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March 1, 2012

The Honorable Steve Huebert, Chairman  
House Committee on Local Government  
Capitol Building, Rm. 144-S  
Topeka, KS 66612

Re: S.B. 207

Dear Chairman Huebert and Members of the Committee:

I am the lawyer representing the Board of Riley County Commissioners. On behalf of the Board of Riley County Commissioners, I would like to offer my support of S.B. 207.

K.S.A. 2010 Supp. 16a-2-403 (attached) prohibits any entity or person from charging a credit or debit card user any fee for the privilege of using that credit or debit card.


In response to that provision of the Kansas Consumer Credit Code, cities, the state of Kansas and its agencies and state universities all have explicit statutory authority exempting them from K.S.A. 2010 Supp. 16a-2-403 (attached). That exemption allows cities, the state of Kansas and its agencies and state universities to lawfully charge back to the credit or debit card user any "convenience fee" the card issuer requires. Those governmental entities could not do so without violating K.S.A. 2010 Supp. 16a-2-403, but for their explicit exemption from that statute. Their exemption from K.S.A. 2010 Supp. 16a-2-403 saves those governmental entities a cost they would otherwise incur on every credit or debit card transaction. It also encourages such entities to offer their "customers" payment by credit or debit card, because the associated fees may be shifted to the card user.

S.B. 207 is modeled on those existing exemption statutes currently in place and only provides Kansas counties the same protection from K.S.A. 2010 Supp. 16a-2-403 already enjoyed by other Kansas governmental entities. I have attached copies of the relevant existing statutes which already provide this exemption to the other governmental entities I've listed.

In my opinion, there is no sound policy reason for denying this same benefit to Kansas counties.

Thank you for allowing me to testify in support of S.B. 207.

Sincerely,

  
Clancy Holeman  
Riley County Counselor

cc: Board of Riley County Commissioners

**16a-2-403. Prohibiting surcharge on credit or debit cards.** No seller or lessor in any sales or lease transaction or any credit or debit card issuer may impose a surcharge on a card holder who elects to use a credit or debit 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 debit card.

**History:** L. 1986, ch. 90, § 2; L. 1999, ch. 107, § 17; L. 2010, ch. 64, § 1; July 1.

**12-16,125. Acceptance by city of debit or credit card for payment of taxes, utility fees or other exactions.** A city may accept credit or debit cards for the payment of taxes, utility fees or other exactions. The city may establish the type of credit or debit card the city will accept. The city may set a fee to be added to each credit card transaction equal to the charge paid by the city for the use of the credit card by the person. If the city imposes a fee for payments made by credit card, the city shall provide notice of such fee to the person making payment by credit card.

Any transaction involving payment by credit card pursuant to this section shall not be subject to the provisions of K.S.A. 16a-2-403, and amendments thereto.

**History:** L. 2008, ch. 180, § 1; July 1.

**75-30,100. Payments to state agencies; acceptable methods of payment.** (a) Any state agency which imposes or collects fees, tuition or other charges shall accept payment thereof in the form of a personal, certified or cashier's check or money order. A state agency may accept payment by credit card, debit card or other method designated by the agency. A state agency may impose an additional fee to recover the actual amount of any cost incurred by reason of the method of payment used by the payee.

(b) In addition to the methods specified in subsection (a), after June 30, 2001, a state agency shall accept payment of fees, tuition or other charges in the form of a credit card or debit card.

(c) Any transactions involving payment by credit card or debit card pursuant to this section shall not be subject to the provisions of K.S.A. 16a-2-403, and amendments thereto.

(d) The provisions of this section shall not apply to any fees, fines or charges imposed by the secretary of corrections or the commissioner of juvenile justice on offenders under the jurisdiction of the secretary of corrections or juvenile offenders placed in juvenile correctional facilities under the jurisdiction of the commissioner of juvenile justice.

(e) Any municipal university, community college, technical college, or vocational educational school, having the meanings respectively ascribed thereto by K.S.A. 74-3201b, and amendments thereto, accepting payment of fees, tuition or other charges in the form of a credit card or debit card shall not be subject to the provisions of K.S.A. 16a-2-403, and amendments thereto.

**History:** L. 2000, ch. 114, § 1; L. 2010, ch. 64, § 2; July 1.