

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on **Judiciary** recommends **SB 30** be amended on page 1, following line 7, by inserting:

"Section 1. K.S.A. 2024 Supp. 9-555 is hereby amended to read as follows: 9-555. (a) K.S.A. 2024 Supp. 9-555 through 9-596, and amendments thereto, shall be known and may be cited as the Kansas money transmission act.

(b) As used in the Kansas money transmission act:

(1) "Act" means the Kansas money transmission act.

(2) "Acting in concert" means persons knowingly acting together with a common goal of jointly acquiring control of a licensee whether or not pursuant to an express agreement.

(3) "Applicant in control of a licensee" means a person or a person in a group of persons acting in concert that is in control of, or apply to acquire control of, a licensee pursuant to K.S.A. 2024 Supp. 9-571, and amendments thereto.

(4) "Authorized delegate" means a person designated by a licensee to engage in money transmission on behalf of the licensee.

~~(4)~~(5) "Average daily money transmission liability" means the amount of the licensee's outstanding money transmission obligations in Kansas at the end of each day in a given period of time added together and divided by the total number of days in the given period of time. For any licensee required to calculate "average daily money transmission liability" pursuant to this act, the given period of time shall be the calendar quarters ending March 31, June 30, September 30 and December 31.

~~(5)~~(6) "Closed loop stored value" means stored value that is redeemable by the issuer only for goods or services provided by the issuer or the issuer's affiliates or franchisees of the issuer or the franchisees's affiliates, except to the extent required by applicable law to be redeemable in cash for its cash value.

~~(6)~~(7) "Commissioner" means the state bank commissioner, or a person designated by the state bank commissioner to enforce this act.

~~(7)~~(8) "Control" means the power to:

(A) Vote directly or indirectly at least 25% of the outstanding voting shares or voting interests of a licensee or person in control of a licensee;

(B) elect or appoint a majority of key individuals or executive officers, managers, directors, trustees or other persons exercising managerial authority of a person in control of a licensee; or

(C) exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee.

~~(8)~~(9) "Eligible rating" means a credit rating from any of the three highest rating categories provided by an eligible rating service. Each rating category may include rating category modifiers such as plus or minus for Standard & Poor or the equivalent for any other eligible rating service. "Eligible rating" shall be determined as follows:

(A) Long-term credit ratings shall be deemed eligible if the rating is equal to A- or higher by Standard & Poor or the equivalent from any other eligible rating service.

(B) Short-term credit ratings are deemed eligible if the rating is equal to or higher than A-2 or SP-2 by Standard & Poor or the equivalent from any other eligible rating service. If ratings differ among eligible rating services, the highest rating shall apply when determining whether a security bears an eligible rating.

~~(9)~~(10) "Eligible rating service" means any nationally recognized statistical rating organization that has been registered by the securities and exchange commission or any organization designated by the commissioner through order or rules and regulations as an eligible rating service.

~~(10)~~(11) "Federally insured depository financial institution" means a bank, credit union, savings and loan association, trust company, savings association, savings bank, industrial bank or industrial loan company organized under the laws of the United States or any state of the United States, when such bank, credit union, savings and loan association, trust company, savings association, savings bank, industrial bank or industrial loan company has federally insured deposits.

~~(11)~~(12) "In Kansas" means the:

(A) Physical location of a person who is requesting a transaction in person in the state of Kansas; or

(B) person's residential address or the principal place of business for a person requesting a transaction electronically or by telephone if such residential address or principal place of business is in the state of Kansas.

~~(12)~~(13) "Individual" means a natural person.

~~(13)~~(14) "Key individual" means any individual ultimately responsible for establishing or directing policies and procedures of the licensee, including, but not limited to, an executive officer, manager, director or trustee.

~~(14)~~(15) "Licensee" means a person licensed under this act.

~~(15)~~(16) "Material litigation" means litigation, that according to United States generally accepted accounting principles, is significant to a person's financial health and would be a required disclosure in the person's annual audited financial statements, report to shareholders or

similar records.

~~(16)~~(17) "Money" means a medium of exchange that is authorized or adopted by the United States or a foreign government. "Money" includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more governments.

~~(17)~~(18) "Monetary value" means a medium of exchange, whether or not redeemable in money.

~~(18)~~(19) (A) "Money transmission" means any of the following:

- (i) Selling or issuing payment instruments to a person located in Kansas;
- (ii) selling or issuing stored value to a person located in Kansas;
- (iii) receiving money for transmission from a person located in Kansas; or
- (iv) payroll processing services.

(B) "Money transmission" does not include the provision of solely online or telecommunications services or network access.

~~(19)~~(20) "Money service business accredited state" means a state agency that is accredited by the conference of state bank supervisors and money transmitter regulators association for money transmission licensing and supervision.

~~(20)~~(21) "Multistate licensing process" means any agreement entered into by state regulators relating to coordinated processing of applications for money transmission licenses, applications for the acquisition of control of a licensee, control determinations or notice and information requirements for a change of key individuals.

~~(21)~~(22) "Nationwide multistate licensing system and registry" means a licensing system developed by the conference of state bank supervisors and the American association of residential mortgage regulators and owned and operated by the state regulatory registry, limited liability company or any successor or affiliated entity for the licensing and registration of persons

in financial services industries.

~~(22)~~(23) (A) "Outstanding money transmission obligation" means:

(i) Any payment instrument or stored value issued or sold by the licensee to a person located in the United States or reported as sold by an authorized delegate of the licensee to a person that is located in the United States that has not yet been paid or refunded by or for the licensee or escheated in accordance with applicable abandoned property laws; or

(ii) any money received for transmission by the licensee or an authorized delegate in the United States from a person located in the United States that has not been received by the payee or refunded to the sender or escheated in accordance with applicable abandoned property laws.

(B) "In the United States" includes a person in any state, territory or possession of the United States, the District of Columbia, the commonwealth of Puerto Rico or a United States military installation that is located in a foreign country.

~~(23)~~(24) "Passive investor" means a person that:

(A) Does not have the power to elect a majority of key individuals or executive officers, managers, directors, trustees or other persons exercising managerial authority of a person in control of a licensee;

(B) is not employed by and does not have any managerial duties of the licensee or person in control of a licensee; or

(C) does not have the power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee; and

(D) (i) either attests to subparagraphs (A), (B) and (C) in a form and in a manner prescribed by the commissioner; or

(ii) commits to the passivity characteristics of subparagraphs (A), (B) and (C) in a

written document.

~~(24)~~(25) (A) "Payment instrument" means a written or electronic check, draft, money order, traveler's check or other written or electronic instrument for the transmission or payment of money or monetary value, regardless of negotiability.

(B) "Payment instrument" does not include stored value or any instrument that is:

(i) Redeemable by the issuer only for goods or services provided by the issuer or the issuer's affiliate or franchisees of the issuer or the franchisees' affiliate, except to the extent required by applicable law to be redeemable in cash for its cash value; or

(ii) not sold to the public but issued and distributed as part of a loyalty, rewards or promotional program.

~~(25)~~(26) "Payroll processing services" means the receipt of money for transmission pursuant to a contract with a person to deliver wages or salaries, make payment of payroll taxes to state and federal agencies, make payments relating to employee benefit plans or make distributions of other authorized deductions from wages or salaries. "Payroll processing services" does not include an employer performing payroll processing services on the employer's own behalf or on behalf of an affiliate.

~~(26)~~(27) "Person" means any individual, general partnership, limited partnership, limited liability company, corporation, trust, association, joint stock corporation or other corporate entity identified or recognized by the commissioner.

~~(27)~~(28) "Receiving money for transmission" or "money received for transmission" means the receipt of money or monetary value in the United States for transmission within or outside the United States by electronic or other means.

~~(28)~~(29) "Stored value" means monetary value representing a claim against the issuer evidenced by an electronic or digital record and that is intended and accepted for use as a means

of redemption for money or monetary value or payment for goods or services. "Stored value" includes, but is not limited to, prepaid access as defined by 31 C.F.R. § 1010.100. "Stored value" does not include a payment instrument or closed loop stored value or stored value not sold to the public but issued and distributed as part of a loyalty, rewards or promotional program.

~~(29)~~(30) "Tangible net worth" means the aggregate assets of a licensee excluding all intangible assets, less liabilities, as determined in accordance with United States generally accepted accounting principles.

(c) This section shall take effect on and after January 1, 2025.

Sec. 2. K.S.A. 2024 Supp. 9-565 is hereby amended to read as follows: 9-565. (a) As a part of any original application, any individual in control of a licensee, any applicant in control of a licensee and each key individual shall provide the commissioner with the following items through the nationwide multistate licensing system and registry:

(1) (A) The office of the state bank commissioner may require an individual applicant in control of a licensee, a licensee or a key individual to be fingerprinted and submit to a state and national criminal history record check in accordance with K.S.A. 2024 Supp. 22-4714, and amendments thereto. ~~The fingerprints shall be used to identify the individual and to determine whether such individual has a record of criminal history in this state or other jurisdictions. The office of the state bank commissioner is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The office of the state bank commissioner may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the individual and in the official determination of the qualifications and fitness of the individual to be issued or to maintain a license;~~

~~(B) Local and state law enforcement officers and agencies shall assist the office of the~~

~~state bank commissioner in taking and processing of fingerprints of applicants for and holders of any license, registration, permit or certificate;~~

~~(C) The Kansas bureau of investigation shall release all records of adult convictions and noneconvictions in Kansas and adult convictions, adjudications and noneconvictions of another state or country to the office of the state bank commissioner. Disclosure or use of any information received for any purpose other than provided in this section shall be a class A misdemeanor and shall constitute grounds for removal from office or termination of employment; and~~

~~(D)~~(B) Any individual ~~that~~ who currently resides and has continuously resided outside of the United States for the past 10 years shall not be required to comply with this subsection; and

(2) a description of the individual's personal history and experience provided in a form and manner prescribed by the commissioner to obtain the following:

(A) An independent credit report from a consumer reporting agency. This requirement shall be waived if the individual does not have a social security number;

(B) information related to any criminal convictions or pending charges; and

(C) information related to any regulatory or administrative action and any civil litigation involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty or breach of contract.

(b) (1) If the individual has resided outside of the United States at any time during the 10-year period immediately preceding the individual's application, the individual shall also provide an investigative background report prepared by an independent search firm.

(2) At a minimum, the search firm shall:

(A) Demonstrate that it has sufficient knowledge and resources and that such firm

employs accepted and reasonable methodologies to conduct the research of the background report; and

(B) not be affiliated with or have an interest with the individual it is researching.

(3) The investigative background report shall be provided in English and, at a minimum, shall contain the following:

(A) A comprehensive credit report or any equivalent information obtained or generated by the independent search firm to accomplish such report, including a search of the court data in the countries, provinces, states, cities, towns and contiguous areas where the individual resided and worked if such report is available in the individual's current jurisdiction of residency;

(B) criminal records information for the 10-year period immediately preceding the individual's application, including, but not limited to, felonies, misdemeanors or similar convictions for violations of law in the countries, provinces, states, cities, towns and contiguous areas where the individual resided and worked;

(C) employment history;

(D) media history including an electronic search of national and local publications, wire services and business applications; and

(E) financial services-related regulatory history, including, but not limited to, money transmission, securities, banking, insurance and mortgage-related industries.

(c) Any information required by this section may be used by the commissioner in making an official determination of the qualifications and fitness of the person in control or who seeks to gain control of the licensee.

(d) This section shall take effect on and after January 1, 2025.

Sec. 3. K.S.A. 2024 Supp. 9-2411 is hereby amended to read as follows: 9-2411. (a) The commissioner shall administer the provisions of this act. In addition to other powers granted

by this act, the commissioner, within the limitations provided by law, may exercise the following powers:

(1) Adopt, amend and revoke rules and regulations as necessary to carry out the intent and purpose of this act;

(2) make any investigation and examination of the operations, books and records of an earned wage access services provider as the commissioner deems necessary to aid in the enforcement of this act;

(3) have free and reasonable access to the offices, places of business and all records of the registrant that will enable the commissioner to determine whether the registrant is complying with the provisions of this act. The commissioner may designate persons, including comparable officials of the state in which the records are located, to inspect the records on the commissioner's behalf;

(4) establish, charge and collect fees from applicants or registrants for reasonable costs of investigation, examination and administration of this act, in such amounts as the commissioner may determine to be sufficient to meet the budget requirements of the commissioner for each fiscal year. The commissioner may maintain an action in any court to recover such costs;

(5) order any registrant or person to cease any activity or practice that the commissioner deems to be deceptive, dishonest, a violation of this act, or of any other state or federal law, or unduly harmful to the interests of the public;

(6) exchange any information regarding the administration of this act with any agency of the United States or any state that regulates the applicant or registrant or administers statutes, rules and regulations or programs related to earned wage access services laws with any attorney general or district attorney with jurisdiction to enforce criminal violations of this act;

(7) disclose to any person or entity that an applicant's or registrant's application or registration has been denied, suspended, revoked or refused renewal;

(8) require or permit any person to file a written statement, under oath or otherwise as the commissioner may direct, setting forth all the facts and circumstances concerning any apparent violation of this act, any rule and regulation adopted thereunder or any order issued pursuant to this act;

(9) receive, as a condition in settlement of any investigation or examination, a payment designated for consumer education to be expended for such purpose as directed by the commissioner;

(10) delegate the authority to sign any orders, official documents or papers issued under or related to this act to the deputy of consumer and mortgage lending division of the office of the state bank commissioner;

~~(11)-(A) require fingerprinting of any officer, partner, member, owner, principal or director of an applicant or registrant. Such fingerprints may be submitted to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check to be submitted to the office of the state bank commissioner. The fingerprints shall be used to identify the person and to determine whether the person has a record of arrests and convictions in this state or other jurisdictions. The office of the state bank commissioner may use information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the persons associated with the applicant. Whenever the office of the state bank commissioner requires fingerprinting, any associated costs shall be paid by the applicant or the parties to the application.~~

~~(B) The Kansas bureau of investigation shall release all records of adult convictions;~~

~~adjudications, and juvenile adjudications in Kansas and of another state or country to the office of the state bank commissioner. The office of the state bank commissioner shall not disclose or use a state and national criminal history record check for any purpose except as provided for in this section. Unauthorized use of a state or national criminal history record check shall constitute a class A nonperson misdemeanor.~~

~~(C) Each state and national criminal history record check shall be confidential, not subject to the open records act, K.S.A. 45-215 et seq., and amendments thereto, and not be disclosed to any applicant or registrant. The provisions of this subparagraph shall expire on July 1, 2029, unless the legislature reviews and acts to continue such provisions pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2029 to submit to a state and national criminal history record check in accordance with K.S.A. 2024 Supp. 22-4714, and amendments thereto;~~

(12) issue, amend and revoke written administrative guidance documents in accordance with the applicable provisions of the Kansas rules and regulations filing act;

(13) enter into any informal agreement with any person for a plan of action to address violations of this act; and

(14) require use of a nationwide multi-state licensing system and registry for processing applications, renewals, amendments, surrenders and any other activity that the commissioner deems appropriate. The commissioner may establish relationships or contracts with the nationwide multi-state licensing system and registry or other entities to collect and maintain records and process transaction fees or other fees related to applicants and licensees, as may be reasonably necessary to participate in the nationwide multi-state licensing system and registry. The commissioner may report violations of the law, as well as enforcement actions and other relevant information to the nationwide multi-state licensing system and registry. The commissioner may require any applicant or licensee to file reports with the nationwide multi-

state licensing system and registry in the form prescribed by the commissioner.

(b) Examination reports and correspondence regarding such reports made by the commissioner or the commissioner's designees shall be confidential and shall not be subject to the provisions of the open records act, K.S.A. 45-215 et seq., and amendments thereto. The commissioner may release examination reports and correspondence regarding the reports in connection with a disciplinary proceeding conducted by the commissioner, a liquidation proceeding or a criminal investigation or proceeding. Additionally, the commissioner may furnish to federal or other state regulatory agencies or any officer or examiner thereof, a copy of any or all examination reports and correspondence regarding the reports made by the commissioner or the commissioner's designees. The provisions of this subsection shall expire on July 1, 2029, unless the legislature reviews and acts to continue such provisions pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2029.

(c) For the purpose of any examination, investigation or proceeding under this act, the commissioner or the commissioner's designee may administer oaths and affirmations, subpoena witnesses, compel such witnesses' attendance, introduce evidence and require the production of any matter that is relevant to the examination or investigation, including the existence, description, nature, custody, condition and location of any books, documents or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of relevant information or items.

(d) The adoption of an informal agreement authorized by this section shall not be subject to the provisions of the Kansas administrative procedure act or the Kansas judicial review act. Any informal agreement authorized by this subsection shall not be considered an order or other agency action and shall be considered confidential examination material. All such examination material shall be confidential by law and privileged, shall not be subject to the

provisions of the open records act, K.S.A. 45-215 et seq., and amendments thereto, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. The provisions of this subsection shall expire on July 1, 2029, unless the legislature reviews and acts to continue such provisions pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2029.";

Also on page 1, in line 27, after "to" by inserting ":

(A)";

Also on page 1, in line 31, after "thereto" by inserting ";

(B) the attorney general for applicants as defined in K.S.A. 75-7b01, and amendments thereto, in connection with such application as described in K.S.A. 75-7b04 and 75-7b17, and amendments thereto;

(C) the attorney general for applicants as defined in K.S.A. 75-7c02, and amendments thereto, in connection with such application as described in K.S.A. 75-7c05, and amendments thereto;

(D) the attorney general for applicants as defined in K.S.A. 75-7b01, and amendments thereto, in connection with such application for certification as described in K.S.A. 75-7b21, and amendments thereto; and

(E) the attorney general for applicants as defined in K.S.A. 75-7e01, and amendments thereto, in connection with such application as described in K.S.A. 75-7e03, and amendments thereto";

On page 2, in line 14, by striking all after "(B)"; by striking all in lines 15 and 16; in line 17, by striking "(C)"; in line 20, after "thereto" by inserting ";

(C) the state gaming agency for candidates for employees and licensees as defined in K.S.A. 74-9802, and amendments thereto, in connection with such employment or license as

described in K.S.A. 74-9805, and amendments thereto";

Also on page 2, in line 27, after the semicolon, by inserting "and"; in line 28, by striking all after "(B)"; by striking all in lines 29 through 37; in line 38, by striking "(E)";

On page 3, in line 8, by striking "and"; in line 11, after "thereto" by inserting "; and

(D) the state bank commissioner for any officer partner, member, owner, principal or director of an applicant or registrant in connection with such application or registration as described in K.S.A. 2024 Supp. 9-2411, and amendments thereto";

On page 4, in line 27, by striking "and"; in line 30, after "thereto" by inserting "; and

(N) the state bank commissioner for applicants in control of a licensee, licensees or key individuals as defined in K.S.A. 2024 Supp. 9-555, and amendments thereto, in connection with such application as described in K.S.A. 2024 Supp. 9-565, and amendments thereto";

On page 6, in line 14, by striking all after "(U)"; by striking all in lines 15 and 16; in line 17, by striking "(V)"; in line 20, by striking "divison" and inserting "division";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 7, following line 13, by inserting:

"Sec. 5. K.S.A. 2024 Supp. 75-7b01 is hereby amended to read as follows: 75-7b01. As used in this act:

(a) "Applicant" means a person who has submitted an application for licensure as a private detective or private detective agency pursuant to this act, a person who has submitted an application for a firearm permit pursuant to this act or a person who has submitted an application to become certified to train private detectives in the handling of firearms and the lawful use of force.

(b) "Detective business" means the furnishing of, making of or agreeing to make any investigation for the purpose of obtaining information with reference to:

(1) Crime or wrongs done or threatened against the United States or any state or territory of the United States, or any political subdivision thereof when furnished or made by persons other than law enforcement officers;

(2) the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation or character of any person;

(3) the location, disposition or recovery of lost or stolen property;

(4) the cause or responsibility for fires, libels, losses, frauds, accidents or damage or injury to persons or to property; or

(5) securing evidence to be used before any court, board, officer or investigating committee.

(c) "Private detective" means any person who, for any consideration whatsoever, engages in detective business.

(d) "Private detective agency" means a person who regularly employs any other person, other than an organization, to engage in detective business.

(e) "Private patrol operator" means a person who, for any consideration whatsoever, agrees to furnish or furnishes a watchman, guard, patrolman or other person to protect persons or property or to prevent the theft, unlawful taking, loss, embezzlement, misappropriation or concealment of any goods, wares, merchandise, money, bonds, stocks, notes, documents, papers or property of any kind, or performs the service of such watchman, guard, patrolman or other person for any such purposes.

(f) "Law enforcement officer" means a law enforcement officer as defined in K.S.A. 21-5111, and amendments thereto.

(g) "Organization" means a corporation, trust, estate, partnership, cooperative or

association.

(h) "Person" means an individual or organization.

(i) "Firearm permit" means a permit for the limited authority to carry a firearm concealed on or about the person by one licensed as a private detective.

(j) "Firearm" means:

(1) A pistol or revolver ~~which~~ that is designed to be fired by the use of a single hand and ~~which~~ that is designed to fire or capable of firing fixed cartridge ammunition; or

(2) any other weapon ~~which~~ that will or is designed to expel a projectile by the action of an explosive and ~~which~~ that is designed to be fired by the use of a single hand.

(k) "Client" means any person who engages the services of a private detective.

(l) "Dishonesty or fraud" means, in addition to other acts not specifically enumerated herein:

(1) Knowingly making a false statement relating to evidence or information obtained in the course of employment, or knowingly publishing a slander or a libel in the course of business;

(2) using illegal means in the collection or attempted collection of a debt or obligation;

(3) manufacturing or producing any false evidence; and

(4) acceptance of employment adverse to a client or former client relating to a matter with respect to which the licensee has obtained confidential information by reason of or in the course of the licensee's employment by such client or former client.";

On page 8, in line 20, after "Supp." by inserting "9-555, 9-565, 9-2411,"; also in line 20, after "22-4714" by inserting "and 75-7b01";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the semicolon by inserting "authorizing the attorney general and the state gaming agency to receive more criminal history records; updating criminal

history record language related to the state bank commissioner;"; in line 4, after "Supp." by inserting "9-555, 9-565, 9-2411,"; in line 5, after "4714" by inserting "and 75-7b01"; and the bill be passed as amended.

_____Chairperson