

Amendment No. 1 to SB0316

Johnson  
Signature of Sponsor

**AMEND Senate Bill No. 316\***

**House Bill No. 547**

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 22, is amended by adding the following language as a new part:

**47-22-401.** As used in this part:

(1) "Agreement" means a contract to provide payment services;

(2) "Bank holding company":

(A) Has the same meaning as defined in 12 U.S.C. § 1841;

(B) Includes any subsidiaries or affiliates, as defined in 12 U.S.C. § 1841, of a bank holding company; and

(C) Includes any federal credit union or state credit union, as those terms are defined in 12 U.S.C. § 1752;

(3) "Card issuer" means any person who issues a credit card, debit card, or other payment card, or the agent of the person with respect to the card;

(4) "Credit card" means any card, plate, coupon book, or other credit device existing for the purpose of obtaining money, property, labor, or services on credit;

(5) "Debit card":

(A) Means any card, or other payment code or device, issued or approved for use through a payment card network to debit an asset account, regardless of the purpose for which the account is established, whether authorization is based on signature, PIN, or other means;

(B) Includes a general-use prepaid card, as defined in 15 U.S.C. § 1693l-1(a)(2)(A); and

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(C) Does not include paper checks;

(6) "Merchant" means a person, located in this state, that is in the business of selling property or services and that accepts credit cards, debit cards, or other payment cards as payment for property or services sold;

(7) "Other payment card":

(A) Means any stored-value card, smart card, gift card, or other similar device that enables a person to obtain property or services in a transaction with a merchant, the payment for which is initiated through a payment card network;  
and

(B) Does not include credit cards or debit cards;

(8) "Payment acquirer" means a person that contracts directly with a merchant to provide payment services;

(9) "Payment card network" means an entity:

(A) That directly, or through licensed members, processors, or agents, provides the proprietary services, infrastructure, and software that route information and data to conduct credit card, debit card, or other payment card transaction authorization, clearance, and settlement; and

(B) That a person uses in order to accept as a form of payment a brand of credit card, debit card, or other payment card;

(10) "Payment services" means the acceptance, transmission, collection, or settlement of the merchant's sales receipts for the merchant's credit card, debit card, or other payment card transactions; and

(11) "Payment services fee":

(A) Means any amount:

(i) Charged, established, or received by a payment acquirer, payment card network, or card issuer; and

(ii) Paid by a merchant in relation to a credit card, debit card, or other payment card transaction;

(B) Includes any amount related to the purchase or lease of equipment as part of an agreement to provide payment services used in relationship to credit card, debit card, or other payment card transactions if the amount is charged, established, or received by a payment acquirer, payment card network, or card issuer; and

(C) Does not include any fees for providing deposit account, loan, or other services by a bank holding company.

**47-22-402.** Any payment acquirer that contracts directly with a merchant to provide payment services shall:

(1) Provide the merchant with information indicating where the merchant may obtain access to the operating rules, regulations, and bylaws applicable under the agreement with the merchant; provided, however, nothing in this subdivision (1) shall require access by the merchant to information made proprietary or confidential by law or contract;

(2) Disclose the following information in any agreement with the merchant:

(A) The effective date of the agreement;

(B) The term of the agreement;

(C) The provisions for early termination or cancellation of the agreement, if any; and

(D) A complete schedule of all payment services fees applicable to the credit card, debit card, or other payment card services under the agreement; and

(3) At the regular period agreed upon by the payment acquirer and the merchant, but not less than monthly, promptly supply the merchant with a statement, which may be electronic, that includes:

(A) An itemized list of all payment services fees assessed since the previous statement;

(B) The total value of the transactions processed by the payment acquirer for the merchant during the statement period; and

(C) If the payment acquirer is not a bank holding company, an indication of the aggregate fee percentage, which shall be calculated by dividing the sum of all payment services fees accrued during the statement period by the total value of the transactions processed by the payment acquirer for the merchant during the statement period.

**47-22-403.**

(a) If a payment acquirer fails to comply with § 47-22-402, the merchant may terminate the agreement; provided, however, prior to terminating the agreement, the merchant shall provide the payment acquirer written notice of the payment acquirer's failure to comply with § 47-22-402. The notice required by this subsection (a) shall specify the information the merchant requests under § 47-22-402. If the agreement sets out the manner by which notice pursuant to this subsection (a) shall be given, the terms of the agreement as to the manner in which the notice shall be given shall control.

(b) If noncompliance is based on a failure to disclose information described in § 47-22-402(1) or (3), the payment acquirer shall be given thirty (30) days from the date notice was provided to the payment acquirer pursuant to subsection (a) to comply with § 47-22-402 and provide the information. Notwithstanding subsection (a), if the payment acquirer complies with § 47-22-402(1) or (3) within the thirty-day period, the merchant shall not be allowed to terminate the agreement pursuant to this section.

SECTION 2. If this act and SB 911 / HB 1172 both become law, the code commission is requested to create one single part for both acts, remove redundant definitions in § 47-22-401, and redesignate sections accordingly.

SECTION 3. Section 47-22-402(3)(C) shall take effect March 1, 2016, the public welfare requiring it, and shall apply to agreements entered into or renewed on or after that date. All other provisions of this act shall take effect January 1, 2016, the public welfare requiring it, and shall apply to all agreements entered into or renewed on or after that date.