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Hot Topic: Legislation Clarifies and Simplifies E-Commerce Procedures for Tennessee Municipalities

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#73

Legislation Clarifies and Simplifies E-Commerce Procedures for Tennessee Municipalities

By Ralph Cross
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The 2001 legislative session resulted in several changes that affect electronic business in Tennessee. This hot topic highlights some of the more important changes. However, do not rely solely on these summaries before giving advice or taking actions. Refer to the act itself.

CREDIT CARD FEES MADE OPTIONAL

Chapter No. 348 (SB92/HB154)

Property tax season is upon us, and many of your local residents may wish to make their payments using a credit card. Thanks to new legislation passed during the 2001 session, local governments no longer have to charge a processing fee for any credit card transactions.

In the previous session, the Tennessee General Assembly approved legislation allowing local governments to receive payments by credit or debit card but stipulated that the entity charge a processing fee that could not exceed five percent of the payment collected by the card. In an effort to improve this legislation, the General Assembly amended Tennessee Code Annotated (T.C.A.) §9-1-108(c) to allow local governments, utility districts, boards, commissions, or authorities created or authorized by general or local law, to waive the processing fees for credit or debit card transactions. The amendment also eliminates the subdivisions (c)(5) and (c)(7) of T.C. A. §9-1-108 that required processing fees to be deposited in the general fund and prohibited local government officials from collecting less than is required by law for taxes and fees that are paid through transactions involving credit and debit cards.

This act became effective June 7, 2001.

CONFIDENTIAL INFORMATION PROTECTED

Chapter No. 259 (SB1473/HB867)

This change amends T.C.A. §10-7-504 to protect confidential information and ensure state security.

In order to further discourage computer crime, the Legislature has amended the Public Records Law to protect confidential information and ensure the security of the state of Tennessee and its political branches.

The amendment prohibits unauthorized access of confidential information or government property including electronic information processing systems and telecommunications systems. Confidential records include plans, security codes, passwords, combinations, and computer programs, as well as information identifying structural or operational vulnerability of the state or its subdivisions. In general, confidential information includes anything that might permit unlawful disruption of services provided by a governmental entity or permit unauthorized access to electronic information or government property.

Section 2 adds a new subdivision to T.C.A. §10-7-504 that specifically protects credit card numbers of persons doing business with the state or any political division thereof. Personal Identification Numbers (PIN) or other customer authorization codes are protected under this section whether received by electronic or paper transactions.

Nothing in this amendment ensures confidentiality for documents that relate to the cost of protecting governmental property or electronic information and the identity of vendors providing goods and services related to this effort.

This act became effective May 22, 2001.

UNIFORM ELECTRONIC TRANSACTION ACT

Chapter No. 72 (SB376/HB387)

In an effort to establish more uniform standards relating to electronic transactions, the Tennessee General Assembly amended the Uniform Electronic Transaction Act during the 2001 session. Title 5, Chapter 24 provides that electronic transactions in relation to records, signatures, and contracts are legally binding. This law applies in the event that two or more parties agree to conduct business transactions electronically. In no way does this amendment require the use of electronic transactions to conduct business, nor does it require the continuance of this method in future transactions given that parties have previously conducted business in this manner.

Transaction agreements between parties requiring information to be delivered in writing are satisfied by the electronic copy if the record is capable of retention by the recipient at the time it is received. If the recipient is unable to retain or print the electronic record due to the information processing system of the sender, the written delivery requirement is not met.

Except as prohibited by law, the information systems council established under T.C.A. §4-3-5501 shall determine to what extent the state will retain, create, or convert written records to electronic

records. Local government officials shall determine, except as prohibited by law, to what extent they will use electronic records in the course of their business transactions. The information systems council may specify the manner and format in which the electronic records are to be created, sent, received, and retained, and the systems established for those purposes.

Local government officials implementing an electronic business system shall file a statement with the Comptroller of the Treasury at least 30 days prior to offering the service in accordance with this section.

Remember that an electronic record is a public document and must be available for public inspection unless considered a confidential record according to law. The same retention requirements apply to a record whether it is electronic or written. An official must be capable of providing a paper copy of an electronic record when necessary as prescribed by T.C.A. §10-7-121.

This act became effective July 1, 2001.

For more information, please contact the MTAS finance or management consultant in your area.

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