

AMENDMENTS TO UNIFORM MONEY SERVICES ACT *

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

MEETING IN ITS ONE-HUNDRED-AND-THIRTEENTH YEAR
PORTLAND, OREGON

JULY 30 - AUGUST 6, 2004

AMENDMENTS TO UNIFORM MONEY SERVICES ACT

WITHOUT PREFATORY NOTE OR COMMENTS

Copyright © 2004
By
National Conference of Commissioners
on Uniform State Laws

* The following text is subject to revision by the Committee on Style of the National Conference of Commissioners on Uniform State Laws.

DRAFTING COMMITTEE TO AMEND UNIFORM MONEY SERVICES ACT

TOM BOLT, Corporate Place, Royal Dane Mall, St. Thomas, VI 00802-6410, *Chair*
JOHN FOX ARNOLD, 714 Locust St., St. Louis, MO 63101
DAVID A. GIBSON, P.O. Box 1767, Brattleboro, VT 05302, *Enactment Plan Coordinator*
BION M. GREGORY, 915 L St., Suite 1000, Sacramento, CA 95814
L. GENE LEMON, 1136 W. Butler Drive, Phoenix, AZ 85021-4428
KEN H. TAKAYAMA, Legislative Reference Bureau, State Capitol, Room 446, Honolulu, HI 96813
ANITA RAMASASTRY, University of Washington School of Law, William H. Gates Hall, Box 353020, Seattle, WA 98195-3020, *National Conference Reporter*

EX OFFICIO

FRED H. MILLER, University of Oklahoma, College of Law, 300 Timberdell Rd., Room 3056, Norman, OK 73019, *President*
MARTHA T. STARKEY, 30 S. Meridian St., Suite 850, Indianapolis, IN 46204, *Division Chair*

AMERICAN BAR ASSOCIATION ADVISOR

SARAH JANE HUGHES, Indiana University School of Law, 211 South Indiana Ave., Bloomington, IN 47405-1001, *ABA Advisor*

EXECUTIVE DIRECTOR

WILLIAM H. HENNING, University of Alabama, School of Law, Box 870382, Tuscaloosa, AL 35487-0382, *Executive Director*
WILLIAM J. PIERCE, 1505 Roxbury Road, Ann Arbor, MI 48104, *Executive Director Emeritus*

Copies of this Act may be obtained from:
NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS
211 E. Ontario Street, Suite 1300
Chicago, Illinois 60611
312/915-0195
www.nccusl.org

AMENDMENTS TO UNIFORM MONEY SERVICES ACT

SECTION 201. LICENSE REQUIRED.

(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:

(1) is licensed under this [article] or approved to engage in money transmission under Section 203; or

(2) is an authorized delegate of a person licensed under this [article]; or

(3) is an authorized delegate of a person approved to engage in money transmission under Section 203.

SECTION 203. APPROVAL TO ENGAGE IN MONEY TRANSMISSION WHEN LICENSED ELSEWHERE.

(a) A person that is licensed to engage in money transmission in at least one other state, with the approval of the [superintendent] and in accordance with this section, may engage in money transmission [and check cashing or currency exchange or both] in this state without being licensed pursuant to Section 202 if:

(1) the state in which the person is licensed has enacted the Uniform Money Services Act or money transmission laws that are substantially similar to those imposed by the law of this state, as determined by the [superintendent];

(2) the person submits to the [superintendent]:

(A) in a record a request for approval to engage in money transmission [and check cashing or currency exchange or both] in this state without being licensed pursuant to Section 202;

(B) a nonrefundable fee of [\$1,000];

(C) an application form; and

(D) a certification of license history.

(b) Before granting a person approval to engage in money transmission [and check cashing or currency exchange or both] in this state without being licensed pursuant to Section

202, the [superintendent] shall make such considerations, determinations, and findings as required by [rule].

(c) When an application for approval under this section is complete, the [superintendent] shall notify the applicant in a record of the date on which the request was determined to be complete and:

(1) the [superintendent] shall approve or deny the request within 120 days after that date; or

(2) if the request is not approved or denied within 120 days after that date:

(A) the request is approved; and

(B) the approval under this section takes effect as of the first business day after expiration of the period.

(d) A person that engages in money transmission [and check cashing or currency exchange or both] in this state pursuant to this section shall comply with the requirements of, and is subject to the sanctions under, Articles 6, 7, and 8 as if the person were licensed pursuant to Section 202.

SECTION ~~204~~ 205. ISSUANCE OF LICENSE.

(a) When an application is filed under this [article], the [superintendent] shall investigate the applicant's financial condition and responsibility, financial and business experience, character, and general fitness. The [superintendent] may conduct an on-site investigation of the applicant, the reasonable cost of which the applicant must pay. The [superintendent] shall issue a license to an applicant under this [article] if the [superintendent] finds that all of the following conditions have been fulfilled:

(1) the applicant has complied with Sections 202[,][and] ~~203~~ 204[, and ~~206~~ 207]; and

(2) the financial condition and responsibility, financial and business experience, competence, character, and general fitness of the applicant; and the competence, experience, character, and general fitness of the executive officers, managers, directors, 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;

(b) When an application for an original license under this [article] is complete, the [superintendent] shall promptly notify the applicant in a record of the date on which the application was determined to be complete and:

(1) the [superintendent] shall approve or deny the application within 120 days after that date; or

(2) if the application is not approved or denied within 120 days after that date:

(A) the application is ~~deemed~~ approved; and

(B) ~~the [superintendent] shall issue~~ the license under this [article]; ~~to shall take~~ takes effect as of the first business day after expiration of the period.

(c) The [superintendent] may for good cause extend the application period.

(d) An applicant whose application is denied by the [superintendent] under this [article] may appeal, within [30] days after receipt of the notice of the denial, from the denial and request a hearing.

SECTION 301. LICENSE REQUIRED.

(a) A person may not engage in check cashing or advertise, solicit, or hold itself out as providing check cashing for which the person receives at least \$500 within a 30-day period unless the person:

(1) is licensed under this article;

(2) is licensed for money transmission under [Article] 2 [or approved to engage in money transmission under Section 203];

(3) is licensed for currency exchange under [Article] 4; ~~or~~

(4) is an authorized delegate of a person licensed under [Article] 2; or

(5) is an authorized delegate of a person approved to engage in money transmission under Section 203.

SECTION 401. LICENSE REQUIRED.

(a) A person may not engage in currency exchange or advertise, solicit, or hold itself out as providing currency exchange for which the person receives revenues equal or greater than [five percent] of total revenues unless the person:

(1) is licensed under this Article;

(2) is licensed for money transmission under [Article] 2 [or approved to engage in money transmission under Section 203];

(3) is licensed for check cashing under [Article] 3; ~~or~~

(4) is an authorized delegate of a person licensed under [Article] 2; or

(5) is an authorized delegate of a person approved to engage in money transmission under Section 203.

SECTION 501. RELATIONSHIP BETWEEN LICENSEE AND AUTHORIZED DELEGATE.

(a) In this section, “remit” means to make direct payments of money to a licensee or its representative authorized to receive money or to deposit money in a bank in an account specified by the licensee.

(b) A contract between a licensee and an authorized delegate must require the authorized delegate to operate in full compliance with this [act]. The licensee shall furnish in a record to each authorized delegate policies and procedures sufficient for compliance with this [act].

(c) An authorized delegate shall remit all money owing to the licensee in accordance with the terms of the contract between the licensee and the authorized delegate.

(d) If a license is suspended or revoked or a licensee does not renew its license, the [superintendent] shall notify all authorized delegates of the licensee whose names are in a record filed with the [superintendent] of the suspension, revocation, or non-renewal. After notice is sent or publication is made, an authorized delegate shall immediately cease to provide money services as a delegate of the licensee.

(e) An authorized delegate may not provide money services outside the scope of activity permissible under the contract between the authorized delegate and the licensee, except activity in which the authorized delegate is authorized to engage under [Article] 2, 3, or 4. [An

authorized delegate of a licensee holds in trust for the benefit of the licensee all money net of fees received from money transmission.]

(f) An authorized delegate may not use subdelegates to conduct money services on behalf of a licensee.

~~SECTION 602. JOINT EXAMINATIONS.~~

~~(a) The [superintendent] may conduct an on-site examination of records listed in Section 605 in conjunction with representatives of other state agencies or agencies of another State or of the federal government. Instead of an examination, the [superintendent] may accept the examination report of an agency of this State or of another State or of the federal government or a report prepared by an independent licensed or certified public accountant.~~

~~(b) A joint examination or an acceptance of an examination report does not preclude the [superintendent] from conducting an examination as provided by law. A joint report or a report accepted under this subsection is an official report of the [superintendent] for all purposes.~~

SECTION 602. COOPERATION. The [superintendent] may consult and cooperate with other state money services regulators in enforcing and administering this [act]. They may jointly pursue examinations and take such other official action that they are otherwise empowered to take.

SECTION 603. REPORTS.

(a) A licensee shall file with the [superintendent] within [15] business days any material changes in information provided in a licensee's application as prescribed by the [superintendent].

(b) A licensee shall file with the [superintendent] within 45 days after the end of each fiscal quarter a current list of all authorized delegates, ~~responsible individuals~~, and locations in this State where the licensee or an authorized delegate of the licensee provides money services, including limited stations and mobile locations. The licensee shall state the name and street address of each location and authorized delegate.

(c) A licensee shall file a report with the [superintendent] within one business day after the licensee has reason to know of the occurrence any of the following events:

(1) the filing of a petition by or against the licensee under the United States Bankruptcy Code [11 U.S.C. Section 101-110 (1994 & Supp. V. 1999)] for bankruptcy or reorganization;

(2) the filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of its creditors;

(3) the commencement of a proceeding to revoke or suspend its license in a State or country in which the licensee engages in business or is licensed;

(4) the cancellation or other impairment of the licensee's bond or other security;

(5) a [charge or] conviction of the licensee or of an executive officer, manager, ~~or~~ director ~~of~~, or person in control, ~~of~~ the licensee for a felony; or

(6) a [charge or] conviction of an authorized delegate for a felony.

SECTION 701. MAINTENANCE OF PERMISSIBLE INVESTMENTS.

(a) A licensee shall maintain at all times permissible investments that have a market value computed in accordance with generally accepted accounting principles of not less than the aggregate amount of all of its outstanding payment instruments and stored value obligations issued or sold in all states and money transmitted from all states by the licensee ~~or its authorized delegates~~.

(b) The [superintendent], with respect to any licensees, may limit the extent to which a type of investment within a class of permissible investments may be considered a permissible investment, except for money and certificates of deposit issued by a bank. The [superintendent] by rule may prescribe or by order allow other types of investments that the [superintendent] determines to have a safety substantially equivalent to other permissible investments.

(c) Permissible investments, even if commingled with other assets of the licensee, are held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments and stored value obligations in the event of bankruptcy or receivership of the licensee.