



February 10, 2015

Mr. Chairman and Members of the Committee:

My name is Jeff Spahr, and I am Staff Attorney with the Office of the State Bank Commissioner. I am here today to speak in support of House Bill 2166.

The Office of the State Bank Commissioner (OSBC) is charged with implementing and enforcing the Kansas Money Transmitter Act (KMTA). This involves licensing and examining money transmitter companies operating in Kansas to ensure their safety and soundness for the protection of Kansas consumers. Currently we have 86 licensed money transmitters with 6,790 agents (including both physical agents, and online agents) in Kansas. Additionally, we have numerous entities that we are pursuing, in the form of inquiries and formal actions, for unlicensed activity in Kansas.

Due to the rapid change of technology and increasing amount of money transmission being conducted electronically and through the internet, our agency has been before your committee numerous times over the past few years seeking to update the KMTA with these changes and we are here again this year. While the traditional method of money transmission used to require you to go into your local convenience store to fill out a money order, the industry has rapidly shifted to more and more money transmission being conducted online without the use of traditional money orders or other payment instruments. Our agency has sought legislation to strengthen and clarify our laws to adapt and keep up with this technology in order to maintain our ability to protect consumers and to maintain a level playing field between the legitimate businesses which seek licenses under the law and those which seek to operate without licenses, often to the consumers' detriment. This year we would again like to amend the Money Transmitter Act to change a few provisions that will help our agency in the supervision of these companies.

This bill amends the Kansas Money Transmitter Act and I will bring to your attention the major changes of the bill.

- A. We are seeking to clarify the licensee-agent relationship and ensure that any agent of a licensee is a "legitimate" agent and not a company seeking to avoid licensure itself. In a traditional money transmitter model, a licensee (such as Western Union) may appoint another entity (such as a convenience store) as its agent to act on its behalf and to receive funds from consumers for transmission through the licensee and eventually to the recipient. However, now some newer internet companies are exploiting this ability to be appointed as another licensee's agent in order to run a separate money transmitter business and avoid licensure themselves – known as a "rent a license" scheme. We are proposing to fix this problem through two avenues:
1. Modify the definition of "Agent" in 9-508(a) to require that any entity appointed as an agent must forward such funds directly to the licensee (page 1 of bill)

2. Require a licensee to obtain prior approval from the OSBC before appointing an agent that is not physically located in Kansas such as an online-only agent (page 7 of bill)
- B. We are seeking to update the definition of outstanding payments to keep up with changing technology. Under the Money Transmitter Act, every licensed company is required to keep on hand an adequate amount of permissible investments to cover 100% of the money that is currently being transmitted by it. This money that has yet to be paid out by the licensee is considered “outstanding.” In order to keep up with the technological shifts of a changing industry, we are seeking to modify the wording used to describe the “outstanding” liabilities for which a licensee must maintain adequate permissible investments. The proposed bill replaces the definition of “outstanding payment instruments” with “outstanding payment liability” in 9-508(i) (page 2). It also makes the corresponding changes to the permissible investment requirements in 9-513b (page 9). As more and more of our licensed companies move away from the traditional model of sending actual payment instruments (such as money orders), this change is necessary to ensure that our online and other licensed entities that are transmitting money electronically accurately report their outstanding payments.
- C. The bill proposes to provide more flexibility for the Act’s surety requirements. Under current law, a licensee must keep a minimum of \$200,000 on deposit at a state bank to act as surety in case it is unable to meet its financial obligations. In lieu of the deposit, the licensee may provide a surety bond in the same amount payable to the OSBC. This bond amount may be increased up to a maximum of \$500,000 based upon the impaired financial condition of the licensee. Section 2 of this bill (page 5) would keep the minimum amount the same at \$200,000, but would increase the maximum up to \$1 million. Additionally, it would allow the OSBC to increase the amount based upon the additional criterion of the increased volume amount of money transmission business by the entity in the state. Therefore, if an entity is performing a high volume of business in Kansas, the surety amount could be increase to ensure that consumers are protected in the event of default by the licensed company.
- D. The bill also provides a number of minor changes necessary to help provide efficient administration of the law.
1. Require that any financial statements filed with the commissioner be in accordance with US GAAP – 9-509(d)(4) (on page 5). Some international companies have recently tried to file statements with their countries’ respective accounting standards; we want to be sure they are in compliance with U.S. accounting standards.
 2. Provides explicit authority for the OSBC to require entities to retain certain records necessary to verify compliance with the Act – 9-509(h)(2) (on page 6). This will ensure that licensed companies will maintain all of their records for examination by the OSBC. This is similar to language in other statutes enforced by the OSBC.
 3. Provides additional justification for the OSBC to take administrative action against a licensed entity for refusal to provide required information – 9-513a(h) and (p) (page 8-9). This will provide the OSBC with a stronger legal basis to require **that** companies provide necessary information.

Mr. Chairman, thank you for allowing me to highlight the changes that are proposed in House Bill 2216. I would ask for the committee’s favorable consideration and would be happy to answer any questions.