acceptable means of payment for soil and water district expenses. Uniform acceptance of financial transaction devices among different types of soil and water district expenses is not required.



(4) The amount, if any, authorized as a surcharge or convenience fee under division (D) of this section for persons using a financial transaction device. Uniform application of surcharges or convenience fees among different types of soil and water district expenses is not required.

(5) A specific provision as provided in division (F) of this section requiring the payment of a penalty if a payment made by means of a financial transaction device is returned or dishonored for any reason.

The board's resolution shall also designate the county treasurer as an administrative agent to solicit proposals, within guidelines established by the board in the resolution and in compliance with the procedures provided in division (C) of this section, from financial institutions, issuers of financial transaction devices, and processors of financial transaction devices, to make recommendations about those proposals to the board, and to assist the soil and water conservation district in implementing the board's financial transaction devices program. The county treasurer may decline this responsibility within thirty days after receiving a copy of the board's resolution by notifying the board in writing within that period. If the treasurer so notifies the board, the board shall perform the duties of the administrative agent.

If the county treasurer is the administrative agent and fails to administer the board's financial transaction devices program in accordance with the guidelines in the board's resolution, the board shall notify the treasurer in writing of the board's findings, explain the failures, and give the treasurer six months to correct the failures. If the treasurer fails to make the appropriate corrections within that six-month period, the board may adopt a resolution declaring the board to be the administrative agent. The board may later rescind that resolution at its discretion.

(C) The board shall follow the procedures provided in this division whenever it plans to contract with financial institutions, issuers of financial transaction devices, or processors of financial transaction devices for the purposes of this section. The administrative agent shall request proposals from at least three financial institutions, issuers of financial transaction devices, or processors of financial transaction devices, as appropriate in accordance with the resolution adopted under division (B) of this section. Prior to sending any financial institution, issuer, or processor a copy of any such request, the board shall advertise its intent to request proposals in a newspaper of general circulation



in the soil and water conservation district once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code.

The notice shall:

- (1) State that the board intends to request proposals;
- (2) Specify the purpose of the request;
- (3) Indicate the date, which shall be at least ten days after the second publication, on which the request for proposals will be mailed to financial institutions, issuers, or processors;
- (4) Require that any financial institution, issuer, or processor, whichever is appropriate, interested in receiving the request for proposals submit written notice of this interest to the board not later than noon of the day on which the request for proposals will be mailed.

Upon receiving the proposals, the administrative agent shall review them and make a recommendation to the board on which proposals to accept. The board shall consider the agent's recommendation and review all proposals submitted, and then may choose to contract with any or all of the entities submitting proposals, as appropriate. The board shall provide any financial institution, issuer, or processor that submitted a proposal, but with which the board does not enter into a contract, notice that its proposal is rejected. The notice shall state the reasons for the rejection, indicate whose proposals were accepted, and provide a copy of the terms and conditions of the successful bids.

(D) A board of supervisors of a soil and water conservation district may establish a surcharge or convenience fee that may be imposed upon a person making payment by a financial transaction device. The surcharge or convenience fee shall not be imposed unless authorized or otherwise permitted by the rules prescribed by an agreement governing the use and acceptance of the financial transaction device. If a surcharge or convenience fee is imposed, the board shall clearly post a notice and shall notify each person making a payment by such a device about the surcharge or fee. Notice to each person making a payment shall be provided regardless of the medium used to make the payment and in a manner appropriate to that medium.



Each notice shall include all of the following:

(1) A statement that there is a surcharge or convenience fee for using a financial transaction device;

(2) The total amount of the charge or fee expressed in dollars and cents for each transaction, or the rate of the charge or fee expressed as a percentage of the total amount of the transaction, whichever is applicable;

(3) A clear statement that the surcharge or convenience fee is nonrefundable.

(E) If a person elects to make a payment to the soil and water conservation district by a financial transaction device and a surcharge or convenience fee is imposed, the payment of the surcharge or fee shall be considered voluntary and the surcharge or fee is not refundable.

(F) If a person makes payment by financial transaction device and the payment is returned or dishonored for any reason, the person is liable to the soil and water conservation district for payment of a penalty over and above the amount of the expense due. The board shall determine the amount of the penalty, which may be either a fee not to exceed twenty dollars or payment of the amount necessary to reimburse the district for banking charges, legal fees, or other expenses incurred by the district in collecting the returned or dishonored payment. The remedies and procedures provided in this section are in addition to any other available civil or criminal remedies provided by law.

(G) No person making any payment by financial transaction device to a soil and water conservation district shall be relieved from liability for the underlying obligation except to the extent that the district realizes final payment of the underlying obligation in cash or its equivalent. If final payment is not made by the financial transaction device issuer or other guarantor of payment in the transaction, the underlying obligation survives and the district retains all remedies for enforcement that would have applied if the transaction had not occurred.

(H) A soil and water district official who accepts a financial transaction device payment in accordance with this section and any applicable state or local policies or rules is immune from personal liability for the final collection of such payments.