

SESSION OF 2014

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2525

As Amended by Senate Committee on Financial
Institutions and Insurance

Brief*

HB 2525 would enact new law regulating changes in the executive officers or directors of licensed money transmitters, and would amend the Kansas Money Transmitter Act to regulate changes in control of money transmitter licenses; prohibit transferring, assigning, or allowing an unlicensed person to use the licensee's license; increase the accounts receivable allowed as permissible investments; and update relevant disclosure provisions.

Changes in Executive Officers and Directors

Licensed money transmitters would be required to notify the Office of the State Bank Commissioner (OSBC) of any changes in the executive officers or directors within 30 days of any change. The bill would provide for the fingerprinting of the new executive officer or director to verify the identity of the person and to run a state and national criminal history record check. Fingerprint checks would not be required if the applicant is a publicly traded corporation or a subsidiary of such corporation. The new law created by the bill would be supplemental to the Kansas Money Transmitter Act.

Acquiring Control of Money Transmitter Licenses

The bill would require the OSBC to approve any changes in the control of a money transmitter license. The bill

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

would define “control” as the power directly or indirectly to direct management or policies of a person engaged in money transmission or to vote 25 percent or more of any class of voting shares of a person engaged in money transmission.

According to the bill, the money transmitter would be required to notify the Bank Commissioner (Commissioner) and apply for approval at least 60 days before the acquisition of a business engaged in money transmission is finalized. Each application would include audited financial statements from the prior two fiscal years and an interim financial statement prepared within 90 days prior to the filing of an application.

Disclosure of Information

The bill states information obtained during licensing or examination of a money transmitter company would be exempt from the Kansas Open Records Act (KORA) and could not be disclosed unless as provided in the Kansas Money Transmitter Act. The Commissioner’s authority to disclose confidential information would expire on June 30, 2019, unless the Legislature reenacts the provision granting authority.

Assignment of Licenses

The bill also would make it unlawful for a money transmitter licensee to transfer, assign, or allow another person to use the licensee’s license, or to aid any person without a valid license in engaging in money transmission, except as authorized with regard to the appointment of agents.

Permissible Investments

Finally, the bill would increase the amount of accounts receivable that would qualify as permissible investments of a

money transmitter from 20 percent to 40 percent and would clarify a receivable would be past due if it was not remitted to the licensee within ten business days.

Background

The bill was introduced by the House Committee on Financial Institutions at the request of the Acting Bank Commissioner. At the House Committee hearing on the bill, the Acting Bank Commissioner provided testimony in favor of the bill, stating the OSBC is charged with the licensing and oversight of money transmitter companies in Kansas. The Acting Bank Commissioner stated there are currently 67 registered companies with 5,982 agents in the state, and the OSBC is pursuing several entities for unlicensed activities in Kansas. In order to properly examine the activities of both licensed and unlicensed money transmitters, the OSBC has sought legislation the past few years to strengthen and clarify the money transmitter laws. The Money Services Round Table, an organization of the large, national non-bank money transmitters, provided written testimony in support of the bill.

The Acting Bank Commissioner also provided proponent testimony to the Senate Committee on Financial Institutions and Insurance, which heard no other testimony on the bill.

The Senate Committee on Financial Institutions and Insurance amended the bill to expressly incorporate new law into the Kansas Money Transmitter Act, provide an expiration date relating to disclosure of confidential information and legislative review of this confidentiality provision, and make technical corrections.

The fiscal note provided by the Division of the Budget states the OSBC estimates the bill, as introduced, would increase revenue to the Bank Commissioner Fee Fund by \$2,500 in FY 2015 and in each future fiscal year as a result of reviewing five change of control applications each year (each applicant would be charged \$500). Existing staff would be

used to review and approve the applications, and revenue generated from the fee would be sufficient to cover the estimated costs of review. In addition, the provision of the bill that allows new executive officers or directors to be fingerprinted and submit to a criminal history check has the potential to increase costs for the OSBC; however, the costs for fingerprinting and criminal record checks would be reimbursed by each applicant. Any fiscal effect associated with the bill is not reflected in *The FY 2015 Governor's Budget Report*.