



**LFN 2021-09**

**May 10, 2021**

# Local Finance Notice

Philip D. Murphy  
 Governor

Lt. Governor Sheila Y. Oliver  
 Commissioner

Jacquelyn A. Suárez  
 Director

## Contact Information

### Director's Office

V. 609.292.6613  
 F. 609.633.6243

### Local Assistance Bureau

V. 609.292.6858  
 F. 609.633.6243

### Financial Regulation and Assistance

V. 609.292.4806  
 F. 609.984.7388

### Local Finance Board

V. 609.292.0479  
 F. 609.633.6243

### Administrative Services Unit

V. 609.292.6126  
 F. 609.633.6243

### Mail and Delivery

101 South Broad St.  
 PO Box 803  
 Trenton, New Jersey  
 08625-0803

[www.nj.gov/dca/divisions/dlgs](http://www.nj.gov/dca/divisions/dlgs)

E-mail: [dlgs@dca.nj.gov](mailto:dlgs@dca.nj.gov)

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## Alternatives for Local Government Payment Acceptance

Due to the continuing impact of COVID-19, municipal buildings throughout the State are either closed or subject to public access restrictions with many municipal administrative employees working remotely. This Notice explains recent updates made to the Government Electronic Payment Acceptance Act (“GEPAA” or the “Act”) by [P.L. 2020, c. 34](#), and reminds municipalities of the long-standing option to designate a local bank to accept property taxes and other municipal payments.

## Update to the Government Electronic Payment Acceptance Act

GEPPA allows payment of non-delinquent property taxes and other charges through electronic funds transfer (e.g. ACH) or credit and debit cards. Many local units currently have systems allowing at least certain payments to be made online. [Local Finance Notice AU-97-2](#) discusses the Act and the Division’s [implementing regulations](#) in further detail.

Section 9 of [P.L. 2020, c. 34](#), amended GEPAA to permit acceptance of:

- Internet-based transfer of funds through an Internet-based payment system (defined as an “online funds transfer”); and
- Funds transfers through a service accepting payments made in-person, by any method, which then performs an electronic funds transfer to the payee (defined as an “in-person funds transfer”). In-person funds transfers are offered by a variety of retail establishments along with those offering check-cashing services.

This provision allows local units to offer expanded payment options to individuals lacking bank accounts or credit cards. One major caveat is that local units cannot contract with online funds transfer or in-person funds transfer services that require the local unit to maintain, and funds to be transmitted to, an account that is not a designated depository of the local unit pursuant to N.J.S.A. 40A:5-14. The service must transmit payments directly to a local unit’s financial institution, ensuring that these funds are protected by the [Governmental Unit Deposit Protection Act](#) or “GUDPA” (N.J.S.A. 17:9-41 et seq.). Local units are encouraged to undertake due diligence to ensure a funds transfer service complies with State law.

Examples of services that transfer payments directly into a local unit's financial institution are Moneygram, Western Union, and PayIt Gov. GEPA allows the service to charge a fee either to the individual making the payment or the local unit. If the service allows charging a surcharge or convenience fee, N.J.A.C. 5:30-9.9 bars local units from charging users more than the cost of handling and processing the transaction.

#### Municipal Court Acceptance of Electronic and Alternative Payment Methods

[Rule 7:14-4\(c\)](#) adopted by the New Jersey Supreme Court allows municipal courts to accept electronic payments for fees, costs, fines, penalties, service charges or other judicially imposed financial obligations pursuant to conditions and administrative procedures established by the Administrative Director of the Courts. Traffic tickets and municipal complaints are payable online by credit card through the Judiciary's [NJMCdirect](#) system. Please note that, in contrast with N.J.A.C. 5:30-9.9, processing fees for municipal court payments are calculated based on a percentage of the transaction amount (currently 3%) by [Supreme Court order](#).

Until such point as the Judiciary authorizes their use, online funds transfers and in-person funds transfers as defined under Section 9 of P.L. 2020, c.34 may not be utilized to satisfy municipal court obligations.

#### **Acceptance of Municipal Payments by Designated Local Bank**

N.J.S.A 54:4-122.9 authorizes municipalities to adopt a resolution contracting with a local bank to serve as an "Official Tax Receiving Agency" for receiving, under the tax collector's supervision, current tax payments, current water and sewer rents, and other public monies. A bank authorized to serve in this capacity can take property tax payments, utility payments, and other charges that are otherwise paid directly to the municipality, so long as those payments are not for delinquencies. Delinquencies must be satisfied directly with the municipality; however, a bank may accept payments made within an authorized grace period.

The bank must be 1) an official depository of the municipality in accordance with N.J.S.A. 40A:5-14; and 2) commonly and generally used by residents of the municipality. N.J.S.A. 54:4-122.9 does not authorize credit unions to serve as official tax receiving agencies. If a municipality has more than one official depository where residents commonly and generally bank, the municipality shall select the bank that offers to serve as an official tax receiving agency for the lowest net cost to the municipality. In the event two or more offers from such banks are equal, the municipality shall contract with the bank that has been the holder of the larger aggregate amount of the municipality's debt during the previous 12 months.

N.J.A.C. 5:33-1.2 also specifies procedures that the municipality must follow prior to designating a bank as an official tax receiving agency, as well as the type of notice each taxpayer must receive. Prior to the governing body adopting a resolution awarding the contract, the municipality must obtain written advice from the municipal auditor who shall review the proposed contract for compliance with law, any relevant rules, and proper internal control procedures. The contract shall include detailed procedures for receipt, deposit and holding of funds, forwarding of back-up materials to the tax collector, audit trails, and all other information required for evaluation of the proposed system.

Within three days of the governing body adopting the resolution, the municipal clerk must submit a certified copy of the resolution and the auditor's report to the Division of Local Government Services. If the Division takes no action within 30 days of receipt, the resolution is deemed approved. Division approval is also required prior to entering into a new contract with another bank to provide the service or renewing a contract with an existing bank. The Division recommends that any contract with a bank allow for any resident to utilize the service free-of-charge, including residents who are not bank customers.

Once a bank is designated as an official tax receiving agency, the municipality must provide notice of this designation to all taxpayers by regular mail at least 30 days prior to the first payment the bank may collect on behalf of the municipality. Thereafter the municipality must notify taxpayers at least once annually of the designation, for example with the annual property tax bill. The Division also recommends displaying a notice on the municipal website.

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Approved: Jacquelyn A. Suárez, Director

| <b>Document</b>                                    | <b>Internet Address</b>   |
|--|---|
| P.L. 2020, c.34                                    | <a href="https://www.njleg.state.nj.us/2020/Bills/PL20/34_.PDF">https://www.njleg.state.nj.us/2020/Bills/PL20/34_.PDF</a>   |
| LFN AU-97-2  | <a href="https://www.nj.gov/dca/divisions/dlgs/lfns/pre_98/au-1997-2.pdf">https://www.nj.gov/dca/divisions/dlgs/lfns/pre_98/au-1997-2.pdf</a>                             |
| N.J.A.C. 5:30-9                                    | <a href="https://www.nj.gov/dca/divisions/dlgs/resources/rules_docs/5_30/njac_5309.pdf">https://www.nj.gov/dca/divisions/dlgs/resources/rules_docs/5_30/njac_5309.pdf</a> |
| GUDPA Page   | <a href="https://www.nj.gov/dobi/division_banking/depositories/gudpa.htm">https://www.nj.gov/dobi/division_banking/depositories/gudpa.htm</a>                             |
| Court Rule 7:14-4                                  | <a href="https://njcourts.gov/attorneys/assets/rules/r7-14.pdf">https://njcourts.gov/attorneys/assets/rules/r7-14.pdf</a>   |
| NJMCDirect   | <a href="http://www.njmcdirect.com">www.njmcdirect.com</a>  |
| Notice to the Bar –<br>Credit Card Processing Fees | <a href="https://www.njcourts.gov/notices/2019/n190621a.pdf?c=gre">https://www.njcourts.gov/notices/2019/n190621a.pdf?c=gre</a>   |

## Appendix

### **54:4-122.9. Official tax receiving agency; designation of bank or trust company; rules and regulations**

a. The local governing body of any municipality may, by resolution, from time to time designate a bank or trust company as "Official Tax Receiving Agency of (insert name of municipality)," to receive current tax payments, current water and sewer rents, and other public moneys under the supervision of the tax collector of the municipality; and the local governing body shall have power to contract for the payment of a reasonable fee for such service. The local governing body shall designate a bank or trust company commonly and generally used by residents of the municipality and shall give preference to any one of such institutions as offers to render the service for the lowest net cost to the municipality. In the event that two or more such offers are equal, preference shall be given to the bank or trust company that has been the holder of the larger aggregate amount of the municipality's evidences of indebtedness during the period of 12 months next preceding.

b. The Director of the Division of Local Government Services shall establish, in accordance with the "Administrative Procedure Act," (P.L.1968, c. 410; C. 52:14B-1 et seq.), rules and regulations to be followed in municipalities adopting the provisions of subsection a. of this section, which shall include, but not be limited to:

(1) Procedures for the appropriate and timely notification of taxpayers of any such designation made;

(2) Provisions for the exercise of the supervision of the tax collector over the receipt by the designated bank and trust company of public moneys as required under this section; and,

(3) Requirements or restrictions concerning the holding, use, accounting, reporting, and payment to the municipality, of public moneys received by such a designated bank or trust company.

### **5:33-1.2 Bank collection of tax payments**

(a) Any municipality adopting a resolution to contract for services in connection with N.J.S.A. 54:4-122.9 shall, prior to adoption, obtain written advice from the municipal auditor who shall review the proposed contract for compliance with law, any relevant rules, and proper internal control procedures. Within three days of adoption of such a resolution, the Municipal Clerk shall submit a certified copy of the resolution and report of the auditor to the Director of the Division of Local Government Services. Unless action is otherwise taken by the Director within 30 days of receipt, the resolution shall be deemed approved. Such contract shall include detailed procedures to be used in implementing procedures to receive and deposit funds, forwarding of back-up materials to the collector, holding of funds, audit trails and all other information required for evaluation of the proposed system.

(b) The bank, savings bank or trust company designated by any resolution to receive current tax payments, current water and sewer rents, and other public moneys must be designated as an official depository in accordance with N.J.S.A. 40A:5-14.

(c) Any municipality which has contracted with a bank, savings bank or trust company under N.J.S.A. 54:4-122.9 shall notify all taxpayers at least once annually that such a service has been contracted. Notification must be made by mail to all taxpayers at least 30 days prior to the next payment due, payable and subject to possible receipt by such bank, savings bank or trust company agent, following the designation of such agent.