

AMENDED IN SENATE APRIL 1, 2004
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~~ *Sections 11518 and 31255 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, *on and after April 30, 2005*, 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15 2005, and as of that date is repealed, unless a later enacted statute,
16 that is enacted before January 1, 2005, deletes or extends that date.

17 SEC. 2. Section 1010.5 of the Code of Civil Procedure is
18 amended to read:

19 1010.5. The Judicial Council may adopt rules permitting the
20 filing of papers by facsimile transmission, both directly with the
21 courts and through third parties. Notwithstanding any other
22 provision of law, the rules may provide that the facsimile
23 transmitted document shall constitute an original document.
24 *Notwithstanding Section 6159 of the Government Code or Title 1.3*
25 *(commencing with Section 1747) of Part 4 of Division 3 of the Civil*
26 *Code, any court authorized to accept a credit card as payment*
27 *pursuant to this section may, until April 30, 2005, add a surcharge*
28 *to the amount of the transaction to be borne by the litigant to cover*
29 *charges imposed on credit card transactions regarding facsimile*
30 *filings between a litigant and the court.*

31 If the Judicial Council adopts rules permitting the filing of
32 papers by facsimile transmission, the consent of the Judicial
33 Council shall not be necessary to permit the use of credit cards to
34 pay fees for the filing of papers by facsimile transmission directly
35 with the court, *provided that the court charges, until April 30,*
36 *2005, a processing fee to the filing party sufficient to cover the cost*
37 *to the court of processing the payment by credit card.*



1 ~~SEC. 3. Section 11518 of the Food and Agricultural Code is~~
2 ~~repealed.~~

3 SEC. 3. Section 11518 of the Food and Agricultural Code is
4 amended to read:

5 11518. A commissioner accepting payment for pest control
6 registrations or services by credit card or other payment device
7 may, *until April 30, 2005*, impose a charge for costs incurred in
8 connection with that form of payment and shall use his or her best
9 efforts to minimize those costs. The terms “credit card” and
10 “payment device” have the same meaning as defined in Section
11 6161 of the Government Code.

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

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

20 (b) *Notwithstanding Title 1.3 (commencing with Section 1747)*
21 *of Part 4 of Division 3 of the Civil Code, a surcharge may, until*
22 *April 30, 2005, be imposed to cover the rate of discount that the*
23 *credit card issuer debits the local agency on acceptance of the*
24 *sales draft.*

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

27 1050.5. The department may accept a credit card charge as a
28 method of payment. Any contract executed by the department with
29 credit card issuers or draft purchasers shall be consistent with
30 Section 6159 of the Government Code. *Notwithstanding Title 1.3*
31 *(commencing with Section 1747) of Part 4 of Division 3 of the Civil*
32 *Code, the department may, until April 30, 2005, impose a*
33 *surcharge in an amount to cover the cost of providing the credit*
34 *card service, including reimbursement for any fee or discount*
35 *charged by the credit card issuer.*

36 SEC. 6. Section 6159 of the Government Code is amended to
37 read:

38 6159. (a) As used in this section:

39 (1) “Credit card” means any card, plate, coupon book, or other
40 credit device existing for the purpose of being used from time to



1 time upon presentation to obtain money, property, labor, or
2 services on credit.

3 (2) “Card issuer” means any person, or his or her agent, who
4 issues a credit card and purchases credit card drafts.

5 (3) “Cardholder” means any person to whom a credit card is
6 issued or any person who has agreed with the card issuer to pay
7 obligations arising from the issuance of a credit card to another
8 person.

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

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

14 (1) The payment for the deposit of bail for any offense not
15 declared to be a felony or for any court-ordered fee or fine. *Use of*
16 *a credit card pursuant to this paragraph may, until April 30, 2005,*
17 *include a requirement that the defendant be charged any*
18 *administrative fee charged by the credit card company for the cost*
19 *of the credit card transaction.*

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

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

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

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

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

31 (c) A court desiring to authorize the use of a credit card
32 pursuant to subdivision (b) shall obtain the approval of the Judicial
33 Council. A city desiring to authorize the use of a credit card
34 pursuant to subdivision (b) shall obtain the approval of its city
35 council. Any other public agency desiring to authorize the use of
36 a credit card pursuant to subdivision (b) shall obtain the approval
37 of the governing body that has fiscal responsibility for that agency.
38 After approval is obtained, a contract may be executed with one
39 or more credit card issuers or draft purchasers. The contract shall
40 provide for:



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

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

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

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

12 (d) The honoring of a credit card pursuant to subdivision (b)
13 hereof constitutes payment of the amount owing to the court, city,
14 county, city and county, or other public agency as of the date the
15 credit card is honored, provided the credit card draft is paid
16 following its due presentment to a card issuer or draft purchaser.

17 (e) If any credit card draft is not paid following due
18 presentment to a card issuer or draft purchaser or is charged back
19 to the court, city, county, city and county, or other public agency
20 for any reason, any record of payment made by the court, city, or
21 other public agency honoring the credit card shall be void. Any
22 receipt issued in acknowledgment of payment shall also be void.
23 The obligation of the cardholder shall continue as an outstanding
24 obligation as if no payment had been attempted.

25 (f) *Notwithstanding Title 1.3 (commencing with Section 1747)*
26 *of Part 4 of Division 3 of the Civil Code, a court, city, county, city*
27 *and county, or any other public agency may, until April 30, 2005,*
28 *impose a fee for the use of a credit card, not to exceed the costs*
29 *incurred by the agency in providing for payment by credit card.*
30 *These costs may include, but may not be limited to, the payment of*
31 *fees or discounts as specified in paragraph (3) of subdivision (c).*
32 *Any fee imposed by a court pursuant to this subdivision shall be*
33 *approved by the Judicial Council. Any fee imposed by any other*
34 *public agency pursuant to this subdivision for use of a credit card*
35 *shall be approved by the governing body responsible for the fiscal*
36 *decisions of the public agency.*

37 (g) Fees or discounts provided for under paragraph (3) of
38 subdivision (c) shall be deducted or accounted for prior to any
39 statutory or other distribution of funds received from the card



1 issuer or draft purchaser *to the extent not recovered from the*
 2 *cardholder pursuant to subdivision (f).*

3 ~~(g)~~

4 (h) The Judicial Council may enter into a master agreement
 5 with one or more credit card issuers or draft purchasers for the
 6 acceptance and payment of credit card drafts received by the
 7 courts. Any court may join in any of these master agreements or
 8 may enter into a separate agreement with a credit card issuer or
 9 draft purchaser.

10 SEC. 7. Section 6167 is added to the Government Code, to
 11 read:

12 6167. (a) Notwithstanding any other provision of law, no
 13 state or local agency that accepts a credit card or debit card as
 14 payment for any service or obligation shall impose any processing
 15 fee or charge for the use of that card that is not also imposed upon
 16 persons who pay for the same service or obligation by cash or
 17 check.

18 (b) *This section shall become operative on and after April 30,*
 19 *2005.*

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

22 2511.1. (a) As used in this section:

23 (1) “Credit card” means any card, plate, coupon book, or other
 24 credit device existing for the purpose of being used from time to
 25 time upon presentation to obtain money, property, labor, or
 26 services on credit.

27 (2) “Card issuer” means any person who issues a credit card
 28 and purchases credit card drafts, or the agent for those purposes
 29 with respect to a credit card.

30 (3) “Cardholder” means any person to whom a credit card is
 31 issued or any person who has agreed with the card issuer to pay
 32 obligations arising from the issuance of a credit card to another
 33 person.

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

36 (b) The board of supervisors may authorize the acceptance of
 37 a credit card for payment of property taxes. Following an
 38 authorization pursuant to the preceding sentence, the county shall,
 39 upon approval of the board of supervisors, execute a contract with



1 one or more credit card issuers or draft purchasers. The contract
2 shall provide for all of the following:

3 (1) The respective rights and duties of the county, and card
4 issuers and draft purchasers regarding the presentment,
5 acceptability, and payment of credit card drafts.

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

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

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

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

17 (d) *The county may, until April 30, 2005, impose a fee for the*
18 *use of a credit card sufficient in an amount to provide for the*
19 *recovery of fees or discounts paid by the county under paragraph*
20 *(3) of subdivision (b) and all other costs incurred by the county in*
21 *providing for payment by credit. Fees imposed under this*
22 *subdivision shall be approved by the board of supervisors.*

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

30 ~~(e)~~

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