

1 **SENATE FLOOR VERSION**

2 March 28, 2019

3 **AS AMENDED**

4 ENGROSSED HOUSE
5 BILL NO. 1425

By: Loring of the House

and

Montgomery of the Senate

7
8 **[fees - surcharges for use of credit or debit cards**
9 **- online transactions - collection of fees, fines,**
10 **costs and assessments - collection requirements -**
11 **effective date]**

12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 14A O.S. 2011, Section 2-417, as
14 last amended by Section 2, Chapter 31, O.S.L. 2017 (14A O.S. Supp.
15 2018, Section 2-417), is amended to read as follows:

16 Section 2-417. A. No seller in any sales transaction may
17 impose a surcharge on a cardholder who elects to use a credit card
18 or debit card in lieu of payment by cash, check or similar means.

19 B. As used in this section, "debit card" means any instrument
20 or device, whether known as a debit card or by any other name,
21 issued with or without fee by an issuer for the use of the
22 cardholder in depositing, obtaining or transferring funds from a
23 consumer banking electronic facility.

1 C. For purposes of this section, a private educational
2 institution as defined in paragraph (e) of Section 3102 of Title 70
3 of the Oklahoma Statutes, a private school defined as a nonpublic
4 entity conducting an educational program for at least one grade
5 between prekindergarten through twelve, a municipality as defined in
6 paragraph 5 of Section 1-102 of Title 11 of the Oklahoma Statutes or
7 a public trust with a municipality as its beneficiary may charge a
8 service fee. The service fee may be applied to online or in-person
9 transactions and shall be ~~limited to~~ used to offset bank processing
10 fees ~~and,~~ financial transaction fees, the cost of providing for
11 secure transaction, portal fees, and fees necessary to compensate
12 for increased bandwidth incurred as a result of providing ~~for an~~
13 ~~online~~ the transaction.

14 SECTION 2. AMENDATORY 28 O.S. 2011, Section 151, is
15 amended to read as follows:

16 Section 151. A. It shall be the duty of the clerks of the
17 district court and other trial courts of record of this state to
18 charge and collect the fees imposed by this title and other fees,
19 assessments and payments as imposed by the Oklahoma Statutes, fines,
20 costs and assessments imposed by the district courts or appellate
21 courts, and none others, in all cases, except those in which the
22 defendant is charged with a misdemeanor or traffic violation, and
23 except cases under the Small Claims Procedure Act, Section 1751 et
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1 seq. of Title 12 of the Oklahoma Statutes. This section shall not
2 apply to municipal courts not of record in this state.

3 B. 1. As authorized by the Administrative Office of the
4 Courts, the court clerk may accept a nationally recognized credit or
5 debit card or other electronic payment method for any lawful
6 purpose, including, but not limited to, payment for any fee, fine,
7 forfeiture payment, cost, penalty assessment or other charge or
8 collection to be assessed or collected by the court clerk under the
9 laws of this state. The court clerk shall not collect a fee for the
10 acceptance of the nationally recognized credit or debit card. Prior
11 to the distribution of any fees provided for by law, the court clerk
12 shall apportion on a pro rata basis the costs associated with the
13 administration, acceptance, processing, and verification of the
14 credit card or debit card among all state, municipal or other
15 government entities or funds that are entitled by law to receive any
16 payments from the court clerk from any fee, fine, forfeiture
17 payment, cost, penalty assessment or other collection. All credit
18 and debit card costs shall be deducted from the fees, fines,
19 forfeiture payments, costs, penalty assessments or other collections
20 before transmittal is made to state, municipal or government
21 entities or funds pursuant to the provisions of any law of this
22 state that direct a court clerk to pay any amount or any portion of
23 any fee, fine, forfeiture payment, cost, penalty assessment, or
24 other collection to another state, municipal, or other government

1 entity or fund. Each state, municipal, or other government entity
2 or fund entitled to payment shall then receive only its statutory
3 share less its prorated share of the credit or debit card costs.
4 For purposes of this subsection, "nationally recognized credit card"
5 means any instrument or device, whether known as a credit card,
6 credit plate, charge plate, or by any other name, issued with or
7 without fee by an issuer for the use of the cardholder in obtaining
8 goods, services, or anything else of value. "Debit card" means an
9 identification card or device issued to a person by a business
10 organization which permits such person to obtain access to or
11 activate a consumer banking electronic facility. The Administrative
12 Office of the Courts is authorized to negotiate and organize
13 statewide contracts for the acceptance and processing of credit and
14 debit cards and equipment related thereto.

15 2. Written procedures for acceptance or rejection of credit
16 cards shall be established by the Office of the State Auditor and
17 Inspector with approval and direction to court clerks to be issued
18 by the Administrative Office of the Courts.

19 C. Payment for any fee provided for in this title may be made
20 by a personal or business check. The court clerk, at the court
21 clerk's discretion, may:

22 1. Add an amount equal to the amount of the service charge
23 incurred, not to exceed three percent (3%) of the amount of the
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1 check as a service charge for the acceptance and verification of the
2 check; or

3 2. Add an amount of no more than Five Dollars (\$5.00) as a
4 service charge for the acceptance and verification of a check. For
5 purposes of this subsection, "personal or business check" shall not
6 mean a money order, cashier's check, or bank certified check.

7 D. The Supreme Court is authorized to institute a cost
8 collection program for collection of fees, fines, costs and
9 assessments provided for in this title.

10 SECTION 3. This act shall become effective November 1, 2019.

11 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
12 March 28, 2019 - DO PASS AS AMENDED

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