

First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 458

AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-21.5-3-6, AS AMENDED BY P.L.35-2016, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 6. (a) Notice shall be given under this section concerning the following:

- (1) A safety order under IC 22-8-1.1.
- (2) Any order that:
 - (A) imposes a sanction on a person or terminates a legal right, duty, privilege, immunity, or other legal interest of a person;
 - (B) is not described in section 4 or 5 of this chapter or IC 4-21.5-4; and
 - (C) by statute becomes effective without a proceeding under this chapter if there is no request for a review of the order within a specified period after the order is issued or served.
- (3) A notice of program reimbursement or equivalent determination or other notice regarding a hospital's reimbursement issued by the office of Medicaid policy and planning or by a contractor of the office of Medicaid policy and planning regarding a hospital's year end cost settlement.
- (4) A determination of audit findings or an equivalent determination by the office of Medicaid policy and planning or by

SEA 458 — Concur



a contractor of the office of Medicaid policy and planning arising from a Medicaid postpayment or concurrent audit of a hospital's Medicaid claims.

(5) A license suspension or revocation under:

- (A) IC 24-4.4-2;
- (B) IC 24-4.5-3;
- (C) IC 28-1-29;
- (D) IC 28-7-5;
- (E) ~~IC 28-8-4~~; **IC 28-8-4.1**; or
- (F) IC 28-8-5.

(6) An order issued by the secretary or the secretary's designee against providers regulated by the division of aging or the bureau of developmental disabilities services and not licensed by the **state Indiana** department of health under IC 16-27 or IC 16-28.

(b) When an agency issues an order described by subsection (a), the agency shall give notice to the following persons:

- (1) Each person to whom the order is specifically directed.
- (2) Each person to whom a law requires notice to be given.

A person who is entitled to notice under this subsection is not a party to any proceeding resulting from the grant of a petition for review under section 7 of this chapter unless the person is designated as a party in the record of the proceeding.

(c) The notice must include the following:

- (1) A brief description of the order.
- (2) A brief explanation of the available procedures and the time limit for seeking administrative review of the order under section 7 of this chapter.
- (3) Any other information required by law.

(d) An order described in subsection (a) is effective fifteen (15) days after the order is served, unless a statute other than this article specifies a different date or the agency specifies a later date in its order. This subsection does not preclude an agency from issuing, under IC 4-21.5-4, an emergency or other temporary order concerning the subject of an order described in subsection (a).

(e) If a petition for review of an order described in subsection (a) is filed within the period set by section 7 of this chapter and a petition for stay of effectiveness of the order is filed by a party or another person who has a pending petition for intervention in the proceeding, an administrative law judge shall, as soon as practicable, conduct a preliminary hearing to determine whether the order should be stayed in whole or in part. The burden of proof in the preliminary hearing is on the person seeking the stay. The administrative law judge may stay the



order in whole or in part. The order concerning the stay may be issued after an order described in subsection (a) becomes effective. The resulting order concerning the stay shall be served on the parties and any person who has a pending petition for intervention in the proceeding. It must include a statement of the facts and law on which it is based.

SECTION 2. IC 28-1-2-30, AS AMENDED BY P.L.29-2022, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 30. (a) As used in this section, "financial institution" means any bank, trust company, corporate fiduciary, savings association, credit union, savings bank, bank of discount and deposit, or industrial loan and investment company organized or reorganized under the laws of this state, and includes licensees and registrants under IC 24-4.4, IC 24-4.5, IC 24-7, IC 24-12, IC 28-1-29, IC 28-7-5, ~~IC 28-8-4~~, **IC 28-8-4.1**, IC 28-8-5, and 750 IAC 9.

(b) Except as otherwise provided, a member of the department or the director or deputy, assistant, or any other person having access to any such information may not disclose to any person, other than officially to the department, by the report made to it, or to the board of directors, partners, or owners, or in compliance with the order of a court, the names of the depositors or shareholders in any financial institution, or the amount of money on deposit in any financial institution at any time in favor of any depositor, or any other information concerning the affairs of any such financial institution.

SECTION 3. IC 28-8-4 IS REPEALED [EFFECTIVE JANUARY 1, 2024]. (Money Transmitters).

SECTION 4. IC 28-8-4.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]:

Chapter 4.1. Money Transmission Modernization Act

Sec. 101. This chapter shall be known as and may be cited as the Money Transmission Modernization Act.

Sec. 102. This chapter is designed to replace state money transmission laws codified at IC 28-8-4 (before its repeal on January 1, 2024). The underlying purposes and policies of this chapter are to:

- (1) ensure states can coordinate in all areas of regulation, licensing, and supervision to eliminate unnecessary regulatory burden and more effectively use regulatory resources;**
- (2) enforce compliance with applicable state and federal laws;**
- (3) standardize the types of activities that are subject to licensing or otherwise exempt from licensing; and**



(4) modernize safety and soundness requirements to ensure customer funds are protected in an environment that supports innovative and competitive business practices.

Sec. 201. The following definitions apply throughout this chapter:

(1) "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.

(2) "Authorized delegate" means a person a licensee designates to engage in money transmission on behalf of the licensee.

(3) "Average daily money transmission liability", with respect to a calendar quarter, means:

(A) the sum of the amounts of a licensee's outstanding money transmission obligations in Indiana at the end of each day in the calendar quarter; divided by

(B) the total number of days in that calendar quarter.

For purposes of this subdivision, a "calendar quarter" is a quarter ending on March 31, June 30, September 30, or December 31.

(4) "Bank Secrecy Act" means:

(A) the Bank Secrecy Act (31 U.S.C. 5311 et seq.); and

(B) regulations adopted under the Bank Secrecy Act (31 U.S.C. 5311 et seq.).

(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 affiliate or by franchisees of the issuer or the issuer's affiliate, except to the extent required by applicable law to be redeemable in cash for its cash value.

(6) "Control" means any of the following:

(A) The power to vote, directly or indirectly, at least twenty-five percent (25%) of the outstanding voting shares or voting interests of a licensee or of a person in control of a licensee.

(B) The power to 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.

(C) The power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or of a person in control of a licensee. For purposes of this clause, a person is presumed to exercise a



controlling influence if the person holds the power to vote, directly or indirectly, at least ten percent (10%) of the outstanding voting shares or voting interests of a licensee or of a person in control of a licensee. However, a person presumed to exercise a controlling influence under this clause may rebut the presumption of control if the person is a passive investor.

For purposes of this subdivision, the percentage of a person controlled by any other person is determined by aggregating the other person's interest with the interest of any other immediate family member of that person, including the person's spouse, parents, children, siblings, mothers-in-law and fathers-in-law, sons-in-law and daughters-in-law, and any other person who shares the person's home.

(7) "Department" refers to the members of the department of financial institutions.

(8) "Director" refers to the director of the department appointed under IC 28-11-2-1.

(9) "Eligible rating" means a credit rating of any of the three (3) highest rating categories provided by an eligible rating service, including any rating category modifiers, such as "plus" or "minus" for S&P Global, or an equivalent modifier for any other eligible rating service. The term includes the following:

(A) A long term credit rating equal to at least A- by S&P Global, or an equivalent long term credit rating for any other eligible rating service.

(B) A short term credit rating equal to at least A-2 by S&P Global, or an equivalent short term credit rating for any other eligible rating service.

In any case in which the credit ratings differ among eligible rating services, the highest rating applies in determining whether the credit rating is an "eligible rating" as defined in this subdivision.

(10) "Eligible rating service" means:

(A) a nationally recognized statistical rating organization, as defined by the United States Securities and Exchange Commission; or

(B) any other organization designated as such by the director.

(11) "Federally insured depository financial institution" means:



- (A) a bank;
- (B) a credit union;
- (C) a savings and loan association;
- (D) a trust company;
- (E) a corporate fiduciary;
- (F) a savings association;
- (G) a savings bank;
- (H) an industrial bank; or
- (I) an industrial loan company;

that is organized under the law of the United States or any state of the United States and that has federally or privately insured deposits as permitted by state or federal law.

(12) "In Indiana", with respect to the location of a transaction, means the following:

- (A) At a physical location in Indiana, for a transaction requested in person.
- (B) For a transaction requested electronically or by telephone, a determination made by the provider of money transmission, by relying on the following, that the person requesting the transaction is in Indiana:
 - (i) Information, provided by the person, regarding the location of the individual's residential address or the business entity's principal place of business or other physical address location, as applicable.
 - (ii) Any records associated with the person that the provider of money transmission may have that indicate the person's location, including an address associated with an account.

(13) "Individual" means a natural person.

(14) "Key individual" means an individual ultimately responsible for establishing or directing policies and procedures of a licensee, such as an executive officer, manager, director, or trustee.

(15) "Licensee" means a person licensed under this chapter.

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

(17) "Money" means a medium of exchange that is issued by the United States government or by a foreign government.



The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two (2) or more governments.

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

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

(A) Selling or issuing payment instruments to a person located in Indiana.

(B) Selling or issuing stored value to a person located in Indiana.

(C) Receiving money for transmission from a person located in Indiana.

The term does not include the provision of solely online or telecommunications services or network access.

(20) "MSB 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.

(21) "Multistate licensing process" means an agreement entered into by and among state regulators related to:

(A) coordinated processing of applications for money transmission licenses;

(B) applications for the acquisition and control of a licensee;

(C) control determinations; or

(D) notice and information requirements for a change of key individuals.

(22) "NMLS" means the Nationwide Multistate Licensing System and Registry:

(A) developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators; and

(B) owned and operated by the State Regulatory Registry, LLC, or by any successor or affiliated entity;

for the licensing and registry of persons in financial services industries.

(23) "Outstanding money transmission obligation", as established and extinguished in accordance with applicable state law, means:

(A) any payment instrument or stored value that:

(i) is issued or sold by a licensee to a person located in the United States, or reported as sold by an authorized



delegate of the licensee to a person located in the United States; and

(ii) has not yet been paid or refunded by or for the licensee, or escheated in accordance with applicable abandoned property laws; or

(B) any money that:

(i) is received for transmission by a licensee, or by an authorized delegate of the licensee, from a person located in the United States; and

(ii) has not been received by the payee or refunded to the seller, or escheated in accordance with applicable abandoned property laws.

For purposes of this subdivision, a person is located "in the United States" if the person is located in any state, territory, or possession of the United States or in the District of Columbia, the Commonwealth of Puerto Rico, or a United States military installation located in a foreign country.

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

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

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

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

(D) either:

(i) attests to as facts the characteristics of passivity set forth in clauses (A) through (C), in a form and by a medium prescribed by the director; or

(ii) commits to the characteristics of passivity set forth in clauses (A) through (C) in a written document.

(25) "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, whether or not negotiable. The term does not include:

(A) stored value; or

(B) any instrument that:



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

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

(26) "Person" means any individual, general partnership, limited partnership, limited liability company, corporation, trust, association, joint stock corporation, or other corporate entity, as so identified by the director.

(27) "Receiving money for transmission" means receiving money or monetary value in the United States for transmission within or outside the United States by electronic or other means. The term "money received for transmission" has a corresponding meaning.

(28) "Stored value" means monetary value representing a claim, against the issuer, that is 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. The term includes "prepaid access" as defined in 31 CFR 1010.100. The term does not include:

(A) a payment instrument;

(B) closed loop stored value; or

(C) 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.

Sec. 301. This chapter does not apply to the following:

(1) An operator of a payment system, to the extent that the operator provides processing, clearing, or settlement services, between or among licensees or persons exempt under this section, in connection with wire transfers, credit card transactions, debit card transactions, stored value transactions, automated clearinghouse transactions, 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 itself, provided to the payor by the payee, if all of the following apply:

- (A) There exists a written agreement, 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.
 - (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 a person that has directly incurred an outstanding money transmission obligation to a sender, and the sender's designated recipient, if the person:
- (A) is properly licensed or exempt from licensing requirements under this chapter;
 - (B) provides a receipt, electronic record, or other written confirmation to the sender identifying the person 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, or a department, agency, or instrumentality of the United States, or its agent.
- (5) Money transmission by the United States Postal Service or by an agent of the United States Postal Service.
- (6) A state, county, or city, or any other:
- (A) governmental agency; or
 - (B) governmental subdivision or instrumentality;
- of a state, or its agent.
- (7) A federally insured depository financial institution, bank holding company, office of an international banking corporation, foreign bank that establishes a federal branch under the International Bank Act (12 U.S.C. 3102), corporation organized under the Bank Service Corporation Act (12 U.S.C. 1861-1867), or corporation organized under the Edge Act (12 U.S.C. 611-633).
- (8) Any of the following that is organized under the laws of



any state of the United States:

- (A) A trust company.
- (B) A corporate fiduciary.
- (C) An industrial loan corporation.

(9) Electronic funds transfer of governmental benefits for a federal, state, county, or governmental agency by a contractor on behalf of:

- (A) the United States or a department, agency, or instrumentality of the United States; or
- (B) a state or governmental subdivision, agency, or instrumentality.

(10) A:

- (A) board of trade designated as a contract market under the federal Commodity Exchange Act (7 U.S.C. 1-25); or
- (B) person that, in the ordinary course of business, provides clearance and settlement services for a board of trade;

to the extent of its operation as or for such a board.

(11) A registered futures commission merchant under federal commodities laws, to the extent of its operation as such a merchant.

(12) A person registered as a securities broker-dealer under federal or state securities laws, to the extent of its operation as such a broker-dealer.

(13) An individual employed by:

- (A) a licensee;
- (B) an authorized delegate; or
- (C) a person exempted from the licensing requirements of this chapter;

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.

(14) A person expressly appointed as a third party service provider to or agent of an entity exempt under subdivision (7), solely to the extent that:

- (A) the service provider or agent is engaging in money transmission on behalf of, and pursuant to a written agreement with, the exempt entity, and the agreement 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 those outstanding money transmission obligations, upon the service provider's or agent's receipt of the purchasers' or holders' money or monetary value.

(15) A person exempt by regulation or order if the director finds that:

- (A) an exemption is in the public interest; and
- (B) regulation of the person is not necessary for the purposes of this chapter.

Sec. 302. The director may require any person claiming to be exempt from licensing under section 301 of this chapter to provide information and documentation to the director demonstrating that the person qualifies for any claimed exemption.

Sec. 401. (a) To carry out the purposes of this chapter, the director may, subject to section 402(a) and 402(b) of this chapter, do any of the following:

(1) Enter into agreements or relationships with other government officials or federal and state regulatory agencies and regulatory associations in order to improve efficiencies and reduce regulatory burden by:

- (A) standardizing methods or procedures; and
- (B) sharing resources, records, or related information obtained under this chapter.

(2) Use, contract for, or employ analytical systems, methods, or software to examine or investigate any person subject to this chapter.

(3) Accept, from other state or federal government agencies or officials, licensing, examination, or investigation reports made by those other state or federal government agencies or officials.

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

(b) The department has broad administrative authority to:

- (1) administer, interpret, and enforce this chapter;
- (2) promulgate rules or regulations implementing this chapter; and
- (3) recover the cost of administering and enforcing this chapter by imposing and collecting proportionate and equitable fees and costs associated with applications, examinations, investigations, and other actions required to



achieve the purpose of this chapter.

Sec. 402. (a) Except as provided in subsection (b), the following are confidential:

- (1) All information or reports obtained by the department from an applicant, licensee, or authorized delegate.
- (2) 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 department.
- (3) Financial statements, balance sheets, or authorized delegate information.

(b) Subject to the confidentiality provisions contained in IC 5-14-3 and this section, the director may regularly report significant or recurring violations of this chapter to the NMLS.

(c) Subject to the confidentiality provisions contained in IC 5-14-3 and this section, the director may report complaints received regarding licensees to the NMLS.

(d) The director's authority to use the NMLS under this chapter is subject to the following:

(1) Information stored in the NMLS is subject to the confidentiality provisions of IC 5-14-3 and this section. A person may not:

- (A) obtain information from the NMLS, unless the person is authorized to do so by statute;
- (B) initiate any civil action based on information obtained from the NMLS if the information is not otherwise available to the person under any other state law; or
- (C) initiate any civil action based on information obtained from the NMLS if the person could not have initiated the action based on information otherwise available to the person under any other state law.

(2) Documents, materials, and other forms of information in the control or possession of the NMLS that are confidential under this section and that are:

- (A) furnished by the director, the director's designee, or a licensee; or
- (B) otherwise obtained by the NMLS;

are confidential and privileged by law and are not subject to inspection under IC 5-14-3, subject to subpoena, subject to discovery, or admissible in evidence in any civil action. However, the director may use the documents, materials, or other information available to the director in furtherance of any action brought in connection with the director's duties



under this chapter.

(3) Disclosure of documents, materials, and information:

(A) to the director; or

(B) by the director;

under this subsection does not result in a waiver of any applicable privilege or claim of confidentiality with respect to the documents, materials, or information.

(4) Information provided to the NMLS is subject to IC 4-1-11.

(5) This subsection does not limit or impair a person's right to:

(A) obtain information;

(B) use information as evidence in a civil action or proceeding; or

(C) use information to initiate a civil action or proceeding; if the information may be obtained from the director or the director's designee under any law.

(6) The requirements under any federal law or IC 5-14-3 regarding the privacy or confidentiality of any information or material provided to the NMLS, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to the information or material, continue to apply to the information or material after the information or material has been disclosed to the NMLS. The information and material may be shared with all state and federal regulatory officials with financial services industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal law or IC 5-14-3.

(7) Information or material that is subject to a privilege or confidentiality under subdivision (6) is not subject to:

(A) disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective state; or

(B) subpoena, discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privileged information or material held by the NMLS, the person to whom the information or material pertains waives, in whole or in part, in the discretion of the person, that privilege.

(e) Notwithstanding any other provision of law, all information or reports obtained by the director from an applicant, a licensee,



or an authorized delegate, whether obtained through reports, applications, examination, audits, investigation, or otherwise, including:

(1) all information contained in or related to:

- (A) examination;
- (B) investigation;
- (C) operation; or
- (D) condition;

reports prepared by, on behalf of, or for the use of the director; or

(2) financial statements, balance sheets, or authorized delegate information;

are confidential and may not be disclosed or distributed outside the department by the director or any officer or employee of the department, except as provided in subsection (b).

(f) The director may provide for the release of information to representatives of:

- (1) financial institution and money services business supervisory agencies;
- (2) law enforcement agencies; or
- (3) prosecutorial agencies or offices;

of a state (as defined in IC 28-2-17-19), the United States, or a foreign country. An agency or office that receives information from the director under this subsection shall maintain the confidentiality of the information as described in IC 28-1-2-30.

(g) This section does not prohibit the director from releasing to the public a list of persons licensed under this chapter or from releasing aggregated financial data with respect to such licensees.

Sec. 403. (a) The director may conduct an examination or investigation of a licensee or an authorized delegate or otherwise take independent action authorized by this chapter, or by a rule adopted or order issued under this chapter, as reasonably necessary or appropriate to administer and enforce this chapter, regulations implementing this chapter, and other applicable law, including the Bank Secrecy Act and the USA Patriot Act of 2001 (P.L. 107-56). The director may:

- (1) conduct an examination either onsite or offsite as the director may reasonably require;
- (2) conduct an examination in conjunction with an examination conducted by other state agencies or agencies of another state or of the federal government;
- (3) accept the examination report of another state agency or



an agency of another state or of the federal government, or a report prepared by an independent accounting firm, with any such report considered, upon being accepted and for all purposes, as an official report of the director; and

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

(b) A licensee or an authorized delegate shall provide, and the director shall have full and complete access to, all records the director may reasonably require to conduct a complete examination. The records must be provided at the location and in the format specified by the director. The director may use multistate record production standards and examination procedures when those standards will reasonably achieve the purposes of this subsection.

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

(d) The director shall determine the sufficiency of the licensee's records and whether the licensee has made the required information reasonably available.

(e) To discover violations of this chapter, the director may investigate and examine the records of any person the director believes is operating without a license, when a license is required under this chapter. The person examined must pay the reasonably incurred costs of the examination.

Sec. 404. (a) To efficiently and effectively administer and enforce this chapter and to minimize regulatory burden, the director may participate in multistate supervisory processes established between states and coordinated through the Conference of State Bank Supervisors, the Money Transmitter Regulators Association, and the affiliates and successors of either organization, for all licensees that hold licenses in Indiana and other states. As a participant in multistate supervision, the director may:

(1) cooperate, coordinate, and share information with other state and federal regulators in accordance with section 402 of this chapter;

(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, as long as the organizations agree in writing to maintain the confidentiality and security of the shared information in accordance with section 402 of this chapter.

(b) The director may not waive, and nothing in this section constitutes a waiver of, the director's authority to conduct an examination or investigation or to otherwise take independent action authorized by this chapter, or by a rule adopted or order issued under this chapter, to enforce compliance with applicable state or federal law.

(c) The performance of a joint examination or investigation, or acceptance of an examination or investigation report, does not waive the director's authority to perform an examination assessment provided for in this chapter.

Sec. 405. (a) In the event state money transmission jurisdiction is conditioned on a federal law, any inconsistencies between a provision of this chapter and the federal law governing money transmission shall be governed by the applicable federal law to the extent of the inconsistency.

(b) In the event of any inconsistencies between this chapter and a federal law that governs under subsection (a), the director may provide interpretive guidance that:

- (1) identifies the inconsistency; and
- (2) identifies the appropriate means of compliance with federal law.

Sec. 406. If a licensee contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the licensee and be subject to the department's routine examination procedures, the person that provides the service to the licensee shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this section is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this section refuses to permit the examination to be made, the director may order any licensee that receives services from the person refusing the examination to:

- (1) discontinue receiving one (1) or more services from the person; or
- (2) otherwise cease conducting business with the person.

Sec. 501. (a) A person may not:



- (1) engage in the business of money transmission; or
- (2) advertise, solicit, or hold itself out as providing money transmission;

unless the person is licensed under this chapter.

(b) Subsection (a) does not apply to:

- (1) a person that is:
 - (A) an authorized delegate of a person licensed under this chapter; and
 - (B) acting within the scope of authority conferred by a written contract with the licensee; or
- (2) a person that is exempt under section 301 of this chapter and does not engage in money transmission outside the scope of the exemption.

(c) A license issued under section 505 of this chapter is not transferable or assignable.

Sec. 502. (a) To establish consistent licensing between this state and other states, the director may:

- (1) implement all licensing provisions of this chapter in a manner that is consistent with other states that have adopted:
 - (A) a law containing the same provisions of this chapter; or
 - (B) multistate licensing processes; and
- (2) participate in nationwide protocols for licensing cooperation and coordination among state regulators if those protocols are consistent with this chapter.

(b) To fulfill the purposes of this chapter, the director may establish relationships or contracts with the NMLS or other entities designated by the NMLS to enable the director to:

- (1) collect and maintain records;
- (2) coordinate multistate licensing processes and supervision processes;
- (3) process fees; and
- (4) facilitate communication between the state and licensees or other persons subject to this chapter.

(c) The director may use the NMLS for all aspects of licensing in accordance with this chapter, including license applications, applications for acquisitions of control, surety bonds, reporting, criminal history background checks, credit checks, fee processing, and examinations.

(d) The director may use NMLS forms, processes, and functionalities in accordance with this chapter. If the NMLS does not provide functionality, forms, or processes for a provision of this chapter, the director may implement the requirements in a manner



that facilitates uniformity with respect to licensing, supervision, reporting, and regulation of licensees that are licensed in multiple jurisdictions.

(e) For the purpose of participating in the NMLS, the director is authorized to waive or modify, in whole or in part, by rule, regulation or order, any or all of the requirements for licensure and to establish new requirements as reasonably necessary to participate in the NMLS.

Sec. 503. (a) Applicants for a license shall apply in a form and by a medium prescribed by the director. Each application must contain the content set forth by rule, regulation, instruction, or procedure of the department. The required content for an application may be changed or updated in accordance with applicable law in order to carry out the purposes of this chapter and maintain consistency with NMLS licensing standards and practices. Each application submitted to the department must state or contain the following, as applicable:

- (1) The legal name and residential and business addresses of the applicant and any fictitious or trade name used by the applicant in conducting its business.
- (2) A list of any criminal convictions of the applicant and any material litigation in which the applicant has been involved in the ten (10) year period immediately preceding the submission of the application.
- (3) A description of any money transmission previously provided by the applicant and the money transmission that the applicant seeks to provide in Indiana.
- (4) A list of the applicant's proposed authorized delegates and the locations in Indiana where the applicant and its authorized delegates propose to engage in money transmission.
- (5) A list of other states in which the applicant is licensed to engage in money transmission and any license revocations, suspensions, or other disciplinary action taken against the applicant in another state.
- (6) Information concerning any bankruptcy or receivership proceedings affecting the applicant or a person in control of the applicant.
- (7) A sample contract form for authorized delegates, if applicable.
- (8) A form of 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.

(10) Any other information the director or the NMLS reasonably requires with respect to the applicant.

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

(1) The:

(A) date of the applicant's incorporation or formation; and

(B) state or country of incorporation or formation.

(2) If applicable, a certificate of good standing from the state or country in which the applicant was incorporated or formed.

(3) A brief description of the structure or organization of the applicant, including any parents or subsidiaries of the applicant, and whether any parents or subsidiaries are publicly traded.

(4) For the ten (10) year period immediately preceding the submission of the application, the legal name, any fictitious or trade name, all business and residential addresses, and the employment, as applicable, of each:

(A) key individual with respect to; and

(B) person in control of:

the applicant.

(5) For the ten (10) year period immediately preceding the submission of the application, a list of any criminal convictions and material litigation in which a person, other than an individual, in control of the applicant has been involved.

(6) A copy of audited financial statements of the applicant for the most recent fiscal year and for the two (2) year period immediately preceding the submission of the application or, if determined to be acceptable by the director, certified unaudited financial statements for the most recent fiscal year or for another period acceptable to the director.

(7) A certified copy of unaudited financial statements of the applicant 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 United States Securities and Exchange Commission under Section 13 of the federal Securities Exchange Act of 1934 (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 audited financial statements for the parent corporation for the most recent fiscal year or a copy of the parent corporation's most recent report filed under Section 13 of the federal Securities Exchange Act of 1934 (15 U.S.C. 78m); or

(B) a corporation publicly traded outside the United States, a copy of similar documentation 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 Indiana.

(11) Any other information the director reasonably requires with respect to the applicant.

(c) A nonrefundable application fee, as set by the department, and a license fee, as set by the department, must accompany an application for a license under this section.

(d) The director may:

(1) waive one (1) or more requirements set forth in subsection (a) or (b); or

(2) permit an applicant to submit other information instead of one (1) or more of the requirements set forth in subsection (a) or (b).

Sec. 504. (a) An individual in control of a licensee or an applicant, an individual who seeks to acquire control of a licensee, and each key individual with respect to a licensee or an applicant shall furnish to the department through the NMLS the following items:

(1) The individual's fingerprints for submission to the Federal Bureau of Investigation and the department for purposes of a national criminal history background check unless the person currently resides outside the United States and has resided outside the United States for the last ten (10) years.

(2) Personal history and experience, in a form and by a medium prescribed by the director, including the following:

(A) An independent credit report from a consumer reporting agency unless the individual does not have a Social Security number, in which case a credit report is not required.

(B) Information related to any criminal convictions with respect to, or pending charges against, the individual.



(C) Information related to any:

- (i) regulatory or administrative action; or**
- (ii) civil litigation;**

involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty, or breach of contract.

(b) If an individual described in subsection (a) has resided outside the United States at any time in the last ten (10) years, the individual shall also provide an investigative background report prepared by an independent search firm that meets the following requirements:

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

- (A) demonstrate that it has sufficient knowledge and resources, and employs accepted and reasonable methodologies, to conduct the research for the background report; and**
- (B) not be affiliated with, or have an interest with respect to, the individual it is researching.**

(2) The investigative background report must be written in the English language and must, at a minimum, contain the following information with respect to the individual during the ten (10) years covered by the investigative background report:

- (A) If available in the individual's current jurisdiction of residency, a comprehensive credit report, or any equivalent information obtained or generated by the independent search firm to produce such a report, including a search of court data in the countries, provinces, states, cities, towns, and contiguous areas, as applicable, in which the individual resided and worked.**
- (B) Criminal records information, including convictions for felonies or misdemeanors, or similar convictions for violations of law, in the countries, provinces, states, cities, towns, and contiguous areas, as applicable, in which 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.**
- (E) Regulatory history in the financial services industry, including money transmission, securities, banking, insurance, and mortgage related industries.**



(c) The director may:

- (1) waive one (1) or more requirements set forth in subsection (a) or (b); or**
- (2) permit an applicant to submit other information instead of one (1) or more of the requirements set forth in subsection (a) or (b).**

Sec. 505. (a) Subject to subsection (b), when an application for an original license under this chapter appears to include all the items, and to address all the matters, that are required for an application under this chapter, as determined by the director, the application is considered complete, and the director shall promptly notify the applicant, in a record, of the date on which the application is determined to be complete, and:

- (1) the department shall approve or deny the application not later than one hundred twenty (120) days after the completion date, as determined in accordance with this subsection; or**
- (2) if the application is not approved or denied not later than one hundred twenty (120) days after the completion date:**
 - (A) the application is considered approved; and**
 - (B) the license takes effect as of the first business day after expiration of the one hundred twenty (120) day period.**

However, the director may for good cause extend the one hundred twenty (120) day period described in this subsection.

(b) A determination by the director that an application is complete and is accepted for processing means only that the application, on its face, appears to:

- (1) include all of the items, including the criminal background check response from the Federal Bureau of Investigations; and**
- (2) address all of the matters;**

that are required for an application for an original license under this chapter, and is not 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 director shall investigate the applicant's financial condition and responsibility, financial and business experience, character, and general fitness. The director may conduct an onsite investigation of the applicant, the reasonable cost of which the applicant shall pay. The department shall issue a license to an applicant under this section if the department finds that all of the following conditions have been met:

- (1) The applicant has complied with sections 503 and 504 of**



this chapter.

(2) Both the:

(A) financial condition and responsibility, financial and business experience, competence, character, and general fitness of the applicant; and

(B) competence, experience, character, and general fitness of the key individuals with respect to, 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 director may accept the investigation results of a lead investigative state for the purpose of subsection (c), if the lead investigative state has sufficient staffing, expertise, and minimum standards; or

(2) if Indiana is a lead investigative state, the director may investigate the applicant pursuant to subsection (c) and to the timeframes established by agreement through the multistate licensing process, as long as the time frames established comply with the time frame set forth subsection (a)(1) for the approval or denial of the application.

(e) The department shall issue a formal written notice of the denial of a license application not later than thirty (30) days after the decision to deny the application. The department shall set forth in the notice of denial the specific reasons for the denial of the application. An applicant whose application is denied by the department under this subsection may appeal the denial to the department for an administrative review under IC 4-21.5-3.

(f) The initial license term begins on the day the application is approved. The license expires on December 31 of the year in which the license term begins, unless the initial license date is between November 1 and December 31, in which case the initial license term runs through December 31 of the following year.

Sec. 506. (a) A license under this chapter shall be renewed annually as follows:

(1) An annual renewal fee, as set by the department, shall be paid not later than December 31 of each year.

(2) The renewal term is for a period of one (1) year and:

(A) begins on January 1 of each year after the initial license term; and

(B) expires on December 31 of the year the renewal term



begins.

(b) A licensee shall submit a renewal report with the renewal fee, in a form and by a medium prescribed by the director. The renewal report must state or contain a description of each material change in the information submitted by the licensee in its original license application, if such change has not been previously reported to the department.

(c) The director may grant an extension of the renewal date for good cause.

(d) The director may use the NMLS to process license renewals, as long as the functionality of the NMLS for such purpose is consistent with this section.

Sec. 507. (a) If a licensee does not continue to meet the qualifications or satisfy the requirements that apply to an applicant for a new money transmission license, the department may suspend or revoke the licensee's license in accordance with the procedures established by this chapter or other applicable state law for such suspension or revocation.

(b) An applicant for a money transmission license must demonstrate that it meets or will meet, and a money transmission licensee must at all times meet, the requirements set forth in sections 1001, 1002, and 1003 of this chapter.

Sec. 601. (a) Any person, or group of persons acting in concert, seeking to acquire control of a licensee shall obtain the written approval of the department before acquiring control. An individual:

- (1) is not considered to acquire control of a licensee; and
- (2) is not subject to the acquisition of control provisions set forth in this chapter;

when that individual becomes a key individual in the ordinary course of business.

(b) A person, or group of persons acting in concert, seeking to acquire control of a licensee shall, in cooperation with the licensee, submit:

- (1) an application in a form and by a medium prescribed by the director; and
- (2) a nonrefundable fee, as determined by the department, with the request for approval.

(c) Upon request, the director may permit a licensee or:

- (1) the person; or
- (2) group of persons acting in concert;

seeking to acquire control of the licensee, to submit some or all



information required in an application under subsection (b)(1) without using the NMLS.

(d) The application required under subsection (b)(1) shall include information required by section 504 of this chapter for any new key individuals that have not previously completed the requirements of section 504 of this chapter for a licensee.

(e) Subject to subsection (f), when an application for acquisition of control appears to include all the items, and to address all the matters, that are required for an application for change in control, as determined by the director, the application is considered complete, and the director shall promptly notify the applicant, in a record, of the date on which the application is determined to be complete, and:

- (1) the department shall approve or deny the application not later than sixty (60) days after the completion date, as determined in accordance with this subsection; or
- (2) if the application is not approved or denied not later than sixty (60) days after the completion date:
 - (A) the application is considered approved; and
 - (B) the person, or group of persons acting in concert, seeking to acquire control of the licensee are not prohibited from acquiring control.

However, the director may for good cause extend the sixty (60) day period described in this subsection.

(f) A determination by the director that an application is complete and is accepted for processing means only that the application, on its face, appears to:

- (1) include all of the items; and
- (2) address all of the matters;

that are required for an application for acquisition of control under this chapter, and is not 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 director 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, seeking to acquire control. The department shall approve an acquisition of control under this section if the department finds that all of the following conditions have been met:

- (1) The requirements set forth in subsections (b) and (d) have been met, as applicable.
- (2) Both the:



(A) 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

(B) competence, experience, character, and general fitness of 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 director may accept the investigation results of a lead investigative state for the purpose of subsection (g) if the lead investigative state has sufficient staffing, expertise, and minimum standards; or

(2) if Indiana is a lead investigative state, the director may investigate the applicant pursuant to subsection (g) and to the time frames established by agreement through the multistate licensing process.

(i) The department shall issue a formal written notice of the denial of an application to acquire control not later than thirty (30) days after the decision to deny the application. The department shall set forth in the notice of denial the specific reasons for the denial of the application. An applicant whose application is denied by the department under this subsection may appeal the denial to the department for an administrative review under IC 4-21.5-3.

(j) The requirements of subsections (a) and (b) do 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:

(A) shareholders;

(B) holders of voting shares; or

(C) voting interests;

of a licensee or a person in control of a licensee.

(2) A person that acquires control of a licensee as a conservator or as an officer appointed by a court of competent jurisdiction or by operation of law.

(3) A person that is exempt under section 301(7) of this chapter.

(4) A person that the director determines is not subject to subsection (a) based on the public interest.



(5) A public offering of securities of a licensee or of a person in control of a licensee.

(6) An internal reorganization of a person in control of the license if the ultimate person in control of the licensee remains the same.

(k) A person described in subsection (j)(2), (j)(3), (j)(5), or (j)(6), in cooperation with the licensee, shall notify the director not later than fifteen (15) days after the acquisition of control.

(l) The requirements of subsections (a) and (b) do not apply to a person that has complied with, and received approval to engage in money transmission under, this chapter or that was identified as a person in control in a prior application filed with and approved by the department or by an MSB accredited state pursuant to a multistate licensing process, if all of the following apply:

(1) The person has not:

(A) had a license revoked or suspended; or

(B) controlled a licensee that has had a license revoked or suspended while the person was in control of the licensee; in the most recent five (5) years.

(2) If the person is a licensee, the person is well managed and has received at least a satisfactory rating for compliance at its most recent examination by an MSB accredited state, if a rating was given.

(3) The licensee to be acquired is projected to meet the requirements of sections 1001, 1002, and 1003 of this chapter after the acquisition of control is completed, and if the person acquiring control is a licensee, that licensee is also projected to meet the requirements of sections 1001, 1002, and 1003 of this chapter after the acquisition of control is completed.

(4) The licensee to be acquired will not implement any material changes to its business plan as a result of the acquisition of control, and if the person acquiring control is a licensee, the person acquiring also will not implement any material changes to its business plan as a licensee as a result of the acquisition of control.

(5) The person provides notice of the acquisition in cooperation with the licensee and attests to meeting the requirements set forth in subdivisions (1) through (4) in a form and by a medium prescribed by the director.

If the notice described in subdivision (5) is not disapproved within thirty (30) days after the date on which the notice is determined to be complete by the director, the notice is considered approved.



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

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

- (1) the director may 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 Indiana is a lead investigative state, the director may investigate the applicant pursuant to subsection (m) and to the time frames established by agreement through the multistate licensing process.**

Sec. 602. (a) A licensee adding or replacing any key individual shall:

- (1) provide notice in a manner prescribed by the director not later than fifteen (15) days after the effective date of the key individual's appointment; and**
- (2) provide information as required by section 504 of this chapter not later than forty-five (45) days after the effective date.**

(b) Not later than ninety (90) days after the date on which a notice provided under subsection (a) is determined by the director to be complete, the department 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:

- (1) the public; or**
- (2) the customers of the licensee;**

so as to permit the individual to be a key individual of such licensee.

(c) A notice of disapproval under subsection (b) must contain a statement of the basis for disapproval and shall be sent to the licensee and the disapproved individual. A licensee that receives a notice of disapproval under subsection (b) may appeal the denial to the department for an administrative review under IC 4-21.5-3.

(d) If a notice provided under subsection (a) is not disapproved within ninety (90) days after the date on which the notice was



determined by the director to be complete, the key individual is considered approved.

(e) If a multistate licensing process includes a key individual notice and review and approval process as described in this section, and a licensee avails itself or is otherwise subject to the multistate licensing process:

- (1) the director may 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 Indiana is a lead investigative state, the director may investigate the applicant pursuant to this section and to the time frames established by agreement through the multistate licensing process.

Sec. 701. (a) A licensee shall submit a report of condition not later than forty-five (45) days after the end of each calendar quarter, or within any extended time as the director may prescribe.

(b) A report of condition under this section must include the following:

- (1) Financial information at the licensee level.
- (2) Nationwide and state specific money transmission transaction information in every jurisdiction in the United States in which the licensee is licensed to engage in money transmission.
- (3) A permissible investments report.
- (4) Transaction destination country reporting for money received for transmission, if applicable.
- (5) Any other information the director reasonably requires with respect to the licensee. The director:
 - (A) may use the NMLS for the submission of the report required by this section; and
 - (B) is authorized to change or update as necessary the requirements of this section to carry out the purposes of this chapter and maintain consistency with NMLS reporting.

(c) The information required by subsection (b)(4) must only be included in a report of condition submitted not later than forty-five (45) days after the end of the fourth calendar quarter.

Sec. 702. (a) A licensee shall, not later than ninety (90) days after the end of each fiscal year, or within any extended time as the director may prescribe, file with the director the following:

- (1) An audited financial statement of the licensee for the fiscal year just ended, prepared in accordance with United States



generally accepted accounting principles.

(2) Any other information as the director may reasonably require.

(b) An audited financial statement required under this section shall be prepared by:

(1) an independent certified public accountant; or

(2) an independent public accountant;

who is satisfactory to the director.

(c) An audited financial statement required under this section must include or be accompanied by a certificate of opinion, of the independent certified public accountant or independent public accountant, that is satisfactory in form and content to the director. If the certificate or opinion is qualified, the director may order the licensee to take any action that the director finds necessary to enable the independent certified public accountant or independent public accountant to remove the qualification.

Sec. 703. (a) A licensee shall submit a report of authorized delegates not later than forty-five (45) days after the end of each calendar quarter. The director may use the NMLS for the submission of the report required by this section, as long as the functionality of the NMLS for such purpose is consistent with this section.

(b) An authorized delegate report under this section must include, at a minimum, the following information for each authorized delegate:

(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) The name, telephone number, and electronic mail address for the authorized delegate's contact person.

(9) Start date as the licensee's authorized delegate.

(10) End date for acting as licensee's authorized delegate, if applicable.

(11) Court orders issued under section 803 of this chapter against the authorized delegate.

(12) Any other information the director reasonably requires with respect to the authorized delegate.

Sec. 704. (a) A licensee shall file a report with the director not



later than one (1) business day after the licensee has reason to know of the occurrence of any of the following events:

- (1) The filing of a petition by or against the licensee under the federal Bankruptcy Code (11 U.S.C. 101-110) 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 the licensee's license in a state or country in which the licensee engages in business or is licensed.

(b) A licensee shall file a report with the director not later than three (3) business days after the licensee has reason to know of the occurrence of any of the following events:

- (1) A charge or conviction of:
 - (A) the licensee;
 - (B) a key individual with respect to the licensee; or
 - (C) a person in control of the licensee;
 for a felony.
- (2) A charge or conviction of an authorized delegate for a felony.

Sec. 705. A licensee and an authorized delegate shall file all reports required by federal currency reporting, record keeping, and suspicious activity reporting requirements as set forth in the Bank Secrecy Act and other 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 satisfies the requirements of this section.

Sec. 706. (a) A licensee shall maintain the following records, for use in determining its compliance with this chapter, for at least three (3) years:

- (1) A record of each outstanding money transmission obligation sold.
- (2) A general ledger, posted at least monthly, containing all asset, liability, capital, income, and expense accounts.
- (3) Bank statements and bank reconciliation records.
- (4) Records of outstanding money transmission obligations.
- (5) Records of each outstanding money transmission obligation paid during the three (3) year period described in this section.



(6) A list of known names and addresses of all the licensee's authorized delegates.

(7) Any other records the director reasonably requires by rule.

(b) The items described in subsection (a) may be maintained in any form of record.

(c) The records described in this section may be maintained outside Indiana if they are made accessible to the department upon at least seven (7) business days advance notice that is sent by the director in a record.

(d) All records maintained by the licensee under this section are open to inspection by the department under section 403(a) of this chapter.

Sec. 801. (a) As used in this section, "remit" means to:

(1) make direct payments of money to a licensee or its representative authorized to receive money; or

(2) deposit money in a bank in an account specified by the licensee.

(b) Before conducting business through an authorized delegate or allowing a person to act as an authorized delegate on its behalf, a licensee must:

(1) adopt, and update as necessary, 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 whether the authorized delegate has complied and will likely comply with applicable state and federal law.

(c) An authorized delegate must operate in full compliance with this chapter.

(d) The written contract required by subsection (b)(2) must be signed by the licensee and the authorized delegate and, at a minimum, must do the following:

(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:

(A) the nature and scope of the relationship between the licensee and the authorized delegate; and



- (B) the respective rights and responsibilities of the parties.
- (3) Require the authorized delegate to agree to fully comply with all applicable state and federal laws, rules, and regulations pertaining to money transmission, including this chapter and regulations implementing this chapter, and relevant provisions of the Bank Secrecy Act and the USA Patriot Act of 2001 (P.L. 107-56).
- (4) Require the authorized delegate to remit and handle money and monetary value in accordance with the terms of the contract between the licensee and the authorized delegate.
- (5) Impose a trust on money and 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 chapter or regulations implementing this chapter, or as reasonably requested by the director.
- (7) Include an acknowledgment that the authorized delegate consents to examination or investigation by the director.
- (8) State that the licensee is subject to regulation by the department and that, as part of that regulation, the department may suspend or revoke an authorized delegate designation or require the licensee to terminate an authorized delegate designation.
- (9) Include an acknowledgment of the authorized delegate's receipt of the written policies and procedures required under subsection (b)(1).
- (e) If a licensee's license is suspended, revoked, surrendered, or expired, the licensee must, not later than five (5) business days after receiving notice of the action taken, provide documentation to the director that the licensee has notified all of the licensee's applicable authorized delegates, whose names are in a record filed with the director, of the suspension, revocation, surrender, or expiration of the license. Upon suspension, revocation, surrender, or expiration of a license, 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 are 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) An authorized delegate may not use a subdelegate to conduct money transmission on behalf of a licensee.

Sec. 802. (a) A person shall not engage in the business of money transmission on behalf of a person who is not:

- (1) licensed under this chapter; or
- (2) exempt under section 301 of this chapter.

(b) A person that engages in the business of money transmission on behalf of a person described in subsection (a)(1) or (a)(2):

- (1) provides money transmission to the same extent as if the person were a licensee; and
- (2) is jointly and severally liable with the unlicensed or nonexempt person.

Sec. 803. (a) In an action brought by a licensee against an authorized delegate, the circuit or superior court of Marion County shall have jurisdiction to grant appropriate equitable or legal relief, including:

- (1) prohibiting the authorized delegate from directly or indirectly acting as an authorized delegate for any licensee in Indiana; and
- (2) ordering the payment of restitution, damages, or other monetary relief;

if the court finds that the authorized delegate failed to remit money in accordance with the written contract required by section 801(b)(2) of this chapter, or as otherwise directed by the licensee or required by law.

(b) If the court issues an order under subsection (a) prohibiting a person from acting as an authorized delegate for any licensee, the licensee that brought the action shall:

- (1) report the order to the director not later than thirty (30) days after the issuance of the order; and
- (2) report the order through the NMLS not later than ninety (90) days after the issuance of the order.

(c) An authorized delegate who:

- (1) holds money in trust for the benefit of a licensee; and
- (2) knowingly fails to remit any amount of such money;

commits a Class A misdemeanor, if the amount of money described in subdivision (2) is not more than seven hundred fifty dollars (\$750).

(d) An authorized delegate who:



(1) holds money in trust for the benefit of a licensee; and
 (2) knowingly fails to remit any amount of such money;
 commits a Level 6 felony, if the amount of money described in
 subdivision (2) is more than seven hundred fifty dollars (\$750) but
 less than fifty thousand dollars (\$50,000).

(e) An authorized delegate who:

(1) holds money in trust for the benefit of a licensee; and
 (2) knowingly fails to remit any amount of such money;
 commits a Level 5 felony, if the amount of money described in
 subdivision (2) is at least fifty thousand dollars (\$50,000).

Sec. 901. (a) A licensee shall forward all money received for
 transmission in accordance with the terms of the agreement
 between the licensee and the sender unless the licensee has a
 reasonable belief or a reasonable basis to believe that:

- (1) the sender may be a victim of fraud; or
- (2) a crime or violation of a law, rule, or regulation 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 must respond to
 inquiries from the sender by providing the reason for the failure
 unless providing a response would violate a state or federal law,
 rule, or regulation.

Sec. 902. (a) This section does not apply to the following:

- (1) Money received for transmission that is subject to the
 federal Remittance Rule (12 CFR Part 1005, Subpart B).
- (2) 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.

(b) A licensee shall refund to a sender, not later than ten (10)
 days after receipt of the sender's written request for a refund, any
 and all money received for transmission, unless any of the
 following occurs:

- (1) The money has been forwarded within ten (10) days after
 the date on which 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 ten (10) days after the date on which the money was
 received for transmission.
- (3) The agreement between the licensee and the sender
 instructs the licensee to forward the money at a time that is
 more than ten (10) days after the date on which the money
 was received for transmission, and the money has been



forwarded in accordance with the terms of the agreement. However, 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 the other provisions of this section.

(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, rule, or regulation has occurred, is occurring, or may occur.

(5) The refund request does not enable the licensee to:

(A) identify the sender's name and:

(i) address; or

(ii) telephone number; or

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

Sec. 903. (a) This section does not apply to the following:

(1) Money received for transmission that is subject to the federal Remittance Rule (12 CFR Part 1005, Subpart B).

(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.

(b) As used in this section, "receipt", with respect to a transaction, means:

(1) a paper receipt;

(2) an electronic record; or

(3) another written confirmation.

(c) A licensee or the licensee's authorized delegate shall provide a sender a receipt for money received for transmission. For a transaction conducted in person, a receipt may be provided electronically if the sender requests or agrees to receive an electronic receipt. For a transaction conducted electronically or by telephone, a receipt may be provided electronically. All electronic receipts shall be provided in a retainable form.

(d) The receipt required by this section must contain the following information, as applicable:

(1) The name of the sender.

(2) The name of the designated recipient.

(3) The date of the transaction.

(4) The unique transaction or identification number.

(5) The name of the licensee, the licensee's NMLS unique



identification number, the licensee's business address, and the licensee's customer service telephone number.

(6) The amount of the transaction in United States dollars.

(7) Any fee charged by the licensee to the sender for the transaction.

(8) Any taxes collected by the licensee from the sender for the transaction.

(e) The receipt required by this section must be in:

(1) English; and

(2) 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.

Sec. 1001. (a) A licensee under this chapter shall maintain at all times a tangible net worth of at least the greater of:

(1) one hundred thousand dollars (\$100,000); or

(2) the total of the following:

(A) Three percent (3%) of the first one hundred million dollars (\$100,000,000) of the licensee's total assets.

(B) Two percent (2%) of additional assets that are greater than one hundred million dollars (\$100,000,000) but not greater than one billion dollars (\$1,000,000,000).

(C) One-half of one percent (0.5%) of additional assets that are greater than one billion dollars (\$1,000,000,000).

(b) Tangible net worth must be demonstrated at the time of an initial application for licensure by means of the applicant's most recent audited or unaudited financial statements under section 503(b)(6) of this chapter, as applicable.

(c) Notwithstanding subsections (a) and (b), the director may, for good cause shown, exempt, in whole or in part, any applicant or licensee from the requirements of this section.

Sec. 1002. (a) An applicant for a money transmission license must provide, and a licensee at all times must maintain, security consisting of a surety bond in a form satisfactory to the director.

(b) Subject to subsections (c) and (d), the amount of the required security under this section is the greater of:

(1) three hundred thousand dollars (\$300,000); or

(2) an amount equal to the licensee's average daily money transmission liability in Indiana calculated for the most recently completed calendar quarter, up to a maximum of five hundred thousand dollars (\$500,000).

(c) A licensee that maintains a bond in the maximum amount of



five hundred thousand dollars (\$500,000) set forth in subsection (b)(2) is not required to calculate the licensee's average daily money transmission liability in Indiana for purposes of this section.

(d) A licensee may exceed the maximum required bond amount pursuant to section 1004(a)(5) of this chapter.

Sec. 1003. (a) A licensee shall maintain at all times 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 all of the licensee's outstanding money transmission obligations.

(b) Except for permissible investments set forth in section 1004(a) of this chapter, the department, with respect to any licensee, may by rule 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, are held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations in the event of:

- (1) insolvency of the licensee;
- (2) the filing of a petition by or against the licensee under the federal Bankruptcy Code (11 U.S.C. 101-110) for bankruptcy or reorganization;
- (3) the filing of a petition by or against the licensee for receivership;
- (4) the commencement of any other judicial or administrative proceeding for the dissolution or reorganization of the licensee; or
- (5) an action against the licensee by a creditor who is not a beneficiary of the statutory trust established by this subsection.

The permissible investments impressed with a trust under this subsection are not subject to attachment, levy of execution, or sequestration by order of any court, except for a beneficiary of the statutory trust established by this subsection.

(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 1004(a)(4) of this chapter, the director shall notify the applicable regulator of each state in which 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. The notice required by this subsection is considered satisfied if performed pursuant to a multistate agreement or through the NMLS. 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, are considered held in trust for the benefit of those 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 Indiana, and in other states, as applicable. Any statutory trust established under this section is terminated upon extinguishment of all of the licensee's outstanding money transmission obligations.

(e) The department by rule or by order may allow other types of investments that the department determines are of sufficient liquidity and quality to be a permissible investment. The department may participate in efforts with other state regulators to determine that other types of investments are of sufficient liquidity and quality to be a permissible investment.

Sec. 1004. (a) The following investments are permissible under section 1003 of this chapter:

- (1) Cash (including demand deposits, savings deposits, and funds in such accounts held, for the benefit of the licensee's customers, in a federally insured depository financial institution) and cash equivalents, including Automated Clearing House (ACH) items in transit to the licensee and ACH items or international wires in transit to a payee, cash in transit via armored car, cash in smart safes, cash at licensee owned locations, debit card or credit card funded transmission receivables owed by any bank, or money market mutual funds rated "AAA" by S&P Global, or the equivalent from any eligible rating service.
- (2) Certificates of deposit or senior debt obligations of an insured depository institution (as defined in Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or as defined under the federal Credit Union Act (12 U.S.C. 1781)).
- (3) An obligation of the United States (or of a commission, agency, or instrumentality of the United States), an obligation that is guaranteed fully as to principal and interest by the United States, or an obligation of a state (or of a governmental subdivision, agency, or instrumentality of a state).
- (4) The full drawable amount of an irrevocable standby letter



of credit that names the department as the stated beneficiary and 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, subject to the following:

(A) The letter of credit must:

(i) be issued by a person that is a federally insured depository financial institution, a foreign bank authorized under federal law to maintain a federal agency or federal branch office in a state or states, or a foreign bank authorized under state law to maintain a branch in a state, and that bears an eligible rating or whose parent company bears an eligible rating, and that 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 and unconditional and indicate that it is not subject to any condition or qualifications outside of the letter of credit;

(iii) not contain reference to any other agreements, documents, or entities, or otherwise provide for any 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 (1) year from the current or each future expiration date, unless the issuer of the letter of credit notifies the director in writing by certified or registered mail or courier mail or other receipted means, at least sixty (60) days before any expiration date, that the irrevocable letter of credit will not be extended.

(B) In the event of any notice of expiration or nonextension of a letter of credit described in clause (A)(iv), the licensee must demonstrate to the satisfaction of the department, at least fifteen (15) days before the expiration, that the licensee maintains and will maintain permissible investments in accordance with this subsection upon the expiration of the letter of credit. If the licensee is not able to do so, the department 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 this subsection. Any such draw shall be offset against the licensee's outstanding



money transmission obligations. The drawn funds shall be held in trust by the department or the department'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.

(C) The letter of credit must provide that the issuer of the letter of credit will honor, at sight, the beneficiary's presentation, to the issuer, of the original letter of credit, including any amendments. The presentation under this clause must be made not later than the expiration date of the letter of credit and must be accompanied by a written statement from the beneficiary stating that any of the following events has occurred, as applicable:

(i) The filing of a petition by or against the licensee under the federal Bankruptcy Code (11 U.S.C. 101-110) for bankruptcy or reorganization.

(ii) The filing of a petition by or against the licensee for receivership, or the commencement of any other judicial or administrative proceeding for its dissolution or reorganization.

(iii) The seizure of assets of the licensee by a state 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.

(iv) The beneficiary has received notice of expiration or nonextension 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 this subsection upon the expiration or nonextension of the letter of credit.

The letter of credit must stipulate that the beneficiary may obtain funds, up to the letter of credit amount, within seven (7) days of presentment of the original letter of credit, including any amendments, and the statement under this clause.

(D) The director may designate an agent to serve on the department's behalf as beneficiary to a letter of credit so long as the agent and letter of credit meet requirements established by the department. The director'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 this subdivision are assigned to the department.

(E) The department may participate in multistate processes designed to facilitate the issuance and administration of letters of credit, including services provided by the NMLS and the State Regulatory Registry, LLC.

(5) The amount of the surety bond required under section 1002 of this chapter that exceeds the licensee's average daily money transmission liability in Indiana.

(b) Unless permitted by the department by rule or by order to exceed the limit as set forth in this subsection, the following investments are permissible under this section to the extent specified:

(1) Receivables that are payable to a licensee from its authorized delegates in the ordinary course of business that are less than seven (7) days of age, are permissible in an amount not to exceed fifty percent (50%) of the aggregate value of the licensee's total permissible investments.

(2) Of the receivables permissible under subdivision (1), receivables that are payable to a licensee from a single authorized delegate in the ordinary course of business may not exceed ten percent (10%) of the aggregate value of the licensee's total permissible investments.

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

(A) A short term (up to six (6) months) investment bearing an eligible rating.

(B) Commercial paper bearing an eligible rating.

(C) A bill, note, bond, or debenture bearing an eligible rating.

(D) A United States tri party repurchase agreement collateralized at least one hundred percent (100%) with:

(i) United States government or agency securities;

(ii) municipal bonds; or

(iii) other securities bearing an eligible rating.

(E) Money market mutual funds rated less than "AAA" and at least "A-" by S&P Global, or the equivalent from any other eligible rating service.

(F) A mutual fund or other investment fund composed



solely and exclusively of one (1) or more permissible investments listed in subsection (a)(1) through (a)(3).

(4) 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 ten percent (10%) of the aggregate value of the licensee's total permissible investments if the licensee has received a satisfactory rating in its 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 federal Office of Foreign Assets Control; and
- (D) is not located in a high risk or noncooperative jurisdiction as designated by the Financial Action Task Force.

Sec. 1005. A licensee shall maintain a policy of insurance, issued by an insurer authorized to do business in Indiana, that insures the applicant against loss by a criminal act or by an act of dishonesty. The principal sum of the policy shall be at least equal to the amount of the surety bond required under section 1002 of this chapter.

Sec. 1101. (a) The director may issue to a licensee an order to show cause why the licensee's license should not be revoked or suspended for a period determined by the department.

(b) An order issued under subsection (a) must:

(1) include:

- (A) a statement of the place, date, and time for a meeting with the department, which date may not be less than ten (10) days from the date of the order;
- (B) a description of the action contemplated by the department; and
- (C) a statement of the facts or conduct supporting the issuance of the order; and

(2) be accompanied by a notice stating that the licensee is entitled to:

- (A) a reasonable opportunity to be heard; and
- (B) show the licensee's compliance with all lawful requirements for retention of the license;

at the meeting described in subdivision (1)(A).

(c) After the meeting described in subsection (b)(1)(A), the



department may revoke or suspend the license if the department finds that:

- (1) the licensee has repeatedly and willfully violated:
 - (A) this chapter or any applicable rule, order, or guidance document adopted or issued by the department; or
 - (B) any other state or federal law, regulation, or rule applicable to the business of money transmission;
 - (2) the licensee does not meet the licensing qualifications set forth in this chapter;
 - (3) the licensee obtained the license for the benefit of, or on behalf of, a person who does not qualify for the license;
 - (4) the licensee knowingly or intentionally made material misrepresentations to, or concealed material information from, the department;
 - (5) the licensee did not cooperate with an examination or investigation by the director;
 - (6) the licensee engaged in fraud, intentional misrepresentation, or gross negligence;
 - (7) an authorized delegate has been convicted of a violation of a state or federal money laundering statute, or has violated a rule adopted or an order issued under this chapter, as a result of the licensee's willful misconduct or willful ignorance of the situation;
 - (8) the competence, experience, character, or general fitness of the licensee, an authorized delegate of the licensee, a person in control of the licensee, a key individual with respect to the licensee, or a responsible person of an authorized delegate of the licensee indicates that it is not in the public interest to permit the person to provide money transmission;
 - (9) the licensee has engaged in an unsafe or unsound practice;
 - (10) the licensee is insolvent, has suspended payment of its obligations, or has made a general assignment for the benefit of its creditors;
 - (11) the licensee has not removed an authorized delegate after the department has issued and served upon the licensee a final order that included a finding that the authorized delegate has violated this chapter; or
 - (12) facts or conditions exist that, had they existed at the time the licensee applied for the license, would have been grounds for the department to deny the issuance of the license.
- (d) In determining whether a licensee is engaging in an unsafe or unsound practice, the director may consider the size and



condition of the licensee's money transmission, the magnitude of the loss, the gravity of the violation of this chapter, and the previous conduct of the person involved.

(e) Whenever the department revokes or suspends a license, the department shall enter an order to that effect and notify the licensee of:

- (1) the revocation or suspension;
- (2) if a suspension has been ordered, the duration of the suspension;
- (3) the procedure for appealing the revocation or suspension under IC 4-21.5-3-6; and
- (4) any other terms and conditions that apply to the revocation or suspension.

Not later than five (5) days after the entry of the order, the department shall deliver to the licensee a copy of the order and the findings supporting the order.

(f) Any person holding a license to engage in the business of money transmission may relinquish the license by notifying the department in writing of the relinquishment. However, a relinquishment under this subsection does not affect the person's liability for acts previously committed and coming within the scope of this chapter.

(g) If the director determines it to be in the public interest, the director may pursue the revocation of a license of a licensee that has relinquished the license under subsection (f).

(h) If a person's license is revoked, suspended, or relinquished, the revocation, suspension, or relinquishment does not impair or affect any obligation owed by any person under any existing lawful contract.

(i) If the director has just cause to believe an emergency exists from which it is necessary to protect the interests of the public, the director may proceed with the revocation of a license through an emergency or another temporary order.

Sec. 1102. (a) The director may issue to a licensee an order to show cause why the licensee should not be prohibited from designating a current authorized delegate of the licensee as an authorized delegate, or from having the licensee's ability to designate a current authorized delegate as an authorized delegate for a period determined by the department.

(b) An order issued under subsection (a) must:

- (1) include:
 - (A) a statement of the place, date, and time for a meeting



- with the department, which date may not be less than ten (10) days from the date of the order;
- (B) a description of the action contemplated by the department; and
- (C) a statement of the facts or conduct supporting the issuance of the order; and
- (2) be accompanied by a notice stating that the licensee is entitled to:
- (A) a reasonable opportunity to be heard; and
- (B) show the licensee's compliance with all lawful requirements concerning the designation of an authorized delegate;
- at the meeting described in subdivision (1)(A).
- (c) After the meeting described in subsection (b)(1)(A), the department may prohibit the licensee from designating, or suspend the licensee's ability to designate, a current authorized delegate as an authorized delegate if the department finds that:
- (1) the authorized delegate has repeatedly and willfully violated:
- (A) this chapter or any applicable rule, order, or guidance document adopted or issued by the department; or
- (B) any other state or federal law, regulation, or rule applicable to the business of money transmission;
- (2) the authorized delegate does not meet the authorized delegate qualifications set forth in this chapter;
- (3) the authorized delegate obtained the designation for the benefit of, or on behalf of, a person who does not qualify for the authorized delegate designation;
- (4) the authorized delegate knowingly or intentionally made material misrepresentations to, or concealed material information from, the department;
- (5) the authorized delegate did not cooperate with an examination or investigation by the director;
- (6) the authorized delegate engaged in fraud, intentional misrepresentation, or gross negligence;
- (7) the authorized delegate has been convicted of a violation of a state or federal money laundering statute;
- (8) the competence, experience, character, or general fitness of the licensee, the authorized delegate, a person in control of the licensee, a key individual, or a responsible person of the authorized delegate indicates that it is not in the public interest to permit the person to provide money transmission;



or

(9) the authorized delegate has engaged in an unsafe or unsound practice.

(d) Whenever the department prohibits a licensee from designating, or suspends a licensee's ability to designate, an authorized delegate, the department shall enter an order to that effect and notify the licensee of:

- (1) the prohibition or suspension;
- (2) if a suspension has been ordered, the duration of the suspension;
- (3) the procedure for appealing the prohibition or suspension under IC 4-21.5-3-6; and
- (4) any other terms and conditions that apply to the prohibition or suspension.

Not later than five (5) days after the entry of the order, the department shall deliver to the licensee a copy of the order and the findings supporting the order.

(e) Any authorized delegate may relinquish its designation as an authorized delegate by notifying the department in writing of the relinquishment. However, a relinquishment under this subsection does not affect the authorized delegate's liability for acts previously committed and coming within the scope of this chapter.

(f) If the director determines it to be in the public interest, the director may pursue an order either prohibiting the licensee from designating a current authorized delegate as an authorized delegate, or suspending the licensee from designating a current authorized delegate as an authorized delegate for a period of time, after the authorized delegate has relinquished its designation under subsection (e).

(g) If an authorized delegate's designation as an authorized delegate is revoked, suspended, or relinquished, the revocation, suspension, or relinquishment does not impair or affect any obligation owed by that person under any existing lawful contracts.

(h) If the director has just cause to believe an emergency exists from which it is necessary to protect the interests of the public, the director may proceed with the revocation of an authorized delegate's designation as an authorized delegate through an emergency or another temporary order.

Sec. 1103. (a) A license issued by the department under this chapter may be revoked or suspended by the department if the person fails to:

- (1) file any renewal form required by the department; or



(2) pay any license renewal fee described under section 506(a)(1) of this chapter; not later than sixty (60) days after the due date.

(b) A person whose license is revoked or suspended under this section may:

(1) pay all delinquent fees and apply for a reinstatement of the person's license; or

(2) appeal the revocation or suspension to the department for an administrative review under IC 4-21.5-3.

Pending the decision resulting from a hearing under IC 4-21.5-3 concerning license revocation or suspension, a license remains in force.

Sec. 1104. Except as otherwise provided, IC 4-21.5 applies to and governs all agency action taken by the department under this chapter. A proceeding for administrative review under IC 4-21.5-3 or judicial review under IC 4-21.5-5 must be held in Marion County.

Sec. 1105. (a) If the department determines, after notice and an opportunity to be heard, that a person has violated this chapter, the department may, in addition to or instead of all other remedies available under this chapter, impose upon the person a civil penalty not greater than ten thousand dollars (\$10,000) per violation.

(b) A penalty collected under this section shall be deposited into the financial institutions fund established by IC 28-11-2-9.

Sec. 1106. The director, in the exercise of reasonable judgment, is authorized to compromise, settle, and collect civil penalties from a person for a violation of:

(1) a provision of this chapter; or

(2) an order issued or promulgated pursuant to this chapter.

Sec. 1107. If it appears to the director that a person has committed or is about to commit a violation of a provision of this chapter or an order of the director, the director may apply to a court having jurisdiction for:

(1) an order enjoining such person from violating or continuing to violate this chapter or such other order as the nature of the case may require; or

(2) injunctive or such other relief as the nature of the case may require.

Sec. 1108. (a) The director may enter into a consent order with a person to resolve a matter arising under this chapter.

(b) A consent order must:



(1) be signed by the person to whom it is issued or an authorized representative of that person; and

(2) indicate agreement to the terms contained within the consent order.

(c) A consent order does not:

(1) constitute an admission by a person that a provision of this chapter or an order promulgated or issued under this chapter has been violated; or

(2) constitute a finding by the director that the person has violated a provision of this chapter or an order promulgated or issued under this chapter.

(d) Notwithstanding the issuance of a consent order, the director may seek civil or criminal penalties or compromise civil penalties concerning matters encompassed by the consent order, unless the consent order by its terms expressly precludes the director from doing so.

Sec. 1109. (a) A person who knowingly or intentionally:

(1) makes a material, false statement, or omits a material entry, in a document filed or required to be filed under this chapter, with the intent to deceive the recipient of the document; or

(2) fails to file a document required to be filed under this chapter;

commits a Class A misdemeanor, except as otherwise provided in this section.

(b) The offense described in subsection (a) is a Level 6 felony if one (1) or more of the following apply:

(1) The offense is committed not later than seven (7) years from the date the person:

(A) was convicted of a prior unrelated offense under this chapter or under IC 35-43; or

(B) was released from a term of incarceration, probation, or parole (whichever occurred last) imposed for a prior unrelated conviction for an offense under this chapter or under IC 35-43;

whichever occurred last.

(2) The amount of money or property involved is at least seven hundred fifty dollars (\$750) but less than fifty thousand dollars (\$50,000).

(3) The victim is:

(A) an endangered adult (as defined in IC 12-10-3-2(a)); or

(B) less than eighteen (18) years of age.



- (4) The offense is committed by a person who is confined in:
- (A) the department of correction;
 - (B) a county jail; or
 - (C) a secure juvenile facility.

(c) The offense described in subsection (a) is a Level 5 felony if one (1) or more of the following apply:

- (1) The amount of money or property involved is at least fifty thousand dollars (\$50,000).
- (2) The amount of money or property involved is at least seven hundred fifty dollars (\$750) and the victim is:
 - (A) an endangered adult (as defined in IC 12-10-3-2(a)); or
 - (B) less than eighteen (18) years of age.

Sec. 1110. (a) Rules and regulations promulgated by the director or the department under authority conferred by this chapter must be adopted in accordance with IC 4-22-2.

(b) At the time the director or department files a notice of proposed adoption, amendment, or repeal of a rule under this chapter for public comment, a copy of the notice must be sent by first class mail postage prepaid to all licensees and applicants for licenses under this chapter as of the time the notice is sent.

Sec. 1201. In applying and construing this chapter, consideration may be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Sec. 1202. The provisions of this chapter are severable in the manner provided by IC 1-1-1-8(b).

Sec. 1203. (a) A person licensed in Indiana to engage in the business of money transmission under IC 24-8-4 (before its repeal on January 1, 2024) is not subject to the provisions of this chapter, to the extent that the provisions of this chapter:

- (1) conflict with IC 24-8-4 (before its repeal on January 1, 2024); or
- (2) establish new requirements not imposed under IC 24-8-4 (before its repeal on January 1, 2024);

until after December 31, 2023.

(b) Notwithstanding subsection (a), a person licensed in Indiana to engage in the business of money transmission under IC 24-8-4 (before its repeal on January 1, 2024) shall be required to amend its authorized delegated contracts so that such contracts comply with this chapter only with respect to contracts entered into or amended after December 31, 2023.

(c) Nothing in this section shall be construed as limiting an



authorized delegate's obligations to operate in full compliance with this chapter, as required by section 801(c) of this chapter, after December 31, 2023.

Sec. 1204. A licensee that is a corporation or a limited liability company must at all times be in good standing with the secretary of state of the state in which the licensee was incorporated.

Sec. 1205. If the department of state revenue notifies the department that a person is on the most recent tax warrant list, the department shall not issue or renew the person's license until:

(1) the person provides to the department a statement from the department of state revenue that the person's tax warrant has been satisfied; or

(2) the department receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

Sec. 1206. The division of consumer credit within the department is responsible for the administration of this chapter.

SECTION 5. IC 28-11-1-3, AS AMENDED BY P.L.159-2017, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 3. (a) The ultimate authority for and the powers, duties, management, and control of the department are vested in the following seven (7) members:

(1) The director of the department, who serves as an ex officio, voting member.

(2) The following six (6) members appointed by the governor as follows:

(A) Three (3) members must have practical experience at the executive level of a:

- (i) state chartered bank;
- (ii) state chartered savings association; or
- (iii) state chartered savings bank.

(B) One (1) member must have practical experience at the executive level as a:

- (i) lender licensed under IC 24-4.5;
- (ii) mortgage lender licensed under IC 24-4.4;
- (iii) registrant under IC 24-7;
- (iv) licensee under IC 28-1-29;
- (v) licensee under IC 28-7-5;
- (vi) licensee under ~~IC 28-8-4~~; **IC 28-8-4.1**; or
- (vii) licensee under IC 28-8-5.

(C) One (1) member must have practical experience at the executive level of a state chartered credit union.

(D) One (1) member must be appointed with due regard for the



consumer, agricultural, industrial, and commercial interests of Indiana.

(b) Not more than three (3) members appointed by the governor under subsection (a)(2) after June 30, 2006, may be affiliated with the same political party.

SECTION 6. IC 35-52-28-10, AS ADDED BY P.L.169-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 10. ~~IC 28-8-4-58~~ **IC 28-8-4.1-803** defines a crime concerning financial services.

SECTION 7. IC 35-52-28-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: **Sec. 10.5. IC 28-8-4.1-1109 defines a crime concerning financial services.**



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 458 — Concur

