



COUNSELOR'S OFFICE

115 N. 4th Street, 3rd Floor
Manhattan, Kansas 66502
Phone: 785-565-6844
Fax: 785-565-6847
Email: adillon@rileycountyks.gov

January 19, 2012

The Honorable Roger Reitz, Chairman
Senate Committee on Local Government
Capitol Building, Rm. 159-S
Topeka, KS 66612

Re: S.B. 207

Dear Chairman Reitz 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 (attached), but for their explicit exemption from that statute. Their exemption from K.S.A. 2010 Supp. 16a-2-403 (attached) 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 (attached) already enjoyed by other Kansas governmental entities.

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 Holman
Riley County Counselor

cc: Board of Riley County Commissioners

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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.

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