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GOVERNMENT CODE - GOV

TITLE 1. GENERAL [100 - 7931.000] (Title 1 enacted by Stats. 1943, Ch. 134.)

DIVISION 7. MISCELLANEOUS [6000 - 7599.200] (Division 7 enacted by Stats. 1943, Ch. 134.)

CHAPTER 2.6. State Payment Card Act [6160 - 6166] (Chapter 2.6 added by Stats. 1995, Ch. 926, Sec. 1.)

6160. The Legislature finds and declares that there are costs associated with all forms of payment, including cash and checks. The Legislature further finds and declares that by accepting payment by credit card or other payment devices, state agencies will be able to take advantage of new technologies that will improve their efficiency and will increase consumer convenience and choice by providing state consumers with an alternative method of payment.

(Added by Stats. 1995, Ch. 926, Sec. 1. Effective January 1, 1996.)

6161. For the purposes of this chapter:

- (a) "Cardholder" means a person making a payment to a state agency by credit card or payment device.
- (b) "Credit card" shall have the same meaning as provided in subsection (k) of Section 1602 of Title 15 of the United States Code (Section 103(k) of the federal Truth in Lending Act, and regulations promulgated thereunder).
- (c) "Director" means the Director of General Services.
- (d) "In person" means from one natural person to another who, as an employee or other representative of a state agency, accepts payment and processes the payment according to the procedures of the agency.
- (e) "Payment device" shall have the same meaning as the definition of "accepted card or other means of access" set forth in paragraph (1) of Section 1693a of Title 15 of the United States Code (Section 903(1) of the federal Electronic Fund Transfer Act), and for purposes of this chapter shall also include a card that enables a person to pay for transactions through the use of value stored on the card itself.
- (f) "Person" means a natural person or an organization, including a corporation, partnership, limited liability company, proprietorship, association, cooperative, estate, trust, or government unit.
- (g) "State agency" shall have the same meaning as set forth in Section 11000.

(Added by Stats. 1995, Ch. 926, Sec. 1. Effective January 1, 1996.)

6162. (a) Except as provided in Section 6159, the Director of General Services, or his or her designee, may negotiate and enter into any contracts necessary to implement or facilitate the acceptance of credit cards or other payment devices by state agencies. The authority granted to the director pursuant to this section shall include the discretion to negotiate and agree to specific terms applicable to each state agency, including, but not limited to, the terms regarding any payment of fees to third parties for the acceptance of credit cards or other payment devices, types of payments, any limitations on amounts and limits of liabilities that would be eligible for payment by credit card or other payment device, and operational requirements.

(b) The director may negotiate master contracts or other contracts that allow the cost-effective acceptance of payment by credit card or other payment device. Additionally, the director or any state agency negotiating these contracts shall use its best efforts to minimize the financial impact of credit card or other payment device acceptance on the state agency, taxpayers, and the public who use its services.

(c) The director, in consultation with the Director of e-Government, shall take steps to encourage the adoption of standard payment policies and procedures for all state agencies. Furthermore, a state agency may enter into an interagency agreement with another state agency for the purposes of establishing uniform policies and acquiring equipment to support payment by credit card or other payment device.

(Amended by Stats. 2001, Ch. 427, Sec. 1. Effective January 1, 2002.)

6163. (a) (1) Except as provided in paragraphs (2) and (3), all state agencies shall accept payment made by means of a credit card or other payment device.

(2) (A) A state agency may request that the director grant an exemption from paragraph (1) if the agency determines that its acceptance of payments by credit card or other payment device would have any of the following results:

- (i) It would not be cost-effective.
- (ii) It would result in a net additional unfunded cost to the agency.
- (iii) It would result in a shortfall of revenues to the State of California.

(B) A request made pursuant to this paragraph shall state the reasons for the agency's determination. The director may request additional information from the requesting agency, and shall approve or deny the exemption request within 60 days of the receipt of all relevant information from the agency. The director also may request that the exemption be renewed on a periodic basis, and that the agency provide a plan for implementing paragraph (1).

(C) In determining cost-effectiveness, an agency may consider more than one year. In determining the cost-effectiveness of accepting payment by credit card and other payment devices, the state agency shall consider all factors relating to costs and savings associated with accepting credit cards and other payment devices. However, an agency may accept payment by credit card or other payment device notwithstanding the cost-effectiveness, if, upon the agency's analysis, the additional level of customer service offered by these payment methods outweighs cost considerations.

(D) "Costs" for the purposes of this subdivision shall include, but not be limited to, the following:

- (i) Amounts paid to a third party for accepting the credit card or other payment device.
- (ii) Equipment costs, including telephone and maintenance expenses.
- (iii) Labor costs of the state agency related to processing payments made by a credit card or other payment device.

(E) "Savings" for the purposes of this subdivision shall include, but not be limited to, the following:

- (i) The use of the float by the applicable state agency.
- (ii) Reduction in bank fees that would be charged for payments made by cash and checks.
- (iii) The costs of handling cash, labor savings, theft or pilferage, reduced storage, and security and transit of handling and holding cash.
- (iv) The costs of handling checks.
- (v) Dishonored check costs.
- (vi) Decreased facility needs.
- (vii) Increased collection of mandated payments.
- (viii) Increased sales of discretionary goods and services.
- (ix) Reduced paperwork.
- (x) Fewer in-person transactions, especially with the use of voice response units and kiosks.

(3) Notwithstanding paragraph (1), a state agency shall not accept payment by credit card or other payment device if the state agency is unable to enter into the contracts on terms that are acceptable to the agency, or if the director acting on behalf of the agency is unable to enter into contracts on terms that are acceptable to the director and the agency, as are necessary to enable the agency to accept payment by credit card or other payment device.

(4) If the Franchise Tax Board does not accept payment by credit card or other payment device as a result of this subdivision, then the law regarding credit card payments in existence prior to the effective date of the legislation adding this chapter shall apply to the Franchise Tax Board.

(b) The director may establish procedures to delegate the authority granted under this chapter to other state agencies so that these agencies may enter into contracts for accepting credit cards or other payment devices on behalf of the respective agency.

(c) For entities established under Article VI of the California Constitution, the authority of the director under this chapter shall rest with the administrative director of those entities.

(d) Any agency that intends to accept payment by credit card or other payment device pursuant to a master contract entered into by the director shall transmit a letter of intent so stating to the director.

(Amended by Stats. 2001, Ch. 427, Sec. 2. Effective January 1, 2002.)

6164. No officer or employee of a state agency, or other individual, who in the course of his or her employment or duty has or had access to credit card or payment device information provided to the state agency under this chapter shall disclose or make known in any manner information provided under this chapter or use the information for any unauthorized purpose. Any violation of this section shall be a misdemeanor.

(Added by Stats. 1995, Ch. 926, Sec. 1. Effective January 1, 1996.)

6165. The Department of General Services and state agencies shall enter into interagency agreements to reimburse the Department of General Services for its costs in entering into contracts pursuant to this chapter.

(Added by Stats. 1995, Ch. 926, Sec. 1. Effective January 1, 1996.)

6166. Any state agency accepting payment by a means of credit card, whether pursuant to this chapter or Section 19005 of the Revenue and Taxation Code, shall, when sending a billing statement, notify each payer permitted to make payment to that agency by means of a credit card of his or her option of making payment by means of a credit card. Each state agency that sends a billing statement to an individual who is allowed to make payment to that agency by means of a credit card shall provide either of the following on that statement or on a document provided with the statement:

- (a) A designated space on the payment form upon which the payer can provide a credit card number, expiration date, and signature.
- (b) Complete instructions as to the procedure, by means of telephone or otherwise, that the payer must follow in order to pay by means of a credit card.

(Added by Stats. 1999, Ch. 203, Sec. 1. Effective January 1, 2000.)