

AN ACT

ENTITLED, An Act to revise provisions regarding money transmission.

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

Section 1. That § 51A-17-4 be amended to read:

51A-17-4. No person, other than a person who is exempt under § 51A-17-3, may engage in the business of money transmission in this state without obtaining a license in accordance with this chapter and undergoing a criminal background investigation. A person is engaged in providing money transmission if the person provides those services to residents of this state, including any person who has no physical presence in this state. Each person subject to this section shall be licensed under and maintain a unique identifier through the nationwide mortgage licensing system and registry.

Section 2. That § 51A-17-11 be amended to read:

51A-17-11. Each applicant for licensure under this chapter, except publicly traded corporations and their subsidiaries, shall provide to the nationwide mortgage licensing system and registry a complete set of the applicant's fingerprints for submission to the Federal Bureau of Investigation and any other government agency authorized to receive fingerprints for the purposes of a state, national, and international criminal history background check prior to permanent licensure of the applicant. The division may require a state and federal criminal history background check for any licensee who is the subject of a disciplinary investigation by the division. The failure to submit or cooperate with the criminal history background check under this section may result in denial of an application or revocation of a license. The applicant shall pay for any fees charged for the cost of fingerprinting or the criminal history background check.

Section 3. That § 51A-17-12 be amended to read:

51A-17-12. Each application for a license under this chapter shall be made in writing on a form

prescribed by the director that includes:

- (1) The exact name of the applicant, the applicant's principal address, any fictitious or trade name used by the applicant in the conduct of business, and the location of the applicant's business records;
- (2) The history of the applicant's material litigation for the preceding five-year period;
- (3) A complete set of the applicant's fingerprints and a signed waiver authorizing the division to conduct a criminal history background check of the applicant;
- (4) A description of the business activities conducted by the applicant and a history of operations;
- (5) A description of the business activities in which the applicant seeks to be engaged in the state;
- (6) A list identifying the applicant's proposed authorized delegates in the state, if any, at the time of the filing of the application;
- (7) A sample authorized delegate contract, if applicable;
- (8) A sample form of payment instrument, if applicable;
- (9) Each location at which the applicant and its authorized delegates, if any, propose to conduct the licensed activities in the state; and
- (10) The name and address of the clearing bank or banks on which the applicant's payment instruments will be drawn or through which the payment instruments will be payable.

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

51A-17-13. In addition to the requirements of § 51A-17-12, an applicant that is a corporation shall provide:

- (1) The date of the applicant's incorporation and state of incorporation;
- (2) A certificate of good standing from the state in which the applicant was incorporated;

- (3) A description of the corporate structure of the applicant, including the identity of any parent or subsidiary of the applicant, and the disclosure of whether any parent or subsidiary is publicly traded on any stock exchange;
- (4) The name, business and residence address, and employment history for the preceding five years of the applicant's executive officers and any officer or manager who will be in charge of the applicant's activities to be licensed;
- (5) The name, business and residence address, and employment history for the preceding five years of any key shareholder of the applicant;
- (6) The history of material litigation for the preceding five-year period of every executive officer or key shareholder of the applicant;
- (7) A complete set of fingerprints and a signed waiver authorizing the division to conduct a criminal history background check of each executive officer or key shareholder of the applicant;
- (8) A copy of the applicant's most recent audited financial statement, including balance sheet, statement of income or loss, statement of changes in shareholder equity, and statement of changes in financial position, and, if available, the applicant's audited financial statements for the preceding two-year period. For an applicant that is a wholly owned subsidiary of another corporation, the applicant may submit either the parent corporation's consolidated audited financial statements for the current year and for the preceding two-year period, or the parent corporation's Form 10K reports filed with the United States Securities and Exchange Commission for the preceding three years in lieu of the applicant's financial statements. For an applicant that is a wholly owned subsidiary of a corporation having its principal place of business outside the United States, similar documentation filed with the parent corporation's regulator outside the United States may be submitted to satisfy the

requirements of this subdivision; and

- (9) A copy of all filings, if any, made by the applicant with the United States Securities and Exchange Commission, or with a similar regulator in a country other than the United States, within the preceding year.

Section 5. That § 51A-17-14 be amended to read:

51A-17-14. In addition to the requirements of § 51A-17-12, an applicant that is not a corporation shall provide:

- (1) The name, business and residence address, personal financial statement, and employment history for the preceding five years, of each principal of the applicant and the name, business and residence address, and employment history for the preceding five years of any other person who will be in charge of the applicant's activities to be licensed;
- (2) The place and date of the applicant's registration or qualification to do business in this state;
- (3) The history of material litigation for the preceding five-year period for each individual having any ownership interest in the applicant and each person who exercises supervisory responsibility with respect to the applicant's business activities;
- (4) A complete set of fingerprints and a signed waiver authorizing the division to conduct a criminal history background check for each person having any ownership interest in the applicant and each person who exercises supervisory responsibility with respect to the applicant's business activities; and
- (5) A copy of the applicant's audited financial statements, including balance sheet, statement of income or loss, and statement of changes in financial position, for the current year and, if available, for the preceding two-year period.

Section 6. That § 51A-17-20 be amended to read:

51A-17-20. Any application for renewal of a license in accordance with this chapter shall be filed with the director by December first and shall be accompanied by a fee and report as required under § 51A-17-19. Any application for renewal filed with the director after December first and before January first of the next calendar year is subject to the renewal fee and a late fee equal to twenty-five percent of the renewal fee. The director may not issue a license for any application for renewal filed after December thirty-first unless an application is filed in accordance with § 51A-17-12.

Section 7. That § 51A-17-48 be amended to read:

51A-17-48. The director may use the nationwide mortgage licensing system and registry as a channeling agent for requesting information from and distributing information to the United States Department of Justice and any other state and federal regulatory official or agency with money transmission industry oversight authority as deemed necessary by the director to carry out the responsibilities of this chapter.

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I certify that the attached Act  
originated in the

HOUSE as Bill No. 1032

\_\_\_\_\_  
Chief Clerk

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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1032

File No. \_\_\_\_\_

Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State