

CHAPTER 146

GOVERNMENT - STATE

HOUSE BILL 99-1127

BY REPRESENTATIVES Gotlieb, Bacon, Kester, Mace, Saliman, Swenson, Tapia, Tool, Veiga, Vigil, and Zimmerman;
also SENATORS Powers, Andrews, Evans, and Lamborn.

AN ACT

CONCERNING AUTHORIZATION FOR THE ACCEPTANCE BY GOVERNMENTAL ENTITIES OF ADDITIONAL
FORMS OF PAYMENT.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 24, Colorado Revised Statutes, is amended BY THE
ADDITION OF A NEW ARTICLE to read:

ARTICLE 19.5
Alternative Forms of Payment to the State

24-19.5-101. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT
OTHERWISE REQUIRES:

(1) "ALTERNATIVE FORMS OF PAYMENT" MEANS FORMS OF PAYMENT, INCLUDING
BUT NOT LIMITED TO CREDIT, CHARGE, OR DEBIT CARDS, OTHER THAN CASH OR CHECK.

(2) "COLLECTOR STATE GOVERNMENTAL ENTITY" MEANS ANY STATE
GOVERNMENTAL ENTITY THAT COLLECTS MONEYS PAYABLE TO THE STATE THAT THE
STATE GOVERNMENTAL ENTITY MUST REMIT TO ONE OR MORE OTHER STATE OR LOCAL
GOVERNMENTAL ENTITIES.

(3) "MONEYS PAYABLE TO THE STATE" MEANS MONEYS OWED OR PAID TO ANY
STATE GOVERNMENTAL ENTITY OTHER THAN BAIL BONDS, JUDICIAL BONDS, OR OTHER
MONEYS THAT THE STATE GOVERNMENTAL ENTITY MUST RETURN TO THE PAYER UPON
THE SATISFACTION OF ONE OR MORE SPECIFIED CONDITIONS BY THE PAYER.

(4) "PROVIDER OF ALTERNATIVE FORMS OF PAYMENT" MEANS A PERSON OR ENTITY,
INCLUDING BUT NOT LIMITED TO AN ISSUER OF CREDIT, CHARGE, OR DEBIT CARDS,

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

THAT PROVIDES ITS CUSTOMERS WITH THE ABILITY TO USE ONE OR MORE ALTERNATIVE FORMS OF PAYMENT.

(5) "STATE GOVERNMENTAL ENTITY" MEANS THE STATE, ANY DEPARTMENT, AGENCY, OR OTHER ENTITY OF THE STATE, ANY STATE-SPONSORED INSTITUTION OF HIGHER EDUCATION, OR ANY AUTHORIZED AGENT OF ANY OF THE FOREGOING.

24-19.5-102. Acceptance of alternative forms of payment for the payment of moneys payable to the state - allocation of costs. (1) ANY STATE GOVERNMENTAL ENTITY RESPONSIBLE FOR THE COLLECTION OF MONEYS PAYABLE TO THE STATE MAY ACCEPT ONE OR MORE ALTERNATIVE FORMS OF PAYMENT FOR THE PAYMENT OF SUCH MONEYS IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

(2) A COLLECTOR STATE GOVERNMENTAL ENTITY THAT CHOOSES TO ACCEPT ONE OR MORE ALTERNATIVE FORMS OF PAYMENT FOR THE PAYMENT OF MONEYS PAYABLE TO THE STATE THAT THE COLLECTOR STATE GOVERNMENTAL ENTITY MUST REMIT TO ONE OR MORE OTHER GOVERNMENTAL ENTITIES SHALL EITHER:

(a) REMIT TO SUCH OTHER GOVERNMENTAL ENTITIES THE GROSS AMOUNT OF ANY PAYMENTS MADE BY ALTERNATIVE FORMS OF PAYMENT THAT THE COLLECTOR STATE GOVERNMENTAL ENTITY IS REQUIRED TO REMIT TO SUCH OTHER GOVERNMENTAL ENTITIES NOTWITHSTANDING THE DEDUCTION OF ANY MONEYS FROM SUCH GROSS AMOUNT BY ANY PROVIDER OF ALTERNATIVE FORMS OF PAYMENT PURSUANT TO A MASTER AGREEMENT OR OTHER AGREEMENT AUTHORIZED BY THIS ARTICLE; OR

(b) ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH EACH SUCH OTHER GOVERNMENTAL ENTITY REGARDING THE ALLOCATION OF THE COSTS OF ACCEPTING SUCH ALTERNATIVE FORMS OF PAYMENT.

24-19.5-103. Limitations on surcharges 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.

24-19.5-104. Master agreements - authority of state treasurer. (1) THE STATE TREASURER MAY NEGOTIATE AND ENTER INTO ONE OR MORE CONTRACTUAL MASTER AGREEMENTS WITH PROVIDERS OF ALTERNATIVE FORMS OF PAYMENT IN ACCORDANCE WITH LAW. TO ENSURE THAT STATE GOVERNMENTAL ENTITIES ACCEPT ALTERNATIVE FORMS OF PAYMENT IN THE MOST CONSUMER-ORIENTED, UNIFORM, AND COST-EFFECTIVE MANNER POSSIBLE, ANY STATE GOVERNMENTAL ENTITY THAT WISHES TO ACCEPT ONE OR MORE ALTERNATIVE FORMS OF PAYMENT SHALL DO SO BY

JOINING IN ANY MASTER AGREEMENTS ENTERED INTO BY THE STATE TREASURER WITH RESPECT TO SUCH ALTERNATIVE FORMS OF PAYMENT. HOWEVER, THE EXISTENCE OF A MASTER AGREEMENT COVERING A PARTICULAR ALTERNATIVE FORM OF PAYMENT SHALL NOT REQUIRE ANY STATE GOVERNMENTAL ENTITY TO ACCEPT SUCH ALTERNATIVE FORM OF PAYMENT.

(2) THE STATE TREASURER SHALL ENTER INTO NO MORE THAN ONE MASTER AGREEMENT COVERING ANY PARTICULAR ALTERNATIVE FORM OF PAYMENT. ANY PROVIDER OF ALTERNATIVE FORMS OF PAYMENT THAT WISHES TO HAVE ONE OR MORE STATE GOVERNMENTAL ENTITIES ACCEPT THE ALTERNATIVE FORMS OF PAYMENT THAT IT PROVIDES SHALL BE A PARTY TO ANY MASTER AGREEMENTS COVERING SUCH ALTERNATIVE FORMS OF PAYMENT AND SHALL BE SUBJECT TO THE SAME TERMS AND CONDITIONS AS ALL OTHER PROVIDERS OF ALTERNATIVE FORMS OF PAYMENT THAT ARE PARTIES TO SUCH AGREEMENTS. HOWEVER, THIS SUBSECTION (2) SHALL NOT REQUIRE THE STATE TREASURER TO INCLUDE ANY PARTICULAR PROVIDER OF ALTERNATIVE FORMS OF PAYMENT AS A PARTY TO ANY MASTER AGREEMENT.

(3) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, THE FOLLOWING STATE GOVERNMENTAL ENTITIES MAY ACCEPT ALTERNATIVE FORMS OF PAYMENT WITHOUT JOINING A MASTER AGREEMENT ENTERED INTO BY THE STATE TREASURER:

(a) JUDICIAL OR LEGISLATIVE STATE GOVERNMENTAL ENTITIES THAT ARE NOT PART OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT; AND

(b) STATE GOVERNMENTAL ENTITIES THAT, ON OR BEFORE THE EFFECTIVE DATE OF THIS ARTICLE, WERE ACCEPTING ONE OR MORE ALTERNATIVE FORMS OF PAYMENT FOR THE PAYMENT OF MONEYS PAYABLE TO THE STATE AND HAD ONE OR MORE CONTRACTS WITH ONE OR MORE PROVIDERS OF ALTERNATIVE FORMS OF PAYMENT THAT ENABLED THE STATE GOVERNMENTAL ENTITY TO ACCEPT SUCH ALTERNATIVE FORMS OF PAYMENT.

(4) NO LATER THAN SIXTY DAYS FOLLOWING THE END OF ANY GIVEN FISCAL YEAR, THE STATE TREASURER SHALL REPORT TO THE JOINT BUDGET COMMITTEE THE TOTAL AMOUNT OF:

(a) GROSS PAYMENTS PAYABLE TO THE STATE THAT WERE MADE TO STATE GOVERNMENTAL ENTITIES BY ALTERNATIVE FORMS OF PAYMENT PURSUANT TO MASTER AGREEMENTS DURING SUCH FISCAL YEAR; AND

(b) NET REVENUES REMITTED TO STATE GOVERNMENTAL ENTITIES BY PROVIDERS OF ALTERNATIVE FORMS OF PAYMENT PURSUANT TO MASTER AGREEMENTS DURING SUCH FISCAL YEAR.

(5) THE STATE TREASURER MAY PROMULGATE RULES GOVERNING MASTER AGREEMENTS, INCLUDING BUT NOT LIMITED TO RULES GOVERNING THE NEGOTIATION AND ADMINISTRATION OF SUCH AGREEMENTS. THE STATE TREASURER SHALL PROMULGATE SUCH RULES IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE.

24-19.5-105. Provider of alternative forms of payment required to make payment. ANY PROVIDER OF ALTERNATIVE FORMS OF PAYMENT THAT APPROVES A

TRANSACTION MADE BY AN ALTERNATIVE FORM OF PAYMENT FOR THE PAYMENT OF MONEYS TO A STATE GOVERNMENTAL ENTITY SHALL REMIT TO THE STATE GOVERNMENTAL ENTITY THE NET REVENUE OF THE APPROVED TRANSACTION DUE TO THE STATE GOVERNMENTAL ENTITY.

SECTION 2. Title 29, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 11.5

Alternative Forms of Payment to Local Governments

29-11.5-101. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ALTERNATIVE FORMS OF PAYMENT" MEANS FORMS OF PAYMENT, INCLUDING BUT NOT LIMITED TO CREDIT, CHARGE, OR DEBIT CARDS, OTHER THAN CASH OR CHECK.

(2) "COLLECTOR LOCAL GOVERNMENTAL ENTITY" MEANS ANY STATE OR LOCAL GOVERNMENTAL ENTITY THAT COLLECTS MONEYS PAYABLE TO A LOCAL GOVERNMENTAL ENTITY THAT THE STATE OR LOCAL GOVERNMENTAL ENTITY MUST REMIT TO ONE OR MORE OTHER STATE OR LOCAL GOVERNMENTAL ENTITIES.

(3) "LOCAL GOVERNMENTAL ENTITY" MEANS ANY COUNTY, MUNICIPALITY, CITY AND COUNTY, SCHOOL DISTRICT, SPECIAL DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THE STATE; ANY DEPARTMENT, AGENCY, INSTITUTION, OR AUTHORITY OF SUCH A COUNTY, MUNICIPALITY, CITY AND COUNTY, SCHOOL DISTRICT, SPECIAL DISTRICT, OR OTHER POLITICAL SUBDIVISION; OR AN AUTHORIZED AGENT OF ANY OF THE FOREGOING.

(4) "MONEYS PAYABLE TO A LOCAL GOVERNMENTAL ENTITY" MEANS MONEYS OWED OR PAID TO ANY LOCAL GOVERNMENTAL ENTITY OTHER THAN BAIL BONDS, JUDICIAL BONDS, OR OTHER MONEYS THAT THE LOCAL GOVERNMENTAL ENTITY MUST RETURN TO THE PAYER UPON THE SATISFACTION OF ONE OR MORE SPECIFIED CONDITIONS BY THE PAYER.

(5) "PROVIDER OF ALTERNATIVE FORMS OF PAYMENT" MEANS A PERSON OR ENTITY, INCLUDING BUT NOT LIMITED TO AN ISSUER OF CREDIT, CHARGE, OR DEBIT CARDS, THAT PROVIDES ITS CUSTOMERS THE ABILITY TO USE ONE OR MORE ALTERNATIVE FORMS OF PAYMENT.

29-11.5-102. Acceptance of alternative forms of payment for the payment of moneys payable to local governments - allocation of costs. (1) ANY LOCAL GOVERNMENTAL ENTITY RESPONSIBLE FOR THE COLLECTION OF MONEYS PAYABLE TO A LOCAL GOVERNMENTAL ENTITY MAY ACCEPT ONE OR MORE ALTERNATIVE FORMS OF PAYMENT FOR THE PAYMENT OF SUCH MONEYS IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

(2) A COLLECTOR LOCAL GOVERNMENTAL ENTITY THAT CHOOSES TO ACCEPT ONE OR MORE ALTERNATIVE FORMS OF PAYMENT FOR THE PAYMENT OF MONEYS PAYABLE TO A LOCAL GOVERNMENTAL ENTITY THAT THE COLLECTOR LOCAL GOVERNMENTAL

ENTITY MUST REMIT TO ONE OR MORE OTHER GOVERNMENTAL ENTITIES SHALL EITHER:

(a) REMIT TO SUCH OTHER GOVERNMENTAL ENTITIES THE GROSS AMOUNT OF ANY PAYMENTS MADE BY ALTERNATIVE FORMS OF PAYMENT THAT THE COLLECTOR LOCAL GOVERNMENTAL ENTITY IS REQUIRED TO REMIT TO SUCH OTHER GOVERNMENTAL ENTITIES NOTWITHSTANDING THE DEDUCTION OF ANY MONEYS FROM SUCH GROSS AMOUNT BY ANY PROVIDER OF ALTERNATIVE FORMS OF PAYMENT PURSUANT TO A MASTER AGREEMENT OR OTHER AGREEMENT AUTHORIZED BY THIS ARTICLE; OR

(b) ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH EACH SUCH OTHER GOVERNMENTAL ENTITY REGARDING THE ALLOCATION OF THE COSTS OF ACCEPTING SUCH ALTERNATIVE FORMS OF PAYMENT.

29-11.5-103. Limitations on surcharges 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.

29-11.5-104. Legislative declaration - master agreements. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT IT IS IN THE BEST INTERESTS OF ALL COLORADANS THAT LOCAL GOVERNMENTAL ENTITIES THAT CHOOSE TO ACCEPT ALTERNATIVE FORMS OF PAYMENT DO SO IN THE MOST CONSUMER-ORIENTED, COST-EFFECTIVE, AND UNIFORM MANNER POSSIBLE. ACCORDINGLY, IT IS THE INTENT OF THE GENERAL ASSEMBLY TO ENCOURAGE LOCAL GOVERNMENTAL ENTITIES TO JOIN WITH OTHER LOCAL GOVERNMENTAL ENTITIES IN CONTRACTUAL ARRANGEMENTS WITH PROVIDERS OF ALTERNATIVE FORMS OF PAYMENT OR TO JOIN ONE OR MORE MASTER AGREEMENTS ENTERED INTO BY THE STATE TREASURER PURSUANT TO SECTION 24-19.5-104, C.R.S.

(2) ANY LOCAL GOVERNMENTAL ENTITY THAT ACCEPTS ONE OR MORE ALTERNATIVE FORMS OF PAYMENT FOR PAYMENTS PAYABLE TO A LOCAL GOVERNMENTAL ENTITY MAY:

(a) JOIN WITH ONE OR MORE OTHER LOCAL GOVERNMENTAL ENTITIES IN NEGOTIATING AND ENTERING INTO ONE OR MORE CONTRACTS WITH ONE OR MORE PROVIDERS OF ALTERNATIVE FORMS OF PAYMENT; OR

(b) JOIN IN ANY MASTER AGREEMENT ENTERED INTO BY THE STATE TREASURER PURSUANT TO SECTION 24-19.5-104, C.R.S., WITH THE APPROVAL OF THE STATE TREASURER OR PURSUANT TO ANY RULES PROMULGATED BY THE STATE TREASURER.

SECTION 3. 5-2-109 (3), Colorado Revised Statutes, is amended to read:

5-2-109. Definition: "credit service charge". (3) EXCEPT AS OTHERWISE PROVIDED IN SECTIONS 24-19.5-103 (1) (b) AND 29-11.5-103 (1) (b), 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. 5-3-110, Colorado Revised Statutes, is amended to read:

5-3-110. Surcharges on credit transactions - prohibition. EXCEPT AS OTHERWISE PROVIDED IN SECTIONS 24-19.5-103 (2) AND 29-11.5-103 (1) (b), 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 5. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 30, 1999