

**DE 00-03 - February 8, 2000**

**Use of Debit and Credit Cards for Campaign Contributions and Expenditures  
§ 106.011, Fla. Stat. (1999)**

*TO: The Honorable David C. Leahy, Supervisor of Elections, Miami-Dade County Elections Office,  
111 NW 1 Street, Suite 1910, Miami, Florida 33128-1962*

*Prepared by: Division of Elections*

This is in response to your request for an advisory opinion regarding the use of debit and credit cards for campaign contributions and expenditures. You are the Supervisor of Elections for Miami-Dade County and pursuant to section 106.23(2), Florida Statutes, the Division of Elections has authority to issue an opinion to you. You essentially ask the following:

- 1) May a candidate, political committee or political party accept campaign contributions via credit card or debit card?
- 2) May a candidate, political committee or political party make expenditures using a debit card?

The answer to your first question is yes. In Division of Elections Opinion 90-15, the Division opined that a campaign contribution in excess of \$100 by means of a money order or travelers check could be accepted as long as the name, address, etc. of the contributor was duly reported. Part of the reasoning behind this opinion was that while cash and cashier's checks were specifically prohibited, the aforementioned instruments were not. See *Thayer v. State*, 335 So.2d 215 (Fla. 1976) (where a statute enumerates things which are prohibited, those things not expressly mentioned are permitted).

In Division of Elections Opinion 90-40, the Division opined that the Florida Democratic Party, and its candidates, could accept campaign contributions by credit card. The Division recognized that "the use and acceptance of bank credit cards as a convenient substitute for cash has expanded tremendously over the past 2 decades." The Division noted that statutes which regulate contributions should not be interpreted in a way which infringe on First Amendment freedoms more than necessary in order to protect the state's interest in disclosure. Using this rationale, the Division again reasoned that as long as the disclosure requirements of chapter 106, Florida Statutes, were complied with, use of a credit card was not improper.

Like credit cards, the use of bank debit cards as a convenient way of making purchases has expanded to a common everyday occurrence. Further, accepting contributions via credit or debit card is not specifically prohibited by chapter 106, Florida Statutes. Based upon the same rationale set forth in DE 90-40, the Division concludes that as long as the disclosure requirements of chapter 106, Florida Statutes, are met, a candidate, political committee or political party may accept campaign contributions via credit card or debit card. (See also Informal Opinion of Emmett Mitchell, IV, dated July 21, 1999, attached.)

With regard to your second question, the answer is yes. Section 106.11(1), Florida Statutes, provides in pertinent part:

The campaign treasurer or deputy campaign treasurer of a candidate or political committee shall make expenditures from funds on deposit in the primary campaign depository only by means of bank check drawn upon the campaign account of the candidate or political committee.

Section 106.11(1)(a)-(e), Florida Statutes, also provides that checks written for campaign expenditures must indicate that the check is from a campaign account and contain the exact amount of the expenditure, the signature of the campaign treasurer or deputy treasurer, the exact purpose for which the expenditure is authorized, and the name of the payee.

It is a general rule of statutory interpretation that statutes are designed for application to new conditions and circumstances as they may be developed by enlightened commercial and business intercourse if they are within the scope and remedial intent of existing provisions and principles. *49 Fla. Jur. 2d, Statutes § 122* (1998). A statute may be held to apply to new situations, cases, conditions, methods, entities, etc. that come into existence after a statute becomes effective. *State v. Jacksonville*, 50 So.2d 532 (Fla. 1951).

Pursuant to this rule of statutory interpretation it is clear that using a debit card, which is actually an "electronic check," to make campaign expenditures is within the scope of section 106.11(1), Florida Statutes. Further, the transaction document used for a debit card purchase will usually indicate the account name and number, the items purchased, the name of the payee, the date and time of the transaction, and will have the signature of the person using the debit card. Thus, a debit card transaction meets the informational requirements of a traditional bank check set forth in section 106.11(1)(a)-(e), Florida Statutes.

The language in section 106.11(1), Florida Statutes, regarding making expenditures "only by means of a bank check" was adopted by the legislature and became law in 1977. Significant changes in the way the average person conducts business have occurred since this time. Therefore, it is the Division's opinion that section 106.11(1), Florida Statutes, should be interpreted in light of new conditions and circumstances to allow the use of electronic checks along with the traditional bank check for campaign expenditures.

## **SUMMARY**

A candidate, political committee or political party may accept contributions via a credit card or debit card. A candidate, political committee or political party may use a debit card to make campaign expenditures.