

AMENDED IN SENATE MARCH 23, 2004

SENATE BILL

No. 1801

Introduced by Senator Bowen

February 20, 2004

An act to amend Section 6140 of the Business and Professions Code, to amend Section 1010.5 of the Code of Civil Procedure, to amend Section 31255 of, and to repeal Section 11518 of, the Food and Agricultural Code, to amend Section 1050.5 of the Fish and Game Code, to amend Section 6159 of, and to add Section 6167 to, the Government Code, and to amend Section 2511.1 of the Revenue and Taxation Code, relating to credit cards.

LEGISLATIVE COUNSEL'S DIGEST

SB 1801, as amended, Bowen. Credit card processing fees.

Existing law authorizes state and local agencies and courts to provide for payment by credit card for specified services or obligations under prescribed conditions, which may include the imposition of a fee or charge for costs.

This bill would prohibit any state or local agency or court that accepts a credit card or debit card as payment for any service or obligation from imposing any processing fee or charge for the use of that card that is not also imposed upon persons who pay for the same service or obligation by cash or check.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 6140 of the Business and Professions~~
2 ~~Code is amended to read:~~

3 ~~6140. (a) The board shall fix the annual membership fee for~~
4 ~~active members at a sum not exceeding three hundred ten dollars~~
5 ~~(\$310).~~

6 ~~(b) The annual membership fee for active members is payable~~
7 ~~on or before the first day of February of each year. If the board~~
8 ~~finds it appropriate and feasible, it may provide by rule for~~
9 ~~payment of fees on an installment basis with interest, by credit~~
10 ~~card, or other means, and, to the extent not prohibited by Section~~
11 ~~6167 of the Government Code, may charge members choosing any~~
12 ~~alternative method of payment an additional fee to defray costs~~
13 ~~incurred by that election.~~

14 ~~(c) This section shall remain in effect only until January 1,~~
15 ~~2004, and as of that date is repealed, unless a later enacted statute,~~
16 ~~that is enacted before January 1, 2004, deletes or extends that date.~~

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21 active members at a sum not exceeding three hundred ten dollars
22 (\$310).

23 (b) The annual membership fee for active members is payable
24 on or before the first day of February of each year. If the board
25 finds it appropriate and feasible, it may provide by rule for
26 payment of fees on an installment basis with interest, by credit
27 card, or other means, and, *to the extent not prohibited by Section*
28 *6167 of the Government Code*, may charge members choosing any
29 alternative method of payment an additional fee to defray costs
30 incurred by that election.

31 (c) This section shall remain in effect only until January 1,
32 2005, and as of that date is repealed, unless a later enacted statute,
33 that is enacted before January 1, 2005, deletes or extends that date.

34 SEC. 2. Section 1010.5 of the Code of Civil Procedure is
35 amended to read:

36 1010.5. The Judicial Council may adopt rules permitting the
37 filing of papers by facsimile transmission, both directly with the
38 courts and through third parties. Notwithstanding any other



1 provision of law, the rules may provide that the facsimile
2 transmitted document shall constitute an original document.

3 If the Judicial Council adopts rules permitting the filing of
4 papers by facsimile transmission, the consent of the Judicial
5 Council shall not be necessary to permit the use of credit cards to
6 pay fees for the filing of papers by facsimile transmission directly
7 with the court.

8 SEC. 3. Section 11518 of the Food and Agricultural Code is
9 repealed.

10 SEC. 4. Section 31255 of the Food and Agricultural Code is
11 amended to read:

12 31255. An animal control officer of any county, if so
13 authorized by the board of supervisors of the county, or an animal
14 control officer of any city, if so authorized by the governing body
15 of the city, may accept a credit card as a method of payment for any
16 fee or penalty provided by this division, for any license, fee, or
17 fine, or for any other obligation owed to the officer.

18 SEC. 5. Section 1050.5 of the Fish and Game Code is
19 amended to read:

20 1050.5. The department may accept a credit card charge as a
21 method of payment. Any contract executed by the department with
22 credit card issuers or draft purchasers shall be consistent with
23 Section 6159 of the Government Code.

24 SEC. 6. Section 6159 of the Government Code is amended to
25 read:

26 6159. (a) As used in this section:

27 (1) "Credit card" means any card, plate, coupon book, or other
28 credit device existing for the purpose of being used from time to
29 time upon presentation to obtain money, property, labor, or
30 services on credit.

31 (2) "Card issuer" means any person, or his or her agent, who
32 issues a credit card and purchases credit card drafts.

33 (3) "Cardholder" means any person to whom a credit card is
34 issued or any person who has agreed with the card issuer to pay
35 obligations arising from the issuance of a credit card to another
36 person.

37 (4) "Draft purchaser" means any person who purchases credit
38 card drafts.



1 (b) Subject to subdivision (c), a court, city, county, city and
2 county, or other public agency may authorize the acceptance of a
3 credit card for any of the following:

4 (1) The payment for the deposit of bail for any offense not
5 declared to be a felony or for any court-ordered fee or fine.

6 (2) The payment of a filing fee or other court fee.

7 (3) The payment of any towage or storage costs for a vehicle
8 that has been removed from a highway, or from public or private
9 property, as a result of parking violations.

10 (4) The payment of child, family, or spousal support, including
11 reimbursement of public assistance, related fees, costs, or
12 penalties, with the authorization of the cardholder.

13 (5) The payment for services rendered by any city, county, city
14 and county, or other public agency.

15 (6) The payment of any fee, charge, or tax due a city, county,
16 city and county, or other public agency.

17 (c) A court desiring to authorize the use of a credit card
18 pursuant to subdivision (b) shall obtain the approval of the Judicial
19 Council. A city desiring to authorize the use of a credit card
20 pursuant to subdivision (b) shall obtain the approval of its city
21 council. Any other public agency desiring to authorize the use of
22 a credit card pursuant to subdivision (b) shall obtain the approval
23 of the governing body that has fiscal responsibility for that agency.
24 After approval is obtained, a contract may be executed with one
25 or more credit card issuers or draft purchasers. The contract shall
26 provide for:

27 (1) The respective rights and duties of the court, city, county,
28 city and county, or other public agency and card issuer or draft
29 purchaser regarding the presentment, acceptability, and payment
30 of credit card drafts.

31 (2) The establishment of a reasonable means by which to
32 facilitate payment settlements.

33 (3) The payment to the card issuer or draft purchaser of a
34 reasonable fee or discount.

35 (4) Any other matters appropriately included in contracts with
36 respect to the purchase of credit card drafts as may be agreed upon
37 by the parties to the contract.

38 (d) The honoring of a credit card pursuant to subdivision (b)
39 hereof constitutes payment of the amount owing to the court, city,
40 county, city and county, or other public agency as of the date the



1 credit card is honored, provided the credit card draft is paid
2 following its due presentment to a card issuer or draft purchaser.

3 (e) If any credit card draft is not paid following due
4 presentment to a card issuer or draft purchaser or is charged back
5 to the court, city, county, city and county, or other public agency
6 for any reason, any record of payment made by the court, city, or
7 other public agency honoring the credit card shall be void. Any
8 receipt issued in acknowledgment of payment shall also be void.
9 The obligation of the cardholder shall continue as an outstanding
10 obligation as if no payment had been attempted.

11 (f) Fees or discounts provided for under paragraph (3) of
12 subdivision (c) shall be deducted or accounted for prior to any
13 statutory or other distribution of funds received from the card
14 issuer or draft purchaser.

15 (g) The Judicial Council may enter into a master agreement
16 with one or more credit card issuers or draft purchasers for the
17 acceptance and payment of credit card drafts received by the
18 courts. Any court may join in any of these master agreements or
19 may enter into a separate agreement with a credit card issuer or
20 draft purchaser.

21 SEC. 7. Section 6167 is added to the Government Code, to
22 read:

23 6167. Notwithstanding any other provision of law, no state or
24 local agency that accepts a credit card or debit card as payment for
25 any service or obligation shall impose any processing fee or charge
26 for the use of that card that is not also imposed upon persons who
27 pay for the same service or obligation by cash or check.

28 SEC. 8. Section 2511.1 of the Revenue and Taxation Code is
29 amended to read:

30 2511.1. (a) As used in this section:

31 (1) "Credit card" means any card, plate, coupon book, or other
32 credit device existing for the purpose of being used from time to
33 time upon presentation to obtain money, property, labor, or
34 services on credit.

35 (2) "Card issuer" means any person who issues a credit card
36 and purchases credit card drafts, or the agent for those purposes
37 with respect to a credit card.

38 (3) "Cardholder" means any person to whom a credit card is
39 issued or any person who has agreed with the card issuer to pay



1 obligations arising from the issuance of a credit card to another
2 person.

3 (4) “Draft purchaser” means any person who purchases credit
4 card drafts.

5 (b) The board of supervisors may authorize the acceptance of
6 a credit card for payment of property taxes. Following an
7 authorization pursuant to the preceding sentence, the county shall,
8 upon approval of the board of supervisors, execute a contract with
9 one or more credit card issuers or draft purchasers. The contract
10 shall provide for all of the following:

11 (1) The respective rights and duties of the county, and card
12 issuers and draft purchasers regarding the presentment,
13 acceptability, and payment of credit card drafts.

14 (2) The establishment of a reasonable means by which to
15 facilitate payment settlements.

16 (3) The payment to the card issuer or draft purchaser of a
17 reasonable fee or discount.

18 (4) Other matters appropriately included in contracts with
19 respect to the purchase of credit card drafts as may be agreed upon
20 by the parties to the contract.

21 (c) The honoring of a credit card pursuant to subdivision (b)
22 shall constitute payment of the tax as of the date the credit card is
23 honored, provided the credit card draft is paid following its due
24 presentment to a card issuer or draft purchaser.

25 (d) If any credit card draft is not paid following due
26 presentment to a card issuer or draft purchaser or is charged back
27 to the county for any reason, any record of payment made shall be
28 null and void. Any receipt issued in acknowledgment of payment
29 shall also be null and void. The obligation of the cardholder shall
30 continue as an outstanding obligation as though no payment had
31 been attempted.

32 (e) Upon notice of nonpayment of the credit card draft, the tax
33 collector may charge the person who attempted the payment a fee
34 not to exceed the costs of processing the draft, providing notice of
35 nonpayment to that person, and making required cancellations on
36 the tax roll. The amount of the fee shall be set by the board of
37 supervisors pursuant to Section 54986 of the Government Code,
38 and may be added to the tax bill and collected in the same manner



- 1 as costs recovered pursuant to Section 2621. Fees imposed under
- 2 this subdivision shall be approved by the board of supervisors.

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