

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

400W0191

HOUSE BILL NO. 1028

Introduced by: The Committee on Commerce and Energy at the request of the Department
of Labor and Regulation

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding money transmitters
2 and money transmissions.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 51A-17-1 be amended by adding thereto a NEW SUBDIVISION to read
5 as follows:

6 "Nationwide mortgage licensing system and registry," a licensing system developed and
7 maintained by the Conference of State Bank Supervisors and the American Association of
8 Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan
9 originators and other regulated entities;

10 Section 2. That § 51A-17-20 be amended to read as follows:

11 51A-17-20. ~~To renew a license, the licensee shall file a renewal report by June first. A~~
12 ~~licensee that has not filed a renewal report or paid its renewal fee by June first and has not been~~
13 ~~granted an extension of time to do so by the director, shall have its license suspended~~
14 ~~immediately. The licensee in such case has thirty days after its license is suspended in which to~~
15 ~~file a renewal report and pay the renewal fee, plus one hundred dollars for each business day~~



1 ~~after suspension that the director does not receive the renewal report and the renewal fee. The~~
2 ~~director, for good cause, may grant an extension of the renewal date or reduce or suspend the~~
3 ~~late filing fee. Any license not renewed prior to July first expires. Any application for renewal~~
4 ~~of a license pursuant to the provisions of this chapter shall be filed with the director by~~
5 ~~December first and shall be accompanied by a fee and report as required pursuant to the~~
6 ~~provisions of § 51A-17-19. Any licensee that files for renewal after December first and before~~
7 ~~January first of the next calendar year shall pay a late fee in addition to the renewal fee. The late~~
8 ~~fee shall equal twenty-five percent of the renewal fee. If the application for renewal of a license~~
9 ~~is filed after December thirty-first, no license may be issued unless an application is filed~~
10 ~~pursuant to the provisions of § 51A-17-12.~~

11 Any money transmission license issued pursuant to the provisions of chapter 51A-17 that
12 is set to expire on July 1, 2015, is extended until December 31, 2015.

13 Section 3. That § 51A-17-4 be amended to read as follows:

14 51A-17-4. No person, except ~~those~~ a person who is exempt pursuant to the provisions of
15 § 51A-17-3, may engage in the business of money transmission in this state without obtaining
16 a license as provided in this chapter and undergoing a criminal background investigation
17 through the division. A person is engaged in providing money transmission if the person
18 provides those services to residents of South Dakota, even if such person has no physical
19 presence in South Dakota. Any person may be licensed and maintain a unique identifier through
20 the nationwide mortgage licensing system and registry.

21 Section 4. That chapter 51A-17 be amended by adding thereto a NEW SECTION to read
22 as follows:

23 The director may use the nationwide mortgage licensing system and registry as a channeling
24 agent for requesting and distributing information to and from other state and federal regulatory

1 officials or agencies with money transmission industry oversight authority as deemed necessary
2 by the director to carry out the responsibilities of this chapter.

3 Section 5. That chapter 51A-17 be amended by adding thereto a NEW SECTION to read
4 as follows:

5 The director may establish a relationship or enter into a contract with the nationwide
6 mortgage licensing system and registry or an entity designated by the nationwide mortgage
7 licensing system and registry to collect and maintain records and process transaction fees or
8 other fees related to any licensee or person subject to the provisions of this chapter.

9 Section 6. That chapter 51A-17 be amended by adding thereto a NEW SECTION to read
10 as follows:

11 The following provisions apply to the sharing of information collected and retained by the
12 director during the administration of this chapter:

13 (1) The provisions of § 51A-17-30 regarding privacy or confidentiality apply to any
14 information or material provided to the nationwide mortgage licensing system and
15 registry, and any privilege arising under federal or state law, including any rule of a
16 federal or state court, with respect to the information or material, continue to apply
17 to the information or material after the information or material has been disclosed to
18 the nationwide mortgage licensing system and registry. The information and material
19 may be shared with a state or federal regulatory official who has money transmission
20 industry oversight authority without the loss of privilege or the loss of confidentiality
21 protections by federal law or § 51A-17-30; and

22 (2) No information or material that is subject to privilege or confidentiality pursuant to
23 this section is subject to:

24 (a) Disclosure under any federal or state law governing the disclosure to the

1 public of information held by an officer or an agency of the federal
2 government or the respective state; or

3 (b) Subpoena or discovery, or admission into evidence, in any private civil action
4 or administrative process, unless with respect to any privilege held by the
5 nationwide mortgage licensing system and registry regarding the information
6 or material is waived, in whole or in part, by the person to whom the
7 information or material pertains.

8 This section does not apply to the information or material relating to the employment history
9 of, and publicly adjudicated disciplinary and enforcement actions against, money transmitters
10 that is included in the nationwide mortgage licensing system and registry for access by the
11 public.