

ADOPTED

Representative Powell of the 32nd offers the following amendment:

1 *Amend HB 192 (LC 28 7666S) by striking lines 1 through 33 and inserting in lieu thereof the*
 2 *following:*

3 To amend Article 3 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated,
 4 relating to illegal use of financial transaction cards, so as to revise definitions; to provide for
 5 the prosecution of the unlawful use of government purchasing cards; to provide for venue;
 6 to amend Chapter 80 of Title 36 of the Official Code of Georgia Annotated, relating to
 7 general provisions regarding counties, municipal corporations, and other governmental
 8 entities, so as to provide for the limitation and regulation of the use of government
 9 purchasing cards and government credit cards by elected officials of counties, municipal
 10 corporations, local school systems, and consolidated governments; to provide for the
 11 promulgation of certain policies; to provide for access to certain records; to provide for
 12 certain powers for certain local authorities; to provide a definition; to make certain findings;
 13 to provide for related matters; to repeal conflicting laws; and for other purposes.

14 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

15 **SECTION 1.**

16 Article 3 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated, relating to
 17 illegal use of financial transaction cards, is amended by revising Code Section 16-9-30,
 18 relating to definitions, as follows:

19 "16-9-30.

20 As used in this article, the term:

21 (1) 'Acquirer' means a business organization, government, financial institution, or an
 22 agent of a business organization, government, or financial institution that authorizes a
 23 merchant to accept payment by financial transaction card for money, goods, services, or
 24 anything else of value.

25 (2) 'Automated banking device' means any machine which when properly activated by
 26 a financial transaction card and personal identification code may be used for any of the
 27 purposes for which a financial transaction card may be used.

28 (3) 'Cardholder' means the person, government, or organization ~~named on the face of a~~
 29 ~~financial transaction card~~ to whom or for whose benefit the financial transaction card is
 30 issued by an issuer.

31 (4) 'Expired financial transaction card' means a financial transaction card which is no
32 longer valid because the term for which it was issued has elapsed.

33 (5) 'Financial transaction card' or 'FTC' means any instrument or device, whether known
34 as a credit card, credit plate, bank services card, banking card, check guarantee card, debit
35 card, or by any other name, issued with or without fee by an issuer for the use of the
36 cardholder:

37 (A) In obtaining money, goods, services, or anything else of value;

38 (B) In certifying or guaranteeing to a person or business the availability to the
39 cardholder of funds on deposit that are equal to or greater than the amount necessary
40 to honor a draft or check payable to the order of such person or business; or

41 (C) In providing the cardholder access to a demand deposit account, savings account,
42 or time deposit account for the purpose of:

43 (i) Making deposits of money or checks therein;

44 (ii) Withdrawing funds in the form of money, money orders, or traveler's checks
45 therefrom;

46 (iii) Transferring funds from any demand deposit account, savings account, or time
47 deposit account to any other demand deposit account, savings account, or time deposit
48 account;

49 (iv) Transferring funds from any demand deposit account, savings account, or time
50 deposit account to any credit card accounts, overdraft privilege accounts, loan
51 accounts, or any other credit accounts in full or partial satisfaction of any outstanding
52 balance owed existing therein;

53 (v) For the purchase of goods, services, or anything else of value; or

54 (vi) Obtaining information pertaining to any demand deposit account, savings
55 account, or time deposit account.

56 (5.1) 'Financial transaction card account number' means a number, numerical code,
57 alphabetical code, or alphanumeric code assigned by the issuer to a particular financial
58 transaction card and which identifies the cardholder's account with the issuer.

59 (5.2) 'Government' means:

60 (A) Every state department, agency, board, bureau, commission, and authority;

61 (B) Every county, municipal corporation, school system, or other political subdivision
62 of this state;

63 (C) Every department, agency, board, bureau, commission, authority, or similar body
64 of each such county, municipal corporation, school system, or other political
65 subdivision of this state; and

66 (D) Every city, county, regional, or other authority established pursuant to the laws of
67 this state.

68 (6) 'Issuer' means the business organization or financial institution or its duly authorized
69 agent which issues a financial transaction card.

70 (7) 'Personal identification code' means a numeric or alphabetical code, signature,
71 photograph, fingerprint, or any other means of electronic or mechanical confirmation
72 used by the cardholder of a financial transaction card to permit authorized electronic use
73 of that financial transaction card.

74 (8) 'Presenting' means those actions taken by a cardholder or any person to introduce a
75 financial transaction card into an automated banking device with or without utilization
76 of a personal identification code or merely displaying or showing, with intent to defraud,
77 a financial transaction card to the issuer or to any person or organization providing
78 money, goods, services, or anything else of value or to any other entity.

79 (8.1) 'Purchasing card,' 'PCard,' or 'P-Card' means a type of financial transaction card
80 allowing persons, governments, or business organizations to use financial transaction
81 infrastructure.

82 (9) 'Receives' or 'receiving' means acquiring possession of or control of or accepting a
83 financial transaction card as security for a loan.

84 (10) 'Revoked financial transaction card' means a financial transaction card which is no
85 longer valid because permission to use it has been suspended or terminated by the issuer."

86 SECTION 2.

87 Said article is further amended by revising Code Section 16-9-33, relating to financial
88 transaction card fraud, as follows:

89 "16-9-33.

90 (a) A person commits the offense of financial transaction card fraud when, with intent to
91 defraud the issuer; a person or organization providing money, goods, services, or anything
92 else of value; or any other person; or cardholder, he such person:

93 (1) Uses for the purpose of obtaining money, goods, services, or anything else of value:

94 (A) A financial transaction card obtained or retained or which was received with
95 knowledge that it was obtained or retained in violation of Code Section 16-9-31
96 or 16-9-32;

97 (B) A financial transaction card which he or she knows is forged, altered, expired,
98 revoked, or was obtained as a result of a fraudulent application in violation of
99 subsection (d) of this Code section; or

100 (C) The financial transaction card account number of a financial transaction card which
101 he or she knows has not in fact been issued or is forged, altered, expired, revoked, or
102 was obtained as a result of a fraudulent application in violation of subsection (d) of this
103 Code section;

- 104 (2) Obtains money, goods, services, or anything else of value by:
- 105 (A) Representing without the consent of the cardholder that he or she is the holder of
- 106 a specified card;
- 107 (B) Presenting the financial transaction card without the authorization or permission
- 108 of the cardholder or issuer;
- 109 (C) Falsely representing that he or she is the holder of a card and such card has not in
- 110 fact been issued; or
- 111 (D) Giving, orally or in writing, a financial transaction card account number to the
- 112 provider of the money, goods, services, or other thing of value for billing purposes
- 113 without the authorization or permission of the cardholder or issuer for such use;
- 114 (3) Obtains control over a financial transaction card as security for debt;
- 115 (4) Deposits into his or her account or any account by means of an automated banking
- 116 device a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any
- 117 other such document not his or her lawful or legal property; or
- 118 (5) Receives money, goods, services, or anything else of value as a result of a false,
- 119 fictitious, forged, altered, or counterfeit check, draft, money order, or any other such
- 120 document having been deposited into an account via an automated banking device,
- 121 knowing at the time of receipt of the money, goods, services, or item of value that the
- 122 document so deposited was false, fictitious, forged, altered, or counterfeit or that the
- 123 above-deposited item was not his lawful or legal property.
- 124 (b) A person who is authorized by an issuer to furnish money, goods, services, or anything
- 125 else of value upon presentation of a financial transaction card by the cardholder or any
- 126 agent or employee of such person commits the offense of financial transaction card fraud
- 127 when, with intent to defraud the issuer or the cardholder, he or she:
- 128 (1) Furnishes money, goods, services, or anything else of value upon presentation of a
- 129 financial transaction card obtained or retained in violation of Code Section 16-9-31 or a
- 130 financial transaction card which he or she knows is forged, expired, or revoked;
- 131 (2) Alters a charge ticket or purchase ticket to reflect a larger amount than that approved
- 132 by the cardholder; or
- 133 (3) Fails to furnish money, goods, services, or anything else of value which he or she
- 134 represents in writing to the issuer that he or she has furnished.
- 135 (c) Conviction of the offense of financial transaction card fraud as provided in subsection
- 136 (a) or (b) of this Code section is punishable as provided in subsection (a) of Code
- 137 Section 16-9-38 if the value of all money, goods, services, and other things of value
- 138 furnished in violation of this Code section or if the difference between the value actually
- 139 furnished and the value represented to the issuer to have been furnished in violation of this
- 140 Code section does not exceed \$100.00 in any six-month period. Conviction of the offense

141 of financial transaction card fraud as provided in subsection (a) or (b) of this Code section
142 is punishable as provided in subsection (b) of Code Section 16-9-38 if such value
143 exceeds \$100.00 in any six-month period.

144 (d) A person commits the offense of financial transaction card fraud when, upon
145 application for a financial transaction card to an issuer, he or she knowingly makes or
146 causes to be made a false statement or report relative to his or her name, occupation,
147 employer, financial condition, assets, or liabilities or willfully and substantially overvalues
148 any assets or willfully omits or substantially undervalues any indebtedness for the purpose
149 of influencing the issuer to issue a financial transaction card. Financial transaction card
150 fraud as provided in this subsection is punishable as provided in subsection (b) of Code
151 Section 16-9-38.

152 (e) A cardholder commits the offense of financial transaction card fraud when he or she
153 willfully, knowingly, and with an intent to defraud the issuer; a person or organization
154 providing money, goods, services, or anything else of value; or any other person submits
155 verbally or in writing to the issuer or any other person any false notice or report of the theft,
156 loss, disappearance, or nonreceipt of his or her financial transaction card and personal
157 identification code. Conviction of the offense of financial transaction card fraud as
158 provided in this subsection is punishable as provided in subsection (b) of Code
159 Section 16-9-38.

160 (f) A person authorized by an acquirer to furnish money, goods, services, or anything else
161 of value upon presentation of a financial transaction card or a financial transaction card
162 account number by a cardholder or any agent or employee of such person, who, with intent
163 to defraud the issuer, acquirer, or cardholder, remits to an issuer or acquirer, for payment,
164 a financial transaction card record of a sale, which sale was not made by such person,
165 agent, or employee, commits the offense of financial transaction card fraud. Conviction of
166 the offense of financial transaction card fraud as provided in this subsection shall be
167 punishable as provided in subsection (b) of Code Section 16-9-38.

168 ~~(g) In any prosecution for violation of this Code section, the state is not required to~~
169 ~~establish that all of the acts constituting the crime occurred in this state or within one city,~~
170 ~~county, or local jurisdiction, and it is no defense that some of the acts constituting the crime~~
171 ~~did not occur in this state or within one city, county, or local jurisdiction. Except as~~
172 ~~otherwise provided by Code Section 17-2-2, for purposes of venue the crime defined by~~
173 ~~this Code section shall be considered as having been committed in the county where the~~
174 ~~commission of the crime commenced Reserved.~~

175 (h) For purposes of this Code section, revocation shall be construed to include either notice
176 given in person or notice given in writing to the person to whom the financial transaction
177 card and personal identification code was issued. Notice of revocation shall be immediate

178 when notice is given in person. The sending of a notice in writing by registered or certified
 179 mail or statutory overnight delivery in the United States mail, duly stamped and addressed
 180 to such person at his or her last address known to the issuer, shall be prima-facie evidence
 181 that such notice was duly received after seven days from the date of deposit in the mail. If
 182 the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal
 183 Zone, and Canada, notice shall be presumed to have been received ten days after mailing
 184 by registered or certified mail or statutory overnight delivery."

185 **SECTION 3.**

186 Said article is further amended by revising Code Section 16-9-37, relating to unauthorized
 187 use of financial transaction card, as follows:

188 "16-9-37.

189 (a) Any person who has been issued or entrusted with a financial transaction card for
 190 specifically authorized purposes, provided such authorization is in writing stating a
 191 maximum amount charges that can be made with the financial transaction card, and who
 192 uses the financial transaction card in a manner and for purposes not authorized in order to
 193 obtain or purchase money, goods, services, or anything else of value shall be punished as
 194 provided in subsection (a) of Code Section 16-9-38.

195 (b) Any person who has been issued or entrusted with a financial transaction card by a
 196 government for specifically limited and specifically authorized purposes, provided such
 197 limitations and authorizations are in writing, and who uses the financial transaction card
 198 in a manner and for purposes not authorized shall be punished as provided in subsection (b)
 199 of Code Section 16-9-38."

200 **SECTION 4.**

201 Said article is further amended by adding a new Code section to read as follows:

202 "16-9-40.

203 (a) In any prosecution for a violation of this article, the state is not required to establish
 204 that all of the acts constituting the crime occurred in this state or within one city, county,
 205 or local jurisdiction, and it is no defense that some of the acts constituting the crime did not
 206 occur in this state or within one city, county, or local jurisdiction. Except as otherwise
 207 provided by Code Section 17-2-2, for purposes of venue, the crime defined by this Code
 208 section shall be considered as having been committed in the county where the commission
 209 of the crime commenced.

210 (b) In any prosecution for a violation of this article by a public official or government
 211 employee, using government funds or a financial transaction card issued to such official
 212 or government employee by or on behalf of government, the crime shall be considered to

213 have been committed in the county in which such public official holds office or such
 214 government employee is employed."

215 **SECTION 5.**

216 Chapter 80 of Title 36 of the Official Code of Georgia Annotated, relating to general
 217 provisions regarding counties, municipal corporations, and other governmental entities, is
 218 amended by adding a new Code section to read as follows:

219 "36-80-24.

220 (a) An elected official of a county, municipal corporation, local school system, or
 221 consolidated government shall be prohibited from the use of a government purchasing card
 222 or a government credit card unless:

223 (1) Such purchases are solely for items or services that directly relate to such official's
 224 public duties; and

225 (2) Such purchases are in accordance with guidelines adopted by the county, municipal
 226 corporation, local school system, or consolidated government.

227 (b) Documents related to such purchases incurred by such elected officials shall be
 228 available for public inspection.

229 (c) No such county, municipal corporation, local school system, or consolidated
 230 government shall issue government purchasing cards or government credit cards to elected
 231 officials on or after January 1, 2016, until the governing authority of such county,
 232 municipal corporation, local school system, or consolidated government, by public vote,
 233 has authorized such issuance and has promulgated specific policies regarding the use of
 234 such government purchasing cards or government credit cards for elected officials of such
 235 county, municipal corporation, local school system, or consolidated government. Such
 236 policies shall include the following:

237 (1) Designation of officials who shall be authorized to be issued such government
 238 purchasing cards or government credit cards;

239 (2) A requirement that, before being issued a government purchasing card or government
 240 credit card, authorized users shall sign and accept an agreement with the county,
 241 municipal corporation, local school system, or consolidated government issuing the
 242 government purchasing card or government credit card that such users will use such cards
 243 only in accordance with the policies of the issuing governmental entity;

244 (3) Transaction limits for the use of such cards;

245 (4) A description of purchases that shall be authorized for use of such cards;

246 (5) A description of purchases that shall not be authorized for use of such cards;

247 (6) Designation of a government purchasing card or government credit card
 248 administrator;

249 (7) A process for auditing and reviewing purchases made with such cards; and
 250 (8) Procedures for addressing a violation of such purchasing card or credit card policies
 251 and imposing penalties for violations including, but not limited to, revocation of
 252 purchasing card or credit card privileges. Nothing in such procedures or any
 253 administrative action taken pursuant thereto shall preclude any other civil or criminal
 254 remedy under any other provision of law."

255 **SECTION 6.**

256 Said chapter is further amended by adding a new Code section to read as follows:

257 "36-80-25.

258 (a) As used in this Code section, the term 'project' means and includes hospitals, health
 259 care facilities, dormitories, office buildings, clinics, housing accommodations, nursing
 260 homes, rehabilitation centers, extended care facilities, and other health related facilities,
 261 whether public or private.

262 (b) To the extent that the Constitution of Georgia permits the General Assembly by law
 263 to further define the powers and duties of any local government authority, as defined in
 264 Code Section 36-80-16, whose purpose includes the public purpose of developing or
 265 promoting trade, commerce, or industry, and to enlarge or restrict the same, each such local
 266 government authority is authorized and shall have the power to finance (by loan, grant,
 267 lease, or otherwise), refinance, construct, erect, assemble, purchase, acquire, own, repair,
 268 remodel, renovate, rehabilitate, modify, maintain, extend, improve, install, sell, equip,
 269 expand, add to, operate, or manage projects and to pay the cost of any project from the
 270 proceeds of revenue bonds of such a local government authority or any other funds of such
 271 local government authority, or from any contributions or loans by persons, corporations,
 272 limited or general partnerships, or other entities, all of which such a local government
 273 authority is authorized to receive, accept, and use. To the extent that any project serves
 274 a governmental function, the General Assembly finds and determines that such a project
 275 by its nature comprises both public and private components that are integrated so as to
 276 produce the desired public purpose and that therefore carrying out such a project is proper
 277 and authorized for such a local government authority under the Constitution of Georgia."

278 **SECTION 7.**

279 All laws and parts of laws in conflict with this Act are repealed.