WEST VIRGINIA CODE: §12-3A-5

§12-3A-5. Limited establishment and use of point of sale terminals, etc., for special purposes and circumstances relating to certain public assistance payments.

(a) The State Treasurer shall have authority to contract with banking institutions and other entities to establish point of sale terminals ("POS terminals"), as defined in section twelve-b, article eight, chapter thirty-one-a of this code, that accept the West Virginia check card and the cards issued by state spending units to recipients of state or federal funds, food or other benefits. If other entities decline to provide the POS terminals in a manner that meets the requirements of this section, the treasurer is authorized to establish, own and operate POS terminals. The treasurer may place the POS terminals and associated equipment at any location within this state where he or she or the Department of Human Services determines the equipment is needed to provide reasonable access to users of the cards. The POS terminals authorized pursuant to this section may be used to provide any amount of cash payment or allowable purchase of retail items or other benefits as determined by the State Treasurer, pursuant to state law and rules and, where necessary, in cooperation with any appropriate federal agencies.

(b) POS terminals established pursuant to this section may be jointly owned and operated with private sector financial institutions and may be established for the sole purpose of providing access to electronically transmitted government benefits or payments. However, if the State Treasurer establishes POS terminals, they shall be made available for use by the general public and the retailer shall reimburse the state for each transaction as per an agreement entered into at the time the POS terminals are established.

(c) Any retailer, agency or other person providing cash withdrawal services for state administered electronic cards from its own funds through POS terminals established pursuant to this section are limited to charging a fee for the service in the amount of the higher of $1 or one percent of the amount of cash withdrawn.

(d) There is created in the State Treasury a separate special revenue account, which shall be an interest bearing account, to be known as the "Point of Sale Terminals Collection Account". The account shall contain any funds received from transactions on POS terminals installed by the State Treasurer and any other funds authorized by the Legislature. Moneys in the account shall be used by the treasurer to pay the fees and costs associated with the POS terminals and related equipment, and for such other purposes as determined by the Legislature.

(e) In carrying out the purposes of this article, the treasurer shall not compete with private sector providers of POS terminals, banks or other financial institutions, or for profit. If a private sector provider, bank or other financial institution certifies to the treasurer that it can provide POS terminals to meet the requirements contained within this article, the treasurer shall not establish or maintain equipment in the locations identified in the

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certification. Nothing in this article shall authorize the treasurer to establish or operate automatic teller machines.

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