

As Amended by House Committee

As Amended by Senate Committee

Session of 2018

SENATE BILL No. 284

By Committee on Financial Institutions and Insurance

1-16

1 AN ACT concerning financial institutions; updating the Kansas money  
2 transmitter act; amending K.S.A. 2017 Supp. 9-512 and 9-513 and  
3 repealing the existing sections.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2017 Supp. 9-512 is hereby amended to read as  
7 follows: 9-512. (a) The commissioner, after notice and an opportunity for  
8 hearing, may issue an order to address any violation of this act *or rules*  
9 *and regulations adopted pursuant thereto:*

10 (1) Assessing a fine against any person who violates this act, or rules  
11 and regulations adopted thereto, in an amount not to exceed \$5,000 per  
12 violation;

13 (2) assessing the agency's operating costs and expenses for  
14 investigating and enforcing this act;

15 (3) requiring the person to pay restitution for any loss arising from  
16 the violation or requiring the person to disgorge any profits arising from  
17 the violation;

18 (4) barring the person from future application for licensure pursuant  
19 to the act; and

20 (5) requiring such affirmative action as in the judgment of the  
21 commissioner which will carry out the purposes of this act.

22 (b) The commissioner may enter into a consent order at any time with  
23 a person to resolve a matter arising under this act, rules and regulations  
24 adopted thereto, or an order issued pursuant to this act.

25 (c) *The commissioner may enter into an informal agreement at any*  
26 *time with a person to resolve a matter **that would not constitute a***  
27 ***criminal offense** arising under this act, rules and regulations adopted*  
28 *pursuant thereto, or an order issued pursuant to this act. The adoption of*  
29 *an informal agreement authorized by this subsection shall not be subject*  
30 *to the provisions of K.S.A. 77-501 et seq., and amendments thereto, or*  
31 *K.S.A. 77-601 et seq., and amendments thereto. Any informal agreement*  
32 *authorized by this subsection shall not be considered an order or other*  
33 *agency action, and shall be considered confidential examination material*  
34 *pursuant to K.S.A. ~~9-2217~~ 9-513c, and amendments thereto. All such*

1 *examination material shall also be confidential by law and privileged,*  
2 *shall not be subject to the open records act, K.S.A. 45-215 et seq., and*  
3 *amendments thereto, shall not be subject to subpoena and shall not be*  
4 *subject to discovery or admissible in evidence in any private civil action.*  
5 *The provisions of this subsection shall expire on July 1, 2023, unless the*  
6 *legislature reviews and reenacts this provision pursuant to K.S.A. 45-229,*  
7 *and amendments thereto, prior to July 1, 2023.*

8 (e) (d) Any person who knowingly violates any provision of this act  
9 shall be guilty of a severity level 9, nonperson felony. Each transaction in  
10 violation of this act and each day that a violation continues shall be a  
11 separate offense. Whenever a corporation violates any provision of this  
12 act, such violation shall be attributed to individual directors, officers and  
13 agents who have authorized, ordered or performed any of the acts  
14 constituting such violation.

15 (e) (e) A corporation and its directors, officers and agents may each  
16 be prosecuted separately for violations of this act and the acquittal or  
17 conviction of one such director, officer or agent shall not abate the  
18 prosecution of the others.

19 (e) (f) Whenever it appears that a person has violated, or is likely to  
20 violate, this act, rules and regulations adopted thereunder, or an order  
21 issued pursuant to this act, then the commissioner may bring an action for  
22 injunctive relief to enjoin the violation or enforce compliance, regardless  
23 of whether or not criminal proceedings have been instituted. Any person  
24 who engages in activities that are regulated and require a license under this  
25 act shall be considered to have consented to the jurisdiction of the courts  
26 of this state for all actions arising under this act.

27 Sec. 2. K.S.A. 2017 Supp. 9-513 is hereby amended to read as  
28 follows: 9-513. The commissioner *and the commissioner's designees* shall  
29 ~~rely on the deputy commissioner of the banking division established~~  
30 ~~pursuant to K.S.A. 75-3135, and amendments thereto, and such deputy's~~  
31 ~~staff to~~ administer, interpret and enforce this act for the purpose of  
32 protecting the citizens of this state, against financial loss, who purchase  
33 payment instruments or who give money or control of their funds or credit  
34 into the custody of another person for transmission, regardless of whether  
35 the transmitter has any office, facility, agent or other physical presence in  
36 the state.

37 Sec. 3. K.S.A. 2017 Supp. 9-512 and 9-513 are hereby repealed.

38 Sec. 4. This act shall take effect and be in force from and after its  
39 publication in the statute book.