

CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MR. PRESIDENT: Your committee on conference on Senate amendments to **HB 2560** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee amendments, as follows:

On page 1, following line 7, by inserting:

"New Section 1. (a) Sections 1 through 42, 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) "Authorized delegate" means a person designated by a licensee to engage in money transmission on behalf of the licensee.

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

(7) "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) "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) "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) "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) "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) "Individual" means a natural person.

(13) "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) "Licensee" means a person licensed under this act.

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

(18) (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) "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) "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) "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) (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) "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) (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) "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) "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) "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) "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) "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.

New Sec. 2. (a) This act does not apply to:

(1) An operator of a payment system to the extent that such operator provides processing, clearing or settlement services between persons exempted under this subsection or licensees in connection with wire transfers, credit card transactions, debit card transactions, stored value transactions, automated clearing house transfers or similar funds transfers.

(2) A person appointed as an agent of a payee to collect and process a payment from a payor to the payee for goods or services other than money transmission provided to the payor by the payee if:

(A) A written agreement exists between the payee and the agent directing the agent to collect and process payments from payors on the payee's behalf;

(B) the payee holds the agent out to the public as accepting payments for goods or services on the payee's behalf; and

(C) payment for the goods and services is treated as received by the payee upon receipt by the agent so that the payor's obligation is extinguished and there is no risk of loss to the payor if the agent fails to remit the funds to the payee.

(3) A person that acts as an intermediary by processing payments between an entity that has directly incurred an outstanding money transmission obligation to a sender and the sender's designated recipient, if the entity:

(A) Is properly licensed or exempt from licensing requirements under this act;

(B) provides a receipt, electronic record or other written confirmation to the sender identifying the entity as the provider of money transmission in the transaction; and

(C) bears sole responsibility to satisfy the outstanding money transmission obligation to the sender, including the obligation to make the sender whole in connection with any failure to transmit the funds to the sender's designated recipient.

(4) The United States government and any agency, bureau, department, office or instrumentality, corporate or otherwise, thereof, including any official, employee or agent of any such entity.

(5) Money transmission by the United States postal service or by an agent of the United States postal service.

(6) Any state office or officer, department, board, commission, bureau, division, authority, agency or institution of this state, including any political subdivision thereof, and any county, city or other municipality.

(7) A federally insured depository financial institution, bank holding company, office of an international banking corporation, foreign bank that establishes a federal branch pursuant to 12 U.S.C. § 3102, a corporation organized pursuant to 12 U.S.C. §§ 1861 through 1867 or a corporation organized under 12 U.S.C. §§ 611 through 633.

(8) Electronic funds transfer of governmental benefits for a federal, state, county or governmental agency by a contractor on behalf of the United States or a department, agency or instrumentality thereof or on behalf of a state or governmental subdivision, agency or instrumentality thereof.

(9) A board of trade designated as a contract market under 7 U.S.C. §§ 1 through 25 or a person that in the ordinary course of business provides clearance and settlement services for a board of trade to the extent of the board of trade's operation as or for such a board.

(10) A futures commission merchant registered under federal commodities law to the extent of the registrant's operation as such a futures commission merchant.

(11) A person registered as a securities broker-dealer under federal or state securities law to the extent of such registrant's operation as such a securities broker-dealer.

(12) An individual employed by a licensee, authorized delegate or any person exempted from the licensing requirements of the act when acting within the scope of employment and under the supervision of the licensee, authorized delegate or exempted person as an employee and not as an independent contractor.

(13) A person expressly appointed as a third-party service provider to or agent of an entity exempt under paragraph (a)(6) solely to the extent that:

(A) Such service provider or agent is engaging in money transmission on behalf of and pursuant to a written agreement with the exempt entity that sets forth the specific functions that the service provider or agent is to perform; and

(B) the exempt entity assumes all risk of loss and all legal responsibility for satisfying the outstanding money transmission obligations owed to purchasers and holders of the outstanding money transmission obligations upon receipt of the purchaser's or holder's money or monetary value by the service provider or agent.

(14) A person engaging in the practice of law, bookkeeping, accounting, real estate sales or brokerage.

(15) A person appointed as an agent of a payor for purposes of providing payroll processing services for which such agent would otherwise need to be licensed if:

(A) There is a written agreement between the payor and the agent that directs the agent to provide payroll processing services on the payor's behalf;

(B) the payor holds the agent out to employees and other payees as providing payroll processing services on the payor's behalf; and

(C) the payor's obligation to a payee, including an employee or any other party entitled to

receive funds via the payroll processing services provided by the agent, is not extinguished if such agent fails to remit such funds to the payee.

(16) A person exempt by any rules or regulations adopted or by an order issued if the commissioner finds such exemption to be in the public interest and that the regulation of such person is not necessary for the purposes of this act.

(b) The commissioner may require that any person claiming to be exempt from licensing pursuant to this section provide information and documentation to the commissioner demonstrating that such person qualifies for any claimed exemption.

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

New Sec. 3. (a) To carry out the purposes of this act, the commissioner may:

(1) Enter into agreements or relationships with other government officials or federal and state regulatory agencies and regulatory associations to improve efficiencies and reduce regulatory burden by standardizing methods or procedures and sharing resources, records or related information obtained under this act;

(2) use, hire, contract or employ analytical systems, methods or software to examine or investigate any person subject to this act;

(3) accept from other state or federal government agencies or officials, licensing, examination or investigation reports made by such other state or federal government agencies or officials; and

(4) accept audit reports made by an independent certified public accountant or other qualified third-party auditor for an applicant or licensee and incorporate the audit report in any report of examination or investigation.

(b) The commissioner shall have the broad administrative authority to administer, interpret and enforce this act, promulgate rules and regulations necessary to implement this act

and set proportionate and equitable fees and costs associated with applications, examinations, investigations and other actions required to provide sufficient funds to meet the budget requirements of administering and enforcing the act for each fiscal year and to achieve the purposes of this act.

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

New Sec. 4. (a) (1) Except as otherwise provided in subsection (b), all information or reports obtained by the commissioner from an applicant, licensee or authorized delegate and all information contained in or related to an examination, investigation, operating report or condition report prepared by, on behalf of or for the use of the commissioner or financial statements, balance sheets or authorized delegate information, are confidential and are not subject to disclosure under the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto.

(2) The provisions of this subsection providing for the confidentiality of public records shall expire on July 1, 2030, unless the legislature reviews and reenacts such provisions in accordance with K.S.A. 45-229, and amendments thereto, prior to July 1, 2030.

(b) The commissioner may disclose information not otherwise subject to disclosure under subsection (a) to representatives of state or federal agencies who promise in a record that such representatives will maintain the confidentiality of the information or where the commissioner finds that the release is reasonably necessary for the protection and interest of the public in accordance with the Kansas open records act.

(c) The following information contained in the records of the office of the state bank commissioner that is not confidential and may be made available to the public:

- (1) The name, business address, telephone number and unique identifier of a licensee;
- (2) the business address of a licensee's registered agent for service;

(3) the name, business address and telephone number of all authorized delegates;

(4) the terms of or a copy of any bond filed by a licensee, provided that confidential information, including, but not limited to, prices and fees for such bond is redacted; or

(5) copies of any orders of the office of the state bank commissioner relating to any violation of this act or regulations implementing this act.

(d) This section shall not be construed to prohibit the commissioner from disclosing to the public a list of all licensees or the aggregated financial or transactional data concerning those licensees.

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

New Sec. 5. (a) The commissioner may conduct an examination or investigation of a licensee or authorized delegate or otherwise take independent action authorized by this act or by any rules and regulations adopted or an order issued under this act as reasonably necessary or appropriate to administer and enforce this act, regulations implementing this act and other applicable federal law. The commissioner may:

(1) Conduct an examination on-site or off-site as the commissioner may reasonably require;

(2) conduct an examination in conjunction with an examination conducted by representatives of other state agencies, agencies of another state or the federal government;

(3) accept the examination report of another state agency or an agency of another state or the federal government or a report prepared by an independent accounting firm, which, on being accepted, is considered for all purposes as an official report of the commissioner; and

(4) summon and examine under oath or subpoena a key individual or employee of a licensee or authorized delegate and require such individual or employee to produce records regarding any matter related to the condition and business of the licensee or authorized delegate.

(b) A licensee or authorized delegate shall provide the commissioner with full and complete access to all records the commissioner may reasonably require to conduct a complete examination. The records shall be provided at the location and in the format specified by the commissioner. The commissioner may utilize multistate record production standards and examination procedures when such standards will reasonably achieve the requirements of this section.

(c) Unless otherwise directed by the commissioner, a licensee shall pay all costs reasonably incurred in connection with an examination of the licensee or the licensee's authorized delegates.

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

New Sec. 6. (a) To administer and enforce the provisions of this act and minimize the regulatory burden, the commissioner is hereby authorized to participate in multistate supervisory processes established between states and coordinated through the conference of state bank supervisors, money transmitter regulators associations and affiliates and successors thereof for all licensees that hold licenses in Kansas or other states. As a participant in such established multistate supervisory processes, the commissioner may:

(1) Cooperate, coordinate and share information with other state and federal regulators in accordance with section 5, and amendments thereto;

(2) enter into written cooperation, coordination or information-sharing contracts or agreements with organizations, the membership of which is made up of state or federal governmental agencies; and

(3) cooperate, coordinate and share information with organizations, the membership of which is made up of state or federal governmental agencies, if the organizations agree in writing to maintain the confidentiality and security of the shared information in accordance with section

4, and amendments thereto.

(b) The commissioner shall not waive, and nothing in this section shall constitute a waiver of, the commissioner's authority to conduct an examination or investigation or otherwise take independent action authorized by this act or rules and regulations adopted or an order issued under this act to enforce compliance with applicable state or federal law.

(c) A joint examination or investigation or acceptance of an examination or investigation report shall not be construed to waive an examination assessment provided for in this act.

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

New Sec. 7. (a) If the jurisdiction of state money transmission is conditioned on federal law, any inconsistencies between a provision of this act and such federal law governing money transmission shall be governed by the applicable federal law to the extent of such inconsistency.

(b) If there are any inconsistencies between this act and any federal law that governs pursuant to subsection (a), the commissioner may provide interpretive guidance that identifies the:

- (1) Inconsistency; and
- (2) appropriate means of compliance with federal law.

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

New Sec. 8. (a) A person may not engage in the business of money transmission or advertise, solicit or hold itself out as providing money transmission unless the person is licensed under this act.

(b) Subsection (a) shall not apply to a person that is:

- (1) An authorized delegate of a person licensed under this act acting within the scope of authority conferred by a written contract with the licensee; or
- (2) exempt pursuant to section 2, and amendments thereto, and does not engage in money

transmission outside the scope of such exemption.

(c) A license issued pursuant to section 13, and amendments thereto, shall not be transferable or assignable.

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

New Sec. 9. (a) To establish consistent licensing practices between Kansas and other states, the commissioner is hereby authorized to:

(1) Implement all licensing provisions of this act in a manner consistent with other states that have adopted this act or multistate licensing processes; and

(2) participate in nationwide protocols for licensing cooperation and coordination among state regulators, if such protocols are consistent with this act.

(b) The commissioner is authorized to establish relationships or contracts with the national multistate licensing system and registry or other entities designated by the national multistate licensing system and registry to:

(1) Collect and maintain records;

(2) coordinate multistate licensing processes and supervision processes;

(3) process fees; and

(4) facilitate communication between the commissioner and licensees or other persons subject to this act.

(c) The commissioner may utilize the nationwide multistate licensing system and registry for all aspects of licensing in accordance with this act, including, but not limited to, license applications, applications for acquisitions of control, surety bonds, reporting, criminal history background checks, credit checks, fee processing and examinations.

(d) The commissioner may utilize nationwide multistate licensing system and registry forms, processes and functionalities in accordance with this act. If the nationwide multistate

licensing system and registry does not provide functionality, forms or processes for the provision of this act, the commissioner is authorized to implement the requirements in a manner that facilitates uniformity regarding the licensing, supervision, reporting and regulation of licensees that are licensed in multiple jurisdictions.

(e) The commissioner may establish new requirements or waive or modify, in whole or in part, any or all of the existing requirements as reasonably necessary to participate in the nationwide multistate licensing system and registry through the adoption of any rules and regulations adopted or an order issued or the issuance of an order.

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

New Sec. 10. (a) Applicants for a license shall submit a completed application in a form and manner as prescribed by the commissioner. Each such application shall contain content as set forth by rules and regulations, instruction or procedure of the commissioner and may be changed or updated by the commissioner in accordance with applicable law to carry out the purposes of this act and maintain consistency with nationwide multistate licensing system and registry licensing standards and practices. The application shall state or contain, as applicable:

(1) The legal name and any fictitious or trade name used by the applicant in conducting business and the residential and business addresses of the applicant;

(2) a list of any criminal convictions of the applicant and any material litigation in which the applicant was involved in the 10-year period immediately preceding the submission of the application;

(3) a description of any money transmission services previously provided by the applicant and the money transmission services the applicant seeks to provide in Kansas;

(4) a list of the applicant's proposed authorized delegates and the locations in Kansas where the applicant and the applicant's authorized delegates propose to engage in money

transmission;

(5) a list of all other states where the applicant is licensed to engage in money transmission and any license revocations, suspensions or other disciplinary action taken against the applicant in other states;

(6) information concerning any bankruptcy or receivership proceedings affecting the licensee or a person in control of a licensee;

(7) a sample form of the contract for authorized delegates, if applicable;

(8) a sample form of the payment instrument or stored value, as applicable;

(9) the name and address of any federally insured depository financial institution through which the applicant plans to conduct money transmission; and

(10) any other information the commissioner or the nationwide multistate licensing system and registry reasonably requires regarding the applicant.

(b) If an applicant is a corporation, limited liability company, partnership or other legal entity, the applicant shall also provide:

(1) The date of the applicant's incorporation or formation and state or country of incorporation or formation;

(2) a certificate of good standing from the state or country where the applicant is incorporated or formed, if applicable;

(3) a brief description of the business structure or organization of the applicant, including any parents or subsidiaries of the applicant and whether any such parents or subsidiaries are publicly traded;

(4) the legal name, any fictitious or trade name, all business and residential addresses and the employment, as applicable, for the 10-year period immediately preceding the submission of the application for each key individual and person in control of the applicant;

(5) for any person in control of the applicant, a list of any felony convictions and for the 10-year period immediately preceding the submission of the application, a list of any criminal misdemeanor convictions of a crime of dishonesty, fraud or deceit and any material litigation in which the person involved is in control of an applicant that is not an individual;

(6) a copy of the applicant's audited financial statements for the most recent fiscal year and for the two-year period immediately preceding the most recent fiscal year or, if acceptable to the commissioner, certified unaudited financial statements for the most recent fiscal year or other period acceptable to the commissioner;

(7) a certified copy of the applicant's unaudited financial statements for the most recent fiscal quarter;

(8) if the applicant is a publicly traded corporation, a copy of the most recent report filed with the securities and exchange commission pursuant to 15 U.S.C. § 78m;

(9) if the applicant is a wholly owned subsidiary of:

(A) A corporation publicly traded in the United States, a copy of the parent corporation's audited financial statements for the most recent fiscal year or a copy of the parent corporation's most recent financial report filed with the securities and exchange commission pursuant to 15 U.S.C. § 78m; or

(B) a corporation publicly traded outside the United States, a copy of documentation similar to the requirements of paragraph (A) filed with the regulator of the parent corporation's domicile outside the United States;

(10) the name and address of the applicant's registered agent in Kansas; and

(11) any other information that the commissioner reasonably requires regarding the applicant.

(c) The commissioner shall set a nonrefundable new application fee each year pursuant to

section 3(b), and amendments thereto.

(d) The commissioner may waive one or more requirements of subsections (a) or (b) or permit an applicant to submit other information in lieu of the required information.

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

New Sec. 11. (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 to be fingerprinted and submit to a state and national criminal history record check. 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 nonconvictions in Kansas and adult convictions, adjudications and nonconvictions 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) Any individual that 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.

New Sec. 12. (a) A person is presumed to exercise a controlling influence when such person holds the power to vote, directly or indirectly, at least 10% of the outstanding voting shares or voting interests of a licensee or person in control of a licensee.

(b) A person presumed to exercise a controlling influence pursuant to this section may rebut the presumption of control if the person is a passive investor.

(c) For purposes of determining the percentage of a person controlled by any individual, the individual's interest shall be aggregated with the interest of any other immediate family member, including the individual's spouse, parents, children, siblings, mothers-in-law and

fathers-in-law, sons-in-law and daughters-in-law, brothers-in-law and sisters-in-law and any other person who shares such individual's home.

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

New Sec. 13. (a) (1) When an application for an original license under this act appears to include all the items and addresses all of the matters that are required, the application shall be deemed complete, and the commissioner shall promptly notify the applicant of the date the application is deemed complete. The commissioner shall approve or deny the application within 120 days after the completion date.

(2) If the application has not been approved or denied within 120 days after the completion date:

(A) The application shall be considered approved; and

(B) the license shall take effect as of the first business day after expiration of the 120-day period.

(3) The commissioner may extend the application period for good cause.

(b) A determination by the commissioner that an application is complete and accepted for processing means that the application, on its face, appears to include all of the items, including the criminal history background check response from the Kansas bureau of investigation and that such application addresses all of the matters that are required. A determination of completion by the commissioner shall not be deemed to be an assessment of the substance of the application or of the sufficiency of the information provided.

(c) When an application is filed and considered complete under this section, the commissioner shall investigate the applicant's financial condition and responsibility, financial and business experience, character and general fitness. The commissioner may conduct an on-site investigation of the applicant at the applicant's expense. The commissioner shall issue a

license to an applicant under this section if the commissioner finds that the following conditions have been fulfilled:

(1) The applicant has complied with sections 10 and 11, and amendments thereto; and

(2) the financial condition and responsibility, financial and business experience, competence, character and general fitness of the applicant and key individuals and persons in control of the applicant indicate that it is in the interest of the public to permit the applicant to engage in money transmission.

(d) If an applicant avails itself or is otherwise subject to a multistate licensing process:

(1) The commissioner is hereby authorized to accept the investigation results of a lead investigative state to satisfy the requirements of subsection (c) if such lead investigative state has sufficient staffing, expertise and minimum standards; or

(2) if Kansas is the lead investigative state, the commissioner is hereby authorized to investigate the applicant pursuant to subsection (c) utilizing the timeframes established by agreement through the multistate licensing process. No such timeframes shall be considered noncompliant with the application period in subsection (a)(1).

(e) The commissioner shall issue a formal written notice of the denial of a license application within 14 days of the decision to deny the application. The commissioner shall state in the notice of denial the specific reasons for the denial of the application. An applicant whose application is denied by the commissioner under this subsection may appeal within 14 days of receiving the notice and request a hearing in accordance with the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto.

(f) The initial license term shall begin on the day the application is approved. The license shall expire on December 31 of the year in which the license term began, unless the initial license date is between November 1 and December 31, in which case the initial license term shall

run through December 31 of the following year.

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

New Sec. 14. (a) (1) A license issued under this act shall be renewed annually.

(2) An annual renewal fee set by the commissioner shall be paid not more than 60 days before the license expiration.

(3) The renewal term shall be for a period of one year and shall begin on January 1 of each year after the initial license term and shall expire on December 31 of the year the renewal term begins.

(b) A licensee shall submit a complete renewal report with the renewal fee, in a form and manner determined by the commissioner. The renewal report shall contain a description of each material change in information submitted by the licensee in the licensee's original license application that has not been reported to the commissioner.

(c) Renewal applications received within 30 days of the expiration of the license and incomplete applications as of 30 days prior to the expiration of the license shall be subject to a late fee set by the commissioner.

(d) The commissioner may grant an extension of the renewal date for good cause.

(e) The commissioner is hereby authorized to utilize the nationwide multistate licensing system and registry to process license renewals, if such utilization satisfies the requirements of this section.

(f) Renewal applications submitted between November 1, 2024 and December 31, 2024, considered complete pursuant to K.S.A. 9-509, and amendments thereto, shall be considered complete under this section.

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

New Sec. 15. (a) If a licensee does not continue to meet the qualifications or satisfy the

requirements of an applicant for a new money transmission license, the commissioner may suspend or revoke the licensee's license in accordance with the procedures established by this act or other applicable state law for such suspension or revocation.

(b) An applicant for a money transmission license shall demonstrate that such applicant meets or will meet and a money transmission licensee shall at all times meet, the requirements of sections 32, 33 and 34, and amendments thereto.

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

New Sec. 16. (a) The commissioner shall have the discretion to determine the completeness of any application submitted pursuant to this act. In making such a determination, the commissioner shall consider the applicant's compliance with the requirements of the act and any other facts and circumstances that the commissioner deems appropriate.

(b) If an applicant fails to complete the application for a new license or for a change of control of a license within 60 days after the commissioner provides written notice of the incomplete application, the application will be deemed abandoned and the application fee shall be nonrefundable. An applicant whose application is abandoned under this section may reapply to obtain a new license.

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

New Sec. 17. (a) When any person or group of persons acting in concert are seeking to acquire control of a licensee, the licensee shall obtain the written approval of the commissioner prior to the change of control. An individual is not deemed to acquire control of a licensee and is not subject to this section when that individual becomes a key individual in the ordinary course of business.

(b) A person or group of persons acting in concert that seeks to acquire control of a licensee in cooperation with such licensee shall submit an application in the form and manner

prescribed by the commissioner. Such application shall be accompanied by a nonrefundable fee set by the commissioner.

(c) Upon request, the commissioner may permit a licensee, the person or group of persons acting in concert to submit some or all information required by the commissioner pursuant to subsection (b) without using the nationwide multistate licensing system and registry.

(d) The application required by subsection (b) shall include all information required by section 11, and amendments thereto, for any new key individuals who have not previously completed the requirements of section 11, and amendments thereto, for a licensee.

(e) (1) When an application for acquisition of control under this section appears to include all the items and addresses all of the matters that are required, the application shall be deemed complete and the commissioner shall promptly notify the applicant of the date on which the application was so deemed, and the commissioner shall approve or deny the application within 60 days after the completion date.

(2) If the application is not approved or denied within 60 days after the completion date:

(A) The application shall be deemed approved; and

(B) the person or group of persons acting in concert shall not be prohibited from acquiring control.

(3) The commissioner may extend the application period for good cause.

(f) A determination by the commissioner that an application is complete and is accepted for processing means only that the application, on its face, appears to include all of the items and addresses all of the matters that are required. A determination of completion by the commissioner shall not be deemed to be an assessment of the substance of the application or of the sufficiency of the information provided.

(g) When an application is filed and considered complete under subsection (e), the

commissioner shall investigate the financial condition and responsibility, financial and business experience, character and general fitness of the person or group of persons acting in concert who seek to acquire control. The commissioner shall approve an acquisition of control pursuant to this section if the commissioner finds that all of the following conditions have been fulfilled:

(1) The requirements of subsections (b) and (d) have been met, as applicable; and

(2) the financial condition and responsibility, financial and business experience, competence, character and general fitness of the person or group of persons acting in concert seeking to acquire control and the key individuals and persons that would be in control of the licensee after the acquisition of control indicate that it is in the interest of the public to permit the person or group of persons acting in concert to control the licensee.

(h) If an applicant avails itself or is otherwise subject to a multistate licensing process:

(1) The commissioner shall be authorized to accept the investigation results of a lead investigative state for the purposes of subsection (g) if the lead investigative state has sufficient staffing, expertise and minimum standards; or

(2) if Kansas is a lead investigative state, the commissioner shall be authorized to investigate the applicant pursuant to subsection (g) and the timeframes established by agreement through the multistate licensing process.

(i) The commissioner shall issue a formal written notice of the denial of an application to acquire control within 30 days of the decision to deny the application. The commissioner shall state in the notice of denial the specific reasons for the denial of the application. An applicant whose application is denied by the commissioner under this subsection may appeal within 14 days and request a hearing in accordance with the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto.

(j) The requirements of subsections (a) and (b) shall not apply to any of the following:

(1) A person that acts as a proxy for the sole purpose of voting at a designated meeting of the shareholders or holders of voting shares or voting interests of a licensee or a person in control of a licensee;

(2) a person that acquires control of a licensee by devise or descent;

(3) a person that acquires control of a licensee as a personal representative, custodian, guardian, conservator or trustee or as an officer appointed by a court of competent jurisdiction or by operation of law;

(4) a person that is exempt under subsection (l);

(5) a person that the commissioner determines is not subject to subsection (a) based on the public interest;

(6) a public offering of securities of a licensee or a person in control of a licensee; or

(7) an internal reorganization of a person in control of the licensee if the ultimate person in control of the licensee remains the same.

(k) Persons meeting the requirements of subsections (j)(2), (j)(3), (j)(4), (j)(6) or (j)(7) in cooperation with the licensee shall notify the commissioner within 15 days after the acquisition of control.

(l) (1) The requirements of subsections (a) and (b) shall not apply to a person that has complied with and received approval to engage in money transmission under this act or was identified as a person in control in a prior application filed with and approved by the commissioner or by a money service business-accredited state pursuant to a multistate licensing process, if:

(A) The person has not had a license revoked or suspended or controlled a licensee that has had a license revoked or suspended while the person was in control of the licensee in the previous five years;

(B) the person is a licensee, such person is well managed and has received at least a satisfactory rating for compliance at such person's most recent examination by an money service business accredited state if such rating was given;

(C) the licensee to be acquired is expected to meet the requirements of sections 32, 33 and 34, and amendments thereto, after the acquisition of control is completed. If the person acquiring control is a licensee, such licensee shall also be expected to meet the requirements of sections 32, 33 and 34, and amendments thereto, after the acquisition of control is completed;

(D) the licensee to be acquired shall not implement any material changes to such licensee's business plan as a result of the acquisition of control. If the person acquiring control is a licensee, such licensee shall not implement any material changes to such licensee's business plan as a result of the acquisition of control; and

(E) the person provides notice of the acquisition in cooperation with the licensee and attests to the provisions of this subsection in a form and manner prescribed by the commissioner.

(2) If the notice is not disapproved within 30 days after the date on which the notice was determined to be complete, the notice shall be deemed approved.

(m) Before filing an application for approval to acquire control of a licensee, a person may request in writing a determination from the commissioner as to whether such person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the commissioner determines that the person would not be a person in control of a licensee, the person and the proposed transaction shall not be subject to the requirements of subsections (a) and (b).

(n) If a multistate licensing process includes a determination pursuant to subsection (m) and an applicant avails itself or is otherwise subject to the multistate licensing process:

(1) The commissioner is hereby authorized to accept the control determination of a lead

investigative state with sufficient staffing, expertise and minimum standards for the purpose of subsection (m); or

(2) if Kansas is a lead investigative state, the commissioner is hereby authorized to investigate the applicant pursuant to subsection (m) and the timeframes established by agreement through the multistate licensing process.

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

New Sec. 18. (a) A licensee adding or replacing a key individual shall provide:

(1) Notice in the manner prescribed by the commissioner within 15 days after the effective date of the appointment of the new key individual; and

(2) information as required by section 10, and amendments thereto, within 45 days of the effective date of the appointment of the new key individual.

(b) Within 90 days of the date on which the notice provided pursuant to subsection (a) was determined to be complete, the commissioner may issue a notice of disapproval of a key individual if the competence, experience, character or integrity of the individual would not be in the best interests of the public or the customers of the licensee to permit the individual to be a key individual of such licensee.

(c) A notice of disapproval shall state the basis for disapproval and shall be sent to the licensee and the disapproved individual. A licensee may appeal a notice of disapproval pursuant to the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto, within 14 days.

(d) If the notice provided pursuant to subsection (a) is not disapproved within 90 days after the date when the notice was determined to be complete, the key individual shall be deemed approved.

(e) If a multistate licensing process includes a key individual notice review and

disapproval process pursuant to this section and the licensee avails itself or is otherwise subject to the multistate licensing process:

(1) The commissioner is hereby authorized to accept the determination of another state if the investigating state has sufficient staffing, expertise and minimum standards for the purpose of this section; or

(2) if Kansas is a lead investigative state, the commissioner is authorized to investigate the applicant pursuant to subsection (b) and the timeframes established by agreement through the multistate licensing process.

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

New Sec. 19. (a) Every licensee shall submit a report of condition within 45 days of the end of the calendar quarter or within any extended time as the commissioner may prescribe.

(b) The report of condition shall include:

(1) Financial information at the licensee level;

(2) nationwide and state-specific money transmission transaction information in every jurisdiction in the United States where the licensee is licensed to engage in money transmission;

(3) the permissible investments report;

(4) transaction destination country reporting for money received for transmission, if applicable; and

(5) any other information the commissioner reasonably requires regarding the licensee.

(c) The commissioner may utilize the nationwide multistate licensing system and registry for the submission of the report required by subsection (a) and is authorized to change or update as necessary the requirements of this section to carry out the purposes of this act and maintain consistency with nationwide multistate licensing system and registry reporting.

(d) The information required by subsection (b)(4) shall only be included in a report of

condition submitted within 45 days of the end of the fourth calendar quarter.

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

New Sec. 20. (a) Within 90 days after the end of each fiscal year or within any extended time as the commissioner may prescribe through rules and regulations, every licensee shall file with the commissioner:

(1) An audited financial statement of the licensee for the fiscal year prepared in accordance with United States generally accepted accounting principles; and

(2) any other information as the commissioner may reasonably require.

(b) The audited financial statements shall be prepared by an independent certified public accountant or independent public accountant who has been deemed satisfactory by the commissioner.

(c) The audited financial statements shall include or be accompanied by a certificate of opinion of the independent certified public accountant or independent public accountant in a form and manner determined by the commissioner. If the certificate or opinion is qualified, the commissioner may order the licensee to take any action as the commissioner may find necessary to enable the independent certified public accountant or independent public accountant to remove the qualification.

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

New Sec. 21. (a) Each licensee shall submit a report of authorized delegates within 45 days of the end of each calendar quarter. The commissioner is authorized to utilize the nationwide multistate licensing system and registry for the submission of the report required by this subsection if such utilization is consistent with the requirements of this section.

(b) The authorized delegate report shall include, at a minimum, each authorized delegate's:

- (1) Company legal name;
- (2) taxpayer employer identification number;
- (3) principal provider identifier;
- (4) physical address;
- (5) mailing address;
- (6) any business conducted in other states;
- (7) any fictitious or trade name;
- (8) contact person's name, phone number and email;
- (9) start date as the licensee's authorized delegate;
- (10) end date acting as the licensee's authorized delegate, if applicable; and
- (11) any other information the commissioner reasonably requires regarding the authorized delegate.

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

New Sec. 22. (a) A licensee shall file a report with the commissioner within one business day after the licensee has reason to know of the:

- (1) Filing of a bankruptcy or reorganization petition by or against the licensee;
- (2) filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for the licensee's dissolution or reorganization or the making of a general assignment for the benefit of the licensee's creditors; or
- (3) commencement of a proceeding to revoke or suspend the licensee's license in a state or country where the licensee engages in business or is licensed.

(b) A licensee shall file a report with the commissioner within three business days after the licensee has reason to know of a felony conviction of:

- (1) The licensee or a key individual or person in control of the licensee; or

(2) an authorized delegate.

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

New Sec. 23. (a) A licensee and an authorized delegate shall file all reports required by federal currency reporting, recordkeeping and suspicious activity reporting requirements as set forth in federal and state laws pertaining to money laundering. The timely filing of a complete and accurate report required under this section with the appropriate federal agency is deemed compliant with the requirements of this section.

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

New Sec. 24. (a) Every licensee shall maintain the following records for at least three years:

(1) A record of each outstanding money transmission obligation sold;

(2) a general ledger posted at least monthly containing all assets, liability, capital, income and expense accounts;

(3) bank statements and bank reconciliation records;

(4) records of all outstanding money transmission obligations;

(5) records of each outstanding money transmission obligation paid within the three-year period the records are maintained;

(6) a list of the last known names and addresses of all the licensee's authorized delegates;
and

(7) any other records the commissioner reasonably requires in rules and regulations.

(b) Records specified in subsection (a) may be maintained:

(1) In any form of record; and

(2) outside this state, if such records are made accessible to the commissioner on seven business days' notice.

(c) All records maintained by the licensee as required in this section are open to inspection by the commissioner pursuant to section 5(a), and amendments thereto.

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

New Sec. 25. (a) As used in this section, "remit" means to make direct payments of money to a licensee or the licensee's representative authorized to receive money or to deposit money in a bank in an account specified by the licensee.

(b) Before a licensee is authorized to conduct business through an authorized delegate or allows a person to act as the licensee's authorized delegate, the licensee shall:

(1) Adopt and update as necessary all written policies and procedures reasonably designed to ensure that the licensee's authorized delegates comply with applicable state and federal law;

(2) enter into a written contract that complies with subsection (d); and

(3) conduct a reasonable risk-based background investigation sufficient for the licensee to determine if the authorized delegate has complied and will likely comply with applicable state and federal law.

(c) An authorized delegate shall comply with this act.

(d) The written contract required by subsection (b) shall be signed by the licensee and the authorized delegate and, at a minimum, shall:

(1) Appoint the person signing the contract as the licensee's authorized delegate with the authority to conduct money transmission on behalf of the licensee;

(2) set forth the nature and scope of the relationship between the licensee and the authorized delegate and the respective rights and responsibilities of each party;

(3) require the authorized delegate to agree to fully comply with all applicable state and federal laws and rules and regulations pertaining to money transmission;

(4) require the authorized delegate to remit and handle money and any monetary value in

accordance with the terms of the contract between the licensee and the authorized delegate;

(5) impose a trust on money and any monetary value net of fees received for money transmission for the benefit of the licensee;

(6) require the authorized delegate to prepare and maintain records as required by this act or rules and regulations adopted pursuant to this act or as reasonably required by the commissioner;

(7) acknowledge that the authorized delegate consents to examination or investigation by the commissioner;

(8) state that the licensee is subject to regulation by the commissioner and, as part of such regulation, the commissioner may suspend or revoke an authorized delegate designation or require the licensee to terminate an authorized delegate designation; and

(9) acknowledge receipt of the written policies and procedures required under subsection (b).

(e) Within five business days after the suspension, revocation, surrender or expiration of a licensee's license, the licensee shall provide documentation to the commissioner that the licensee has notified all applicable authorized delegates of the licensee whose names are in a record filed with the commissioner of the suspension, revocation, surrender or expiration of a license. Upon suspension, revocation, surrender or expiration of a license, all applicable authorized delegates shall immediately cease to provide money transmission as an authorized delegate of the licensee.

(f) An authorized delegate of a licensee holds in trust for the benefit of the licensee all money net of fees received from money transmission. If an authorized delegate commingles any funds received from money transmission with any other funds or property owned or controlled by the authorized delegate, all commingled funds and other property shall be considered held in trust in favor of the licensee in an amount equal to the amount of money net of fees received

from money transmission.

(g) No authorized delegate shall use a subdelegate to conduct money transmission on behalf of a licensee.

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

New Sec. 26. (a) No person shall engage in the business of money transmission on behalf of a person who is not licensed or exempt from licensing under this act. If a person engages in such activity, such person shall be deemed to have provided money transmission to the same extent that such person were a licensee and shall be jointly and severally liable with the unlicensed or nonexempt person.

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

New Sec. 27. (a) Every licensee shall forward all moneys received for transmission in accordance with the terms of the agreement between the licensee and the sender unless the licensee reasonably believes or has a reasonable basis to believe that the sender may be a victim of fraud or that a crime or violation of law or any rules and regulations has occurred, is occurring or may occur.

(b) If a licensee fails to forward money received for transmission in accordance with this section, the licensee shall respond to inquiries by the sender with the reason for the failure unless providing a response would violate a state or federal law or rules and regulations.

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

New Sec. 28. (a) This section does not apply to moneys received for transmission:

(1) Subject to 12 C.F.R. §§ 1005.30 through 1005.36; or

(2) pursuant to a written agreement between the licensee and payee to process payments for goods or services provided by the payee.

(b) Within 10 days of receipt of the sender's written request for a refund of all money

received for transmission, the licensee shall refund such money to the sender, unless:

(1) The money has been forwarded within 10 days of the date when the money was received for transmission;

(2) instructions have been given committing an equivalent amount of money to the person designated by the sender within 10 days of the date when the money was received for transmission;

(3) the agreement between the licensee and the sender instructs the licensee to forward the money after 10 days of the date when the money was received for transmission. If funds have not yet been forwarded in accordance with the terms of the agreement between the licensee and the sender, the licensee shall issue a refund in accordance with this section; or

(4) the refund is requested for a transaction that the licensee has not completed based on a reasonable belief or a reasonable basis to believe that a crime or violation of law, rules and regulations has occurred, is occurring or may occur.

(c) The refund request shall not be construed to enable the licensee to identify the:

(1) Sender's name and address or telephone number; or

(2) particular transaction to be refunded if the sender has multiple outstanding transactions.

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

New Sec. 29. (a) This section shall not apply to:

(1) Money received for transmission subject to 12 C.F.R. §§ 1005.30 through 1005.36;

(2) money received for transmission that is not primarily for personal, family or household purposes;

(3) money received for transmission pursuant to a written agreement between the licensee and payee to process payments for goods or services provided by the payee; or

(4) payroll processing services.

(b) As used in this section, "receipt" means a paper or electronic receipt.

(c) (1) For a transaction conducted in person, the receipt may be provided electronically if the sender requests or agrees to receive an electronic receipt.

(2) For a transaction conducted electronically or by phone, a receipt may be provided electronically. All electronic receipts shall be provided in a retainable form.

(d) (1) Every licensee or the licensee's authorized delegate shall provide the sender a receipt for money received for transmission.

(2) The receipt shall contain the:

(A) Name of the sender;

(B) name of the designated recipient;

(C) date of the transaction;

(D) unique transaction or identification number;

(E) name of the licensee, the licensee's nationwide multistate licensing system and registry unique identification number, the licensee's business address and the licensee's customer service telephone number;

(F) amount of the transaction in United States dollars;

(G) fee charged, if any, by the licensee to the sender for the transaction; and

(H) taxes collected, if any, by the licensee from the sender for the transaction.

(3) The receipt required by this section shall be written in English and in the language principally used by the licensee or authorized delegate to advertise, solicit or negotiate, either orally or in writing, for a transaction conducted in person, electronically or by phone, if other than English.

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

New Sec. 30. (a) Every licensee or authorized delegate shall include on a receipt or disclose on the licensee's website or mobile application the name of the office of the state bank commissioner and a statement that the licensee's Kansas customers can contact the office of the state bank commissioner with questions or complaints about the licensee's money transmission services.

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

New Sec. 31. (a) A licensee that provides payroll processing services shall:

(1) Issue reports to clients detailing client payroll obligations in advance of the payroll funds being deducted from an account; and

(2) make available worker paystubs or an equivalent statement to workers.

(b) This section shall not apply to a licensee providing payroll processing services where the licensee's client designates the intended recipients to the licensee and is responsible for providing the disclosures.

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

New Sec. 32. (a) Every licensee shall maintain at all times a tangible net worth of:

(1) The greater of \$100,000 or 3% of such licensee's total assets up to \$100,000,000;

(2) 2% of such licensee's additional assets of \$100,000,000 to \$1,000,000,000; and

(3) 0.5% of such licensee's additional assets of over \$1,000,000,000.

(b) The licensee's tangible net worth shall be demonstrated at initial application by the applicant's most recent audited or unaudited financial statements pursuant to section 10, and amendments thereto.

(c) Notwithstanding the provisions of this section, the commissioner shall have the authority to exempt any applicant or licensee, in part or in whole, from the requirements of this section.

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

New Sec. 33. (a) An applicant for a money transmission license shall provide and a licensee at all times shall maintain security consisting of a surety bond in a form satisfactory to the commissioner or, with the commissioner's approval, a deposit instead of a bond in accordance with this section.

(b) The amount of the required security shall be:

(1) The greater of \$200,000 or an amount equal to 100% of the licensee's average daily money transmission liability in Kansas calculated for the most recently completed three-month period, up to a maximum of \$1,000,000; or

(2) \$200,000, if the licensee's tangible net worth exceeds 10% of total assets.

(c) A licensee that maintains a bond in the maximum amount provided for in subsection (b) shall not be required to calculate its average daily money transmission liability in Kansas for purposes of this section.

(d) A licensee may exceed the maximum required bond amount pursuant to section 35, and amendments thereto.

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

New Sec. 34. (a) A licensee shall maintain permissible investments that have a market value computed in accordance with United States generally accepted accounting principles of not less than the aggregate amount of the total of the licensee's outstanding money transmission obligations.

(b) Except for the permissible investments described in section 35, and amendments thereto, the commissioner may by rules and regulations or order limit the extent to which a specific investment maintained by a licensee within a class of permissible investments may be considered a permissible investment, if the specific investment represents undue risk to

customers not reflected in the market value of investments.

(c) Permissible investments, even if commingled with other assets of the licensee, shall be held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations in the event of insolvency, the filing of a petition by or against the licensee under 11 U.S.C. §§ 101 through 110 for bankruptcy or reorganization, the filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for such licensee's dissolution or reorganization or in the event of an action by a creditor against the licensee who is not a beneficiary of this statutory trust. No permissible investments impressed with a trust pursuant to this subsection shall be subject to attachment, levy of execution or sequestration by order of any court, except for a beneficiary of this statutory trust.

(d) Upon the establishment of a statutory trust in accordance with subsection (c) or when any funds are drawn on a letter of credit pursuant to section 35, and amendments thereto, the commissioner shall notify the applicable regulator of each state where the licensee is licensed to engage in money transmission, if any, of the establishment of the trust or the funds drawn on the letter of credit, as applicable. Notice shall be deemed satisfied if performed pursuant to a multistate agreement or through the nationwide multistate licensing system and registry. Funds drawn on a letter of credit and any other permissible investments held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations shall be deemed held in trust for the benefit of such purchasers and holders on a pro rata and equitable basis in accordance with statutes pursuant to which permissible investments are required to be held in Kansas and other states, as applicable. Any statutory trust established under this section shall be terminated upon extinguishment of all of the licensee's outstanding money transmission obligations.

(e) The commissioner by rules and regulations or by order may allow other types of investments that the commissioner determines are of sufficient liquidity and quality to be a permissible investment. The commissioner is hereby authorized to participate in efforts with other state regulators to determine which other types of investments are of sufficient liquidity and quality to be a permissible investment.

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

New Sec. 35. (a) The following investments are permissible under this section:

(1) Cash, including demand deposits, savings deposits and funds in accounts held for the benefit of the licensee's customers in a federally insured depository financial institution and cash equivalents including automated clearing house items in transit to the licensee and automated clearing house items or international wires in transit to a payee, cash in transit via armored car, cash in smart safes, cash in licensee-owned locations, debit card or credit card-funded transmission receivables owed by any bank or money market mutual funds rated AAA by Standard & Poor or the equivalent from any eligible rating service;

(2) certificates of deposit or senior debt obligations of a federally insured depository institution;

(3) an obligation of the United States or a commission, agency or instrumentality thereof, an obligation that is guaranteed fully as to principal and interest by the United States or an obligation of a state or a governmental subdivision, agency or instrumentality thereof;

(4) (A) the full drawable amount of an irrevocable standby letter of credit for which the stated beneficiary is the commissioner that stipulates that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds up to the letter of credit amount within seven days of presentation of the items required by subparagraph (D);

(B) the letter of credit shall:

(i) Be issued by a federally insured depository financial institution, a foreign bank that is authorized under federal law to maintain a federal agency or federal branch office in a state or states or a foreign bank that is authorized under state law to maintain a branch in a state that:

(a) Bears an eligible rating or whose parent company bears an eligible rating; and

(b) is regulated, supervised and examined by United States federal or state authorities having regulatory authority over banks, credit unions and trust companies;

(ii) be irrevocable, unconditional and indicate that such letter of credit is not subject to any condition or qualifications outside of such letter of credit;

(iii) contain no references to any other agreements, documents or entities or otherwise provide for a security interest in the licensee; and

(iv) contain an issue date and expiration date and expressly provide for automatic extension, without a written amendment, for an additional period of one year from the present or each future expiration date unless the issuer of the letter of credit notifies the commissioner in writing by certified or registered mail or courier mail or other receipted means at least 60 days prior to any expiration date, that the irrevocable letter of credit will not be extended;

(C) if any notice of expiration or non-extension of a letter of credit is issued under clause (a)(4)(B)(iv), the licensee shall be required to demonstrate to the satisfaction of the commissioner, 15 days prior to expiration, that the licensee maintains and shall maintain permissible investments in accordance with section 36(a), and amendments thereto, upon the expiration of the letter of credit. If the licensee is not able to do so, the commissioner may draw on the letter of credit in an amount up to the amount necessary to meet the licensee's requirements to maintain permissible investments in accordance with section 34(a), and amendments thereto. Any such draw shall be offset against the licensee's outstanding money transmission obligations. The drawn funds shall be held in trust by the commissioner or the

commissioner's designated agent, to the extent authorized by law, as agent for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations;

(D) the letter of credit shall provide that the issuer of such letter of credit shall honor, at sight, a presentation made of the following documents by the beneficiary to the issuer on or prior to the expiration date of the letter of credit:

(i) The original letter of credit, including any amendments; and

(ii) a written statement from the beneficiary stating that any of the following events have occurred:

(a) The filing of a bankruptcy or reorganization petition by or against the licensee;

(b) the filing of a petition by or against the licensee for receivership or the commencement of any other judicial or administrative proceeding for such licensee's dissolution or reorganization;

(c) the seizure of assets of a licensee by a commissioner pursuant to an emergency order issued in accordance with applicable law, on the basis of an action, violation or condition that has caused or is likely to cause the insolvency of the licensee; or

(d) the beneficiary has received notice of expiration or non-extension of a letter of credit and the licensee failed to demonstrate to the satisfaction of the beneficiary that the licensee will maintain permissible investments in accordance with section 36(a), and amendments thereto, upon the expiration or non-extension of the letter of credit;

(E) the commissioner may designate an agent to serve on the commissioner's behalf as beneficiary to a letter of credit if the agent and letter of credit meet requirements established by the commissioner. The commissioner's agent may serve as agent for multiple licensing authorities for a single irrevocable letter of credit if the proceeds of the drawable amount for the purposes of subsection (a)(4) are assigned to the commissioner; and

(F) the commissioner is hereby authorized to participate in multistate processes designed to facilitate the issuance and administration of letters of credit, including, but not limited to, services provided by the nationwide multistate licensing system and registry and state regulatory registry, LLC; and

(5) 100% of the surety bond provided for under section 33, and amendments thereto, that exceeds the average daily money transmission liability in Kansas.

(b) (1) Unless permitted by the commissioner by rules and regulations adopted or by order issued to exceed the limit as set forth herein, the following investments are permissible under section 35, and amendments thereto, to the extent specified:

(A) Receivables payable to a licensee from the licensee's authorized delegates in the ordinary course of business that are less than seven days old up to 50% of the aggregate value of the licensee's total permissible investments; and

(B) of the receivables permissible under subparagraph (A), receivables payable to a licensee from a single authorized delegate in the ordinary course of business may not exceed 10% of the aggregate value of the licensee's total permissible investments.

(2) The following investments are permissible up to 20% per category and up to 50% combined of the aggregate value of the licensee's total permissible investments:

(A) A short-term investment of up to six months, bearing an eligible rating;

(B) commercial paper bearing an eligible rating;

(C) a bill, note, bond or debenture bearing an eligible rating;

(D) United States tri-party repurchase agreements collateralized at 100% or more with United States government or agency securities, municipal bonds or other securities bearing an eligible rating;

(E) money market mutual funds rated less than AAA and equal to or higher than A- by

Standard & Poor or the equivalent from any other eligible rating service; and

(F) a mutual fund or other investment fund composed solely and exclusively of one or more permissible investments listed in subsection (a)(1) through (3).

(3) Cash, including demand deposits, savings deposits and funds in such accounts held for the benefit of the licensee's customers, at foreign depository institutions are permissible up to 10% of the aggregate value of the licensee's total permissible investments if the licensee has received a satisfactory rating in the licensee's most recent examination and the foreign depository institution:

(A) Has an eligible rating;

(B) is registered under the foreign account tax compliance act;

(C) is not located in any country subject to sanctions from the office of foreign asset control; and

(D) is not located in a high-risk or non-cooperative jurisdiction as designated by the financial action task force.

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

New Sec. 36. (a) The commissioner may, after notice and an opportunity for a hearing conducted in accordance with the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto, suspend or revoke a license or order a licensee to revoke the designation of an authorized delegate if:

(1) The licensee violates this act or any rules and regulations adopted or an order issued under this act;

(2) the licensee does not cooperate with an examination or investigation by the commissioner;

(3) the licensee engages in fraud, intentional misrepresentation or gross negligence;

(4) an authorized delegate is convicted of a violation of a state or federal anti-money laundering statute or violates any rules or regulations adopted or an order issued under this act, as a result of the licensee's willful misconduct or willful blindness;

(5) the competence, experience, character or general fitness of the licensee, authorized delegate, person in control of a licensee, key individual or responsible person of the authorized delegate indicates that it is not in the public interest to permit the person to provide money transmission;

(6) the licensee engages in an unsafe or unsound practice as determined by the commissioner pursuant to subsection (b);

(7) the licensee is insolvent, suspends payment of the licensee's obligations or makes a general assignment for the benefit of the licensee's creditors;

(8) the licensee does not remove an authorized delegate after the commissioner issues and serves upon the licensee a final order that includes a finding that the authorized delegate has violated this act;

(9) a fact or condition exists that, if it had existed when the licensee applied for a license, would have been grounds for denying the application;

(10) the licensee's net worth becomes inadequate and the licensee, after 10 days, fails to take steps to remedy the deficiency;

(11) the licensee demonstrated a pattern of failing to promptly pay obligations;

(12) the licensee applied for adjudication, reorganization or other relief under bankruptcy;
or

(13) the licensee lied or made false or misleading statements to any material fact or omitted any material fact.

(b) In determining whether a licensee is engaging in an unsafe or unsound practice, the

commissioner may consider the size and condition of the licensee's money transmission, the magnitude of the loss, the gravity of the violation of this act and the previous conduct of the person involved.

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

New Sec. 37. (a) The commissioner may issue an order suspending or revoking the designation of an authorized delegate, if the commissioner finds that the:

(1) Authorized delegate violated this act or any rules and regulations adopted or an order issued under this act;

(2) authorized delegate did not cooperate with an examination or investigation by the commissioner;

(3) authorized delegate engaged in fraud, intentional misrepresentation or gross negligence;

(4) authorized delegate is convicted of a violation of a state or federal anti-money laundering statute;

(5) the competence, experience, character or general fitness of the authorized delegate or a person in control of the authorized delegate indicates that it is not in the public interest to permit the authorized delegate to provide money transmission; or

(6) the authorized delegate is engaging in an unsafe or unsound practice as determined by the commissioner pursuant to subsection (b).

(b) In determining whether an authorized delegate is engaging in an unsafe or unsound practice, the commissioner may consider the size and condition of the authorized delegate's provision of money transmission, the magnitude of the loss, the gravity of the violation of this act or any rules and regulations adopted or an order issued under this act and the previous conduct of the authorized delegate.

(c) An authorized delegate may apply for relief from a suspension or revocation of designation as an authorized delegate according to procedures prescribed by the commissioner in rules and regulations.

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

New Sec. 38. (a) If the commissioner determines that a violation of this act or of any rules and regulations adopted or an order issued under this act by a licensee, a person required to be licensed or authorized delegate is likely to cause immediate and irreparable harm to the licensee, the licensee's customers or the public as a result of the violation or cause insolvency or significant dissipation of assets of the licensee, the commissioner may issue an order requiring the licensee or authorized delegate to cease and desist from the violation. The order shall become effective upon service of the order on the licensee or authorized delegate.

(b) The commissioner may issue an order against a licensee to cease and desist from providing money transmission through an authorized delegate that is the subject of a separate order by the commissioner.

(c) An order to cease and desist shall remain effective and enforceable pending the completion of an administrative proceeding pursuant to the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto.

(d) An order to cease and desist shall be considered a final order unless the licensee or authorized delegate requests a hearing within 14 days after the cease and desist order is issued.

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

New Sec. 39. (a) The commissioner may enter into a consent order at any time with a person to resolve a matter arising under this act or any rules and regulations adopted or order issued under this act. A consent order shall be signed by the person to whom such consent order is issued or by the person's authorized representative and shall indicate agreement with the terms

contained in the order. A consent order may provide that such consent order does not constitute an admission by a person that this act or rules and regulations adopted or an order issued under this act has been violated.

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

New Sec. 40. (a) Any person that intentionally makes a false statement, misrepresentation or false certification in a record filed or required to be maintained under this act or that intentionally makes a false entry or omits a material entry in such a record is guilty of a severity level 9, nonperson felony.

(b) Any person that knowingly engages in an activity for which a license is required under this act without being licensed under this act and who receives more than \$500 in compensation within a 30-day period from this activity is guilty of a severity level 9, nonperson felony.

(c) Any person that knowingly engages in an activity for which a license is required under this act without being licensed under this act and who receives not more than \$500 in compensation within a 30-day period from this activity is guilty of a class A nonperson misdemeanor.

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

New Sec. 41. (a) As part of any summary order or consent order, the commissioner may:

(1) Assess a fine against any person who violates this act or any rules and regulations adopted hereunder in an amount not to exceed \$5,000 per violation. The commissioner may designate any fine collected pursuant to this section be used for consumer education;

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

(3) require the person to pay restitution for any loss arising from the violation or requiring the person to reimburse any profits arising from the violation;

(4) prohibit the person from future application for licensure pursuant to the act; and

(5) require such affirmative action as determined by the commissioner to carry out the purposes of this act.

(b) (1) The commissioner may enter into an informal agreement at any time with a person to resolve a matter arising under this act, rules and regulations adopted hereunder or an order issued pursuant to this act.

(2) Any informal agreement authorized by this subsection shall be considered confidential examination material. The adoption of an informal agreement authorized by this subsection shall not be:

(A) Subject to the provisions of K.S.A. 77-501 et seq., and amendments thereto, or K.S.A. 77-601 et seq., and amendments thereto;

(B) considered an order or other agency action;

(C) subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto; or

(D) discovery or be admissible in evidence in any private civil action.

(3) The provisions of this subsection providing for the confidentiality of public records shall expire on July 1, 2030, unless the legislature reviews and reenacts such provisions in accordance with the Kansas open records act, K.S.A. 45-229, and amendments thereto, prior to July 1, 2030.

(c) Through an examination finding, the commissioner may:

(1) Assess a fine against any licensee who violates this act or rules and regulations adopted thereto, in an amount not to exceed \$5,000 per violation. The commissioner may designate any fine collected pursuant to this section be used for consumer education; or

(2) require the licensee to pay restitution for any loss arising from the violation or require

the person to reimburse any profits arising from the violation.

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

New Sec. 42. (a) The provisions of this act are severable. If any portion of the act is declared unconstitutional or invalid, or the application of any portion of the act to any person or circumstance is held unconstitutional or invalid, the invalidity shall not affect other portions of the act that can be given effect without the invalid portion or application, and the applicability of such other portions of the act to any person or circumstance shall remain valid and enforceable.

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

New Sec. 43. (a) Sections 43 through 58, and amendments thereto, shall be known and may be cited as the Kansas earned wage access services act.

(b) This act shall not apply to a:

(1) Bank holding company regulated by the federal reserve;

(2) depository institution regulated by a federal banking agency; or

(3) a subsidiary of either paragraph (1) or (2) if such subsidiary directly owns 25% of the bank holding company or depository institution's common stock.

New Sec. 44. As used in sections 43 through 58, and amendments thereto:

(a) "Act" means the Kansas earned wage access services act.

(b) "Commissioner" means the state bank commissioner or the commissioner's designee, who shall be the deputy commissioner of the consumer and mortgage lending division of the office of the state bank commissioner.

(c) "Consumer" means an individual who is a resident of this state. A provider may use the mailing address provided by a consumer to determine such consumer's state of residence for purposes of this act.

(d) "Consumer-directed wage access services" means offering or providing earned wage

access services directly to consumers based on the consumer's representations and the provider's reasonable determination of the consumer's earned but unpaid income.

(e) "Director" means a member of the registrant's or applicant's board of directors.

(f) "Earned but unpaid income" means salary, wages, compensation or other income that a consumer has represented, and that a provider has reasonably determined, to have been earned or to have accrued to the benefit of the consumer in exchange for the consumer's provision of services to an employer or on behalf of an employer, including on an hourly, project-based, piecework or other basis and including where the consumer is acting as an independent contractor of the employer, but, at the time of the payment of proceeds, have not been paid to the consumer by the employer.

(g) "Earned wage access services" means the business of providing consumer-directed wage access services or employer-integrated wage access services, or both.

(h) "Employer-integrated wage access services" means the business of delivering to consumers access to earned but unpaid income that is based on employment, income and attendance data obtained directly or indirectly from an employer.

(i) "Fee" means a fee imposed by a provider for delivery or expedited delivery of proceeds to a consumer or a subscription or membership fee imposed by a provider for a bona fide group of services that include earned wage access services. A voluntary tip, gratuity or donation shall not be deemed a fee.

(j) "Member" means someone who has the right to receive upon dissolution, or has contributed 10% or more of the capital, of a limited liability corporation or a limited liability partnership of the registrant or applicant.

(k) "Nationwide multistate licensing system and registry" or "registry" means a multistate licensing system developed by the conference of state bank supervisors and the American

association of residential mortgage regulators and operated by the state regulatory agency, LLC, for the licensing and registration of non-depository financial service entities by participating state agencies or any successor to the nationwide multisystem licensing system and registry.

(l) "Non-mandatory payment" means the following:

(1) A charge imposed by a provider for delivery or expedited delivery of proceeds to a consumer so long as a provider offers the consumer at least one option to receive proceeds at no cost to the consumer;

(2) an amount paid by an obligor to a provider on a consumer's behalf that entitles the consumer to receive proceeds at no cost to the consumer;

(3) a subscription or membership charge imposed by a provider for a group of services that include earned wage access services so long as the provider offers the consumer at least one option to receive proceeds at no cost to the consumer; or

(4) a tip or gratuity paid by a consumer to a provider so long as the provider offers the consumer at least one option to receive proceeds at no cost to the consumer.

(m) "Nonrecourse" means a provider shall not compel or attempt to compel repayment by a consumer of outstanding proceeds or fees owed by such consumer to such provider through any of the following means:

(1) A civil suit against the consumer in a court of competent jurisdiction;

(2) use of a third party to pursue collection of outstanding proceeds or fees on the provider's behalf; or

(3) sale of outstanding amounts to a third-party collector or debt buyer.

(n) "Obligor" means an employer or other person who employs a consumer or any other person who is contractually obligated to pay a consumer earned but unpaid income in exchange for a consumer's provision of services to the employer or on behalf of the employer, including on

an hourly, project-based, piecework or other basis, and including where the consumer is acting as an independent contractor

(o) "Officer" means a person who participates or has authority to participate, other than in the capacity of a director, in major policymaking functions of the registrant or applicant, whether or not the person has an official title. "Officer" includes, but is not limited to, the chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief credit officer, chief compliance officer and every vice president.

(p) "Outstanding proceeds" means proceeds remitted to a consumer by a provider that have not yet been repaid to such provider.

(q) "Owner" means an individual who holds, directly or indirectly, at least 10% or more of a class of voting securities or the power to direct the management or policies of a registrant or an applicant.

(r) "Partner" means a person that has the right to receive upon dissolution, or has contributed, 10% or more of the capital of a partnership of the registrant or applicant.

(s) "Person" means any individual, corporation, partnership, association or other commercial entity.

(t) "Principal" of a registrant means a person that oversees the daily operations of a registrant or applicant and is not an owner or key individual of such registrant or applicant.

(u) "Proceeds" means a payment to a consumer by a provider that is based on earned but unpaid income.

(v) "Provider" means a person who is in the business of offering and providing earned wage access services to consumers.

(w) "Registrant" means a person who is registered with the commissioner as an earned wage access services provider.

New Sec. 45. (a) No person shall engage in or hold such person out as willing to engage in any earned wage access services business with a consumer without registering with the commissioner. Any person required to be registered as an earned wage access services provider shall submit to the commissioner an application for registration on forms prescribed and provided by the commissioner. Such application for registration shall include:

- (1) The applicant's name, business address, telephone number and, if any, website address;
- (2) the name and address of each owner, officer, director, member, partner or principal of the applicant;
- (3) a description of the ownership interest of any officer, director, member, partner, agent or employee of the applicant in any affiliate or subsidiary of the applicant or in any other entity that provides any service to the applicant or any consumer relating to the applicant's earned wage access services business; and
- (4) any other information the commissioner may deem necessary to evaluate the financial responsibility, financial condition, character, qualifications and fitness of the applicant.

(b) Each application for registration shall be accompanied by a nonrefundable fee.

(c) The commissioner shall approve an application and shall issue a nontransferable and nonassignable registration to the applicant when the commissioner:

- (1) Receives the complete application and fee required by this section; and
- (2) determines the financial responsibility, financial condition, character, qualifications and fitness warrants a belief that the business of the applicant will be conducted competently, honestly, fairly and in accordance with all applicable state and federal laws.

(d) Each earned wage access services registration issued under this section shall expire on December 31 of each year. A registration shall be renewed by filing a complete renewal application with the commissioner at least 30 calendar days prior to the expiration of the

registration. Such renewal application shall contain all information the commissioner requires to determine the existence and effect of any material change from the information contained in the applicant's original application, annual reports or prior renewal applications. Each renewal application shall be accompanied by a nonrefundable renewal fee.

(e) If the commissioner fails to issue a registration within 60 calendar days after a filed application is deemed complete by the commissioner, the applicant may make written request for a hearing. Upon receipt of such written request for a hearing, the commissioner shall conduct a hearing in accordance with the Kansas administrative procedure act.

(f) Not later than the first day of the sixth month beginning after the effective date of this act, the commissioner shall prescribe the form and content of an application for registration to provide earned wage access services pursuant to this act.

(g) Notwithstanding the provisions of subsection (a), a person who, as of January 1, 2024, was engaged in the business of providing earned wage access services in this state may, until the commissioner has processed the person's application for registration, continue to engage in the business of providing earned wage access services in this state without registering if the person has submitted an application for registration within three months after the commissioner has prescribed the form and content of an application pursuant to subsection (f) and otherwise complies with this act.

(h) The registration requirements of this act shall not apply to individuals acting as employees or independent contractors of business entities required to register.

New Sec. 46. Each applicant or registrant shall file with the commissioner a surety bond in a form acceptable to the commissioner. Such surety bond shall be issued by a surety or insurance company authorized to conduct business in this state, securing the applicant's or registrant's faithful performance of all duties and obligations of a registrant. The surety bond

shall:

(a) Be payable to the office of the state bank commissioner;

(b) provide that the bond may not be terminated without 30 calendar days' prior written notice to the commissioner, that such termination shall not affect the surety's liability for violations of this act occurring prior to the effective date of cancellation, and principal and surety shall be and remain liable for a period of two years from the date of any action or inaction of principal that gives rise to a claim under the bond;

(c) provide that the bond shall not expire for two years after the date of surrender, revocation or expiration of the applicant's or registrant's registration, whichever occurs first;

(d) be available for:

(1) The recovery of expenses, fines and fees levied by the commissioner under this act;

and

(2) payment of losses or damages that are determined by the commissioner to have been incurred by any consumer as a result of the applicant's or registrant's failure to comply with the requirements of this act; and

(e) be in the amount of \$100,000.

New Sec. 47. A provider that is registered in the state of Kansas shall be subject to the following requirements:

(a) The registrant shall provide all proceeds on a non-recourse basis and shall treat all fees and non-mandatory payments as non-recourse payment obligations.

(b) The registrant shall develop and implement policies and procedures to respond to questions raised by consumers and address complaints from consumers in an expedient manner.

(c) Before entering into an agreement with a consumer for the provision of earned wage access services, the registrant shall:

(1) Inform the consumer of their rights under the agreement;

(2) fully and clearly disclose all fees associated with the earned wage access services; and

(3) clearly and conspicuously describe how the consumer may obtain proceeds at no cost to such consumer.

(d) A registrant shall inform the consumer of any material changes to the terms and conditions of the earned wage access services before implementing such changes for such consumer.

(e) The registrant shall provide proceeds to a consumer via any means mutually agreed upon by the consumer and registrant.

(f) The registrant shall allow a consumer to cancel the use of the provider's earned wage access services at any time without incurring a cancellation fee or penalty imposed by the provider.

(g) The registrant shall comply with all applicable federal, state and local privacy and information security laws.

(h) If a registrant solicits, charges or receives a tip, gratuity or other donation from a consumer, the registrant shall disclose:

(1) To the consumer immediately prior to each transaction that a tip, gratuity or other donation amount may be zero and is voluntary; and

(2) in its agreement with the consumer and elsewhere that tips, gratuities or other donations are voluntary and that the offering of earned wage access services, including the amount of proceeds a consumer is eligible to request and the frequency with which proceeds are provided to a consumer, is not contingent on whether the consumer pays any tip, gratuity or donation or on the size of any tip, gratuity or other donation.

(i) If a registrant will seek repayment of outstanding proceeds or payment of fees or other

amounts owed, including voluntary tips, gratuities or other donations, in connection with earned wage access services from a consumer's depository institution, including by means of electronic funds transfer, the registrant shall do all of the following:

(1) Inform the consumer when the provider will make each attempt to seek repayment of the proceeds from the consumer;

(2) comply with applicable provisions of the federal electronic fund transfer act, 15 U.S.C. § 1693 et seq., and any regulations adopted thereunder; and

(3) reimburse the consumer for the full amount of any overdraft or nonsufficient funds fees imposed on a consumer by the consumer's depository institution that were caused by the provider attempting to seek payment of any outstanding proceeds, fees or other payments in connection with earned wage access services, including voluntary tips, gratuities or other donations, on a date before, or in an incorrect amount from, the date or amount disclosed to the consumer. Notwithstanding the provisions of this paragraph, no provider shall be subject to the requirements of this paragraph with respect to payments of outstanding proceeds or fees incurred by a consumer through fraudulent or other unlawful means.

New Sec. 48. No person required to be registered under this act shall:

(a) Compel or attempt to compel repayment by a consumer of outstanding proceeds or payments owed by such consumer to the registrant through any of the following means:

(1) A civil suit against the consumer in a court of competent jurisdiction;

(2) use of a third party to pursue collection of outstanding proceeds or payments on the provider's behalf;

(3) use of outbound telephone calls to attempt collection; or

(4) sale of outstanding amounts to a third-party debt collector or debt purchaser;

(b) charge a late fee, a deferral fee, interest or any other penalty or charge for failure to

repay outstanding proceeds, fees, voluntary tips, gratuities or other donations;

(c) charge interest or finance charges:

(d) charge an unreasonable fee to provide expedited delivery of proceeds to a consumer;

(e) share with an employer a portion of any fees, voluntary tips, gratuities or other donations that were received from or charged to a consumer for earned wage access services;

(f) condition the amount of proceeds that a consumer is eligible to request or the frequency with which a consumer is eligible to request proceeds on whether such consumer pays fees, voluntary tips, gratuities or other donations or on the size of any fee, voluntary tip, gratuity or other donation that such consumer may make to such registrant in connection with the provision of earned wage access services;

(g) mislead or deceive consumers about the voluntary nature of tips, gratuities or other donations or make representations that tips, gratuities or other donations will benefit any specific individuals if the registrant solicits, charges or receives tips, gratuities or other donations from a consumer;

(h) charge a deferral fee or any other charge in connection with deferring the collection of any outstanding proceeds beyond the original scheduled repayment date;

(i) accept credit of any kind as payment from a consumer of outstanding proceeds or non-mandatory payments;

(j) report a consumer's payment or failed repayment of outstanding proceeds to a consumer credit reporting agency or a debt collector; or

(k) require a credit score to determine a consumer's eligibility for earned wage access services.

New Sec. 49. (a) For purposes of the laws of this state:

(1) Earned wage access services provided by a registrant in accordance with this chapter

shall not be considered to be:

(A) A loan or other form of credit or the registrant a creditor or lender with respect thereto;

(B) in violation of or noncompliant with the laws of this state governing the sale or assignment of, or an order for, earned but unpaid income; or

(C) money transmission or the registrant a money transmitter with respect thereto.

(2) Fees, voluntary tips, gratuities or other donations paid to such a registrant in accordance with this chapter shall not be considered interest or finance charges.

(b) A registrant that provides proceeds to a consumer in accordance with this act shall not be subject to the provisions of the uniform consumer credit code in connection with such registrant's earned wage access services.

(c) If there is a conflict between the provisions of this act and any other state statute, the provisions of this act control.

New Sec. 50. (a) (1) On or before April 1 of each year, each registrant shall file with the commissioner an annual report relating to earned wage access services provided by the registrant in this state during the preceding calendar year. The annual report shall be on a form prescribed by the commissioner.

(2) The information contained in the annual report shall be confidential and shall not be subject to the open records act, K.S.A. 45-215 et seq., and amendments thereto. The commissioner may publish aggregate annual report information for multiple registrants in composite form. The provisions of this paragraph 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.

(b) Within 15 calendar days of any of the following events, a registrant shall file a written

report with the commissioner describing the event and such event's expected impact on the registrant's business:

- (1) The filing for bankruptcy or reorganization by the registrant;
 - (2) the institution of a revocation, suspension or other proceeding against the registrant by a governmental authority that is related to the registrant's earned wage access services business in any state;
 - (3) the addition or loss of any owner, officer, partner, member, principal or director of the registrant;
 - (4) a felony conviction of the registrant or any of such registrant's owners, officers, members, principals, directors or partners;
 - (5) a change in the registrant's name or legal entity status; or
 - (6) the closing or relocation of the registrant's principal place of business.
- (c) If a registrant fails to make any report to the commissioner as required by this section, the commissioner may require the registrant to pay a late penalty of \$100 for each day such report is overdue.

New Sec. 51. (a) Each registrant shall maintain and preserve complete and adequate business records, including a general ledger containing all assets, liabilities, capital, income and expense accounts for a period of three years.

(b) Each registrant shall maintain and preserve complete and adequate records of each earned wage access services contract during the term of the contract and for a period of five years from the date on which the registrant last provides proceeds to the consumer.

(c) The registrant shall provide the records to the commissioner within three business days of the commissioner's request or, at the commissioner's discretion, pay reasonable and necessary expenses for the commissioner or commissioner's designee to examine them at the place where

such records are maintained. The registrant may provide such records electronically to the commissioner in a manner prescribed by the commissioner.

New Sec. 52. The commissioner may deny, suspend, revoke or refuse to renew a registration issued pursuant to this act if the commissioner finds, after notice and opportunity for a hearing conducted in accordance with the provisions of the Kansas administrative procedure act, that:

(a) The applicant or registrant has repeatedly or willfully violated any provision of this act, any rules and regulations adopted thereunder or any order lawfully issued by the commissioner pursuant to this act;

(b) the applicant or registrant has failed to file and maintain the surety bond required under this act;

(c) the applicant or registrant is insolvent;

(d) the applicant or registrant has filed with the commissioner any document or statement containing any false representation of a material fact or omitting to state a material fact;

(e) the applicant, registrant or any officer, director, member, owner, partner or principal of the applicant or registrant has been convicted of any crime;

(f) the applicant or registrant fails to keep and maintain sufficient records to permit an audit satisfactorily disclosing to the commissioner the applicant's or registrant's compliance with the provisions of this act and applicable federal law;

(g) the applicant, registrant or an employee of the applicant or registrant has been the subject of any disciplinary action by the commissioner or any other state or federal regulatory agency;

(h) a final judgment has been entered against the applicant or registrant in a civil action and the commissioner finds that the conduct on which the judgment is based indicates that it

would be contrary to the public interest to permit such person to be registered;

(i) the applicant or registrant has engaged in any deceptive business practice;

(j) facts or conditions exist that would have justified the denial of the registration or renewal had such facts or conditions existed or been known to exist at the time the application for registration or renewal was made; or

(k) the applicant or registrant has refused to furnish information required by the commissioner within a reasonable period of time as established by the commissioner.

New Sec. 53. (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;

(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.

New Sec. 54. (a) If the commissioner determines after notice and opportunity for a hearing pursuant to the Kansas administrative procedure act that any person has engaged, is engaging or is about to engage in any act or practice constituting a violation of any provision of this act, any rules and regulations adopted or order issued thereunder, the commissioner may issue an order requiring any or all of the following:

- (1) That the person cease and desist from the unlawful act or practice;
- (2) that the person pay a fine not to exceed \$5,000 per incident for the unlawful act or practice;
- (3) if any person is found to have violated any provision of this act and such violation is committed against elder or disabled persons as defined in K.S.A. 50-676, and amendments thereto, the commissioner may impose an additional penalty not to exceed \$5,000 for each such violation, in addition to any civil penalty otherwise provided by law;
- (4) that the person to pay restitution for any loss arising from the violation or requiring the

person to disgorge any profits arising from the violation. Such order may include the assessment of interest not to exceed 8% per annum from the date of the violation;

(5) that the person take such action as in the judgment of the commissioner will carry out the purposes of this act; or

(6) that the person be barred from subsequently applying for registration under this act.

(b) (1) If the commissioner makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under subsection (a), the commissioner may issue an emergency cease and desist order.

(2) Such emergency order, even if not an order within the meaning of K.S.A. 77-502, and amendments thereto, shall be subject to the same procedures as an emergency order issued under K.S.A. 77-536, and amendments thereto.

(3) Upon the entry of such an emergency order, the commissioner shall promptly notify the person subject to the order that such order has been entered, the reasons for such order and that a hearing will be held upon written request by such person.

(4) If such person requests a hearing or, in the absence of any request, if the commissioner determines that a hearing should be held, the matter shall be set for a hearing that shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Upon completion of the hearing the commissioner shall, by written findings of fact and conclusions of law, vacate, modify or make permanent the emergency order.

(5) If no hearing is requested and none is ordered by the commissioner, the emergency order shall remain in effect until such order is modified or vacated by the commissioner.

(6) Fines and penalties collected pursuant to paragraphs (2) and (3) shall be designated for use by the commissioner for consumer education.

New Sec. 55. (a) In case of failure or refusal to obey a subpoena issued to any person, any

court of competent jurisdiction, upon application by the commissioner, may issue an order requiring such person to appear before the commissioner, or the commissioner's designee, to produce documentary evidence if so ordered or to give evidence relating to the matter under investigation or in question. Any failure to obey the order of the court may be punished by the court as contempt of court.

(b) No person shall be excused from attending, testifying or producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or the commissioner's designee, or in any proceeding instituted by the commissioner, on the ground that such testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture. No individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which such person is compelled, after claiming privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

New Sec. 56. It is unlawful for any person to violate the provisions of this act, any rules and regulations adopted or any order issued under this act. A conviction for an intentional violation is a class A nonperson misdemeanor. A second or subsequent conviction of this section is a severity level 7, nonperson felony. No person may be imprisoned for the violation of this section if such person proves that such person had no knowledge of the act, rules and regulations or order.

New Sec. 57. The commissioner, attorney general or a county or district attorney may bring an action in a district court to enjoin any violation of this act or any rules and regulations adopted thereunder.

New Sec. 58. All fees collected by the commissioner pursuant to this act shall be subject to the provisions of K.S.A. 75-1308, and amendments thereto.";

On page 2, following line 16, by inserting:

"Sec. 61. K.S.A. 9-1204 is hereby amended to read as follows: 9-1204. ~~(a) Any bank may receive deposits from minors or in the name of minors and pay the same upon the order of such minors whether or not such minors are emancipated. Payments so made shall discharge the bank from any further liability on the account~~ person, regardless of age, may become a depositor in any bank and shall be subject to the same duties and liabilities respecting such person's deposits. Whenever a deposit is accepted by any bank in the name of any person, regardless of age, the deposit may be withdrawn by the depositor by any of the following methods:

(1) Check or other instrument in writing. The check or other instrument in writing constitutes a receipt or acquittance if the check or other instrument in writing is signed by the depositor and constitutes a valid release and discharge to the bank for all payments made; or

(2) electronic means through:

(A) Preauthorized direct withdrawal;

(B) an automatic teller machine;

(C) a debit card;

(D) a transfer by telephone;

(E) a network, including the internet; or

(F) any electronic terminal, computer, magnetic tape or other electronic means.

(b) Any bank that accepts deposits from minors 16 years of age or older in the custody of the secretary for children and families, a federally recognized Indian tribe in this state or the secretary of corrections shall not require a cosigner or the funds to be deposited with the consent of the custodian. Such minor shall be responsible for banking costs or penalties associated with

such deposits. The secretary, or their designee, or any foster or biological parent shall not be responsible for banking costs or penalties associated with such deposits.

(c) Any person, regardless of age, individually or with others may enter into an agreement with a bank for the lease of a safe deposit box and shall be bound by the terms of such agreement.

(d) This section shall not be construed to affect the rights, liabilities or responsibilities of participants in an electronic fund transfer under the federal electronic fund transfer act, 15 U.S.C. § 1693 et seq., as in effect on July 1, 2024, and shall not affect the legal relationship between a minor and any person other than the bank.";

On page 6, in line 33, after the second comma by inserting "9-1204,"; following line 33, by inserting:

"Sec. 65. On and after January 1, 2025, K.S.A. 9-508, 9-509, 9-510, 9-510a, 9-511, 9-513, 9-513a, 9-513b, 9-513c, 9-513d and 9-513e and K.S.A. 2023 Supp. 9-512 are hereby repealed.";

Also on page 6, in line 35, by striking "Kansas register" and inserting "statute book";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "to" by inserting "entities regulated by the office of the state bank commissioner; pertaining to"; in line 4, after the semicolon by inserting "relating to bank deposits, withdrawals and safe deposit box lease agreements; authorizing any person to become a depositor or enter into an agreement for the lease of a safe deposit box; providing methods in which bank deposits may be withdrawn by a depositor; prohibiting banks from requiring a cosigner for an account of a child in the custody of the secretary for children and families, the secretary of corrections or a federally recognized Indian tribe; enacting the Kansas money transmission act; providing oversight thereof by the commissioner; establishing powers,

duties and responsibilities of the commissioner; enacting the Kansas earned wage access services act; establishing the administration of such act by the office of the state bank commissioner; providing for registration, bond requirements; duties, prohibited acts, reports, records retention, orders, civil fines, criminal penalties and fees;"; also in line 4, after the second comma by inserting "9-1204,"; in line 5, after "sections" by inserting "; also repealing K.S.A. 9-508, 9-509, 9-510, 9-510a, 9-511, 9-513, 9-513a, 9-513b, 9-513c, 9-513d and 9-513e and K.S.A. 2023 Supp. 9-512";

And your committee on conference recommends the adoption of this report.

 Conferees on part of Senate

 Conferees on part of House