

## CHAPTER 201

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**GOVERNMENT - STATE**

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HOUSE BILL 03-1267

BY REPRESENTATIVE(S) McCluskey, Fritz, Hall, and Weddig;  
also SENATOR(S) Taylor.**AN ACT****CONCERNING THE REPEAL OF THE STATUTORY PROVISION THAT LIMITS A GOVERNMENTAL ENTITY FROM IMPOSING A SURCHARGE UPON ANY PERSON USING AN ALTERNATIVE FORM OF PAYMENT FOR THE PAYMENT OF MONEYS TO THE STATE.***Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** 24-19.5-103, Colorado Revised Statutes, is amended to read:

**24-19.5-103. Limitations on convenience fees for the use of alternative forms of payment.** (1) ~~Except as otherwise provided in subsection (2) of this section, no state governmental entity that accepts one or more alternative forms of payment shall impose a surcharge upon any person for the privilege of using such alternative forms of payment.~~

(2) ~~Notwithstanding the provisions of subsection (1) of this section, any state governmental entity that, on or before January 1, 1999, was accepting one or more alternative forms of payment for the payment of moneys payable to the state and was imposing a surcharge for the privilege of using such alternative forms of payment may continue to impose such surcharge on persons who elect to use such alternative forms of payment on or after January 1, 1999, but shall not increase the amount of such surcharge.~~

(3) A STATE GOVERNMENTAL ENTITY MAY IMPOSE A CONVENIENCE FEE ON PERSONS WHO USE ALTERNATIVE FORMS OF PAYMENT, BUT THE AMOUNT OF ANY CONVENIENCE FEE IMPOSED ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (3) SHALL NOT EXCEED THE ACTUAL ADDITIONAL COST INCURRED BY THE STATE GOVERNMENTAL AGENCY TO PROCESS THE TRANSACTION BY ALTERNATIVE FORM OF PAYMENT. ANY CONVENIENCE FEE ON A TRANSACTION INVOLVING AN ALTERNATIVE FORM OF PAYMENT SHALL BE IMPOSED IN ACCORDANCE WITH THE MASTER

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

AGREEMENT NEGOTIATED BY THE STATE TREASURER AND THE RULES OF THE ALTERNATIVE PAYMENT PROVIDER.

**SECTION 2.** 29-11.5-103, Colorado Revised Statutes, is amended to read:

**29-11.5-103. Limitations on convenience fees for the use of alternative forms of payment.** (1) ~~Except as otherwise provided in subsection (2) of this section, no local governmental entity that accepts one or more alternative forms of payment shall impose a surcharge upon any person for the privilege of using such alternative forms of payment.~~

(2) ~~Notwithstanding the provisions of subsection (1) of this section, any local governmental entity that, on or before January 1, 1999, was accepting one or more alternative forms of payment for the payment of moneys payable to a local governmental entity and was imposing a surcharge for the privilege of using such alternative forms of payment may continue to impose such surcharge on persons who elect to use such alternative forms of payment on or after January 1, 1999, but shall not increase the amount of such surcharge.~~

(3) A LOCAL GOVERNMENTAL ENTITY MAY IMPOSE A CONVENIENCE FEE ON PERSONS WHO USE ALTERNATIVE FORMS OF PAYMENT, BUT THE AMOUNT OF ANY CONVENIENCE FEE IMPOSED ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (3) SHALL NOT EXCEED THE ACTUAL ADDITIONAL COST INCURRED BY THE LOCAL GOVERNMENTAL AGENCY TO PROCESS THE TRANSACTION BY ALTERNATIVE FORM OF PAYMENT. ANY CONVENIENCE FEE ON A TRANSACTION INVOLVING AN ALTERNATIVE FORM OF PAYMENT SHALL BE IMPOSED IN ACCORDANCE WITH THE RULES OF THE ALTERNATIVE PAYMENT PROVIDER.

**SECTION 3.** 5-2-212 (1), Colorado Revised Statutes, is amended to read:

**5-2-212. Surcharges on credit transactions - prohibition on.** (1) Except as otherwise provided in ~~sections 24-19.5-103 (2) and 29-11.5-103 (2), C.R.S.~~ SECTIONS 24-19.5-103 (3) AND 29-11.5-103 (3), C.R.S., no seller or lessor in any sales or lease transaction or any company issuing credit or charge cards may impose a surcharge on a holder who elects to use a credit or charge card in lieu of payment by cash, check, or similar means. A surcharge is any additional amount imposed at the time of the sales or lease transaction by the merchant, seller, or lessor that increases the charge to the buyer or lessee for the privilege of using a credit or charge card. For purposes of this section, charge card includes those cards pursuant to which unpaid balances are payable on demand.

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 29, 2003