

SENATE FILE NO. SF0071

Licensing money transmitters.

Sponsored by: Senator(s) Hawks and Representative(s) Law

A BILL

for

1 AN ACT relating to trade and commerce; creating the Wyoming
2 Money Transmitters Act to regulate and license money
3 transmissions; providing requirements and fees; providing
4 civil and criminal penalties; providing definitions;
5 requiring reporting; providing for enforcement; providing
6 for rulemaking; and providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 40-22-101 through 40-22-129 are
11 created to read:

12

CHAPTER 22

13

WYOMING MONEY TRANSMITTERS ACT

14

15 **40-22-101. Short title.**

16

1 This act may be cited as the "Wyoming Money Transmitters
2 Act."

3

4 **40-22-102. Definitions.**

5

6 (a) As used in this act:

7

8 (i) "Applicant" means a person filing an
9 application for a license;

10

11 (ii) "Authorized delegate" means an entity
12 designated by the licensee to engage in the business of
13 transmitting money on behalf of a licensee;

14

15 (iii) "Commissioner" means the state banking
16 commissioner;

17

18 (iv) "Control" means the power to vote or
19 ownership of twenty-five percent (25%) or more of the
20 outstanding voting securities of a licensee or controlling
21 person. To determine the percentage of a licensee
22 controlled by any person, there shall be aggregated with
23 the person's interest the interest of any other person

1 controlled by such person or by any spouse, parent or child
2 of the person;

3

4 (v) "Controlling person" means any person in
5 control of a licensee;

6

7 (vi) "Division" means the division of banking;

8

9 (vii) "Electronic instrument" means a card or
10 other tangible object for the transmission or payment of
11 money which contains a microprocessor chip, magnetic stripe
12 or other means for the storage of information that is
13 prefunded and for which the value is decremented upon each
14 use, but does not include a card or other tangible object
15 that is redeemable by the issuer in goods or services;

16

17 (viii) "Executive officer" means the licensee's
18 president, chairman of the executive committee, senior
19 officer responsible for the licensee's business, chief
20 financial officer and any other person who performs similar
21 functions;

22

23 (ix) "Key shareholder" means any person, or
24 group of persons acting in concert, who is the owner of

1 twenty-five percent (25%) or more of any voting class of an
2 applicant's stock;

3

4 (x) "Licensee" means a person licensed under
5 this act;

6

7 (xi) "Material litigation" means any litigation
8 that according to generally accepted accounting principles,
9 is deemed significant to an applicant's or licensee's
10 financial health and is referenced in the applicant's or
11 licensee's annual audited financial statements, report to
12 shareholders or similar documents;

13

14 (xii) "Monetary value" means a medium of
15 exchange whether or not redeemable in money;

16

17 (xiii) "Money transmission" means to engage in
18 business to sell or issue payment instruments, stored value
19 or receive money or monetary value for transmission to a
20 location within or outside the United States by any and all
21 means, including but not limited to wire, facsimile or
22 electronic transfer;

23

1 (xiv) "Outstanding payment instrument" means any
2 payment instrument issued by the licensee which has been
3 sold in the United States directly by the licensee or any
4 payment instrument issued by the licensee which has been
5 sold by an authorized delegate of the licensee in the
6 United States, which has been reported to the licensee as
7 having been sold and which has not yet been paid by or for
8 the licensee;

9
10 (xv) "Payment instrument" means any electronic
11 or written check, draft, money order, travelers check or
12 other electronic or written instrument or order for the
13 transmission or payment of money, sold or issued to one (1)
14 or more persons, whether or not the instrument is
15 negotiable. The term "payment instrument" does not include
16 any credit card voucher, any letter of credit or any
17 instrument which is redeemable by the issuer in goods or
18 services;

19
20 (xvi) "Permissible investments" means:

21
22 (A) Cash;

23

1 (B) Certificates of deposit or other debt
2 obligations of a financial institution, either domestic or
3 foreign;

4
5 (C) Bills of exchange or time drafts drawn
6 on and accepted by a commercial bank, otherwise known as
7 bankers' acceptances, which are eligible for purchase by
8 member banks of the federal reserve system;

9
10 (D) Any investment securities bearing a
11 rating of one (1) of the four (4) highest grades as defined
12 by a nationally recognized organization that rates
13 securities;

14
15 (E) Investment securities that are
16 obligations of the United States, its agencies or
17 instrumentalities, or obligations that are guaranteed fully
18 as to principal and interest of the United States, or any
19 obligations of any state, municipality or any political
20 subdivision thereof;

21
22 (F) Shares in a money market mutual fund,
23 interest bearing bills, notes or bonds, debentures or stock
24 traded on any national securities exchange or on a national

1 over the counter market, or mutual funds primarily composed
2 of such securities or a fund composed of one (1) or more
3 permissible investments as set forth in this paragraph;

4

5 (G) Any demand borrowing agreement made to
6 a corporation or a subsidiary of a corporation whose
7 capital stock is listed on a national exchange;

8

9 (H) Receivables which are due to a licensee
10 from its authorized delegates pursuant to a contract
11 described in W.S. 40-22-118 which are not past due or
12 doubtful of collection; or

13

14 (J) Any other investments or security
15 device approved by the commissioner.

16

17 (xvii) "Remit" means either to make direct
18 payment of the funds to the licensee or its representatives
19 authorized to receive those funds, or to deposit the funds
20 in a bank, credit union or savings and loan association or
21 other similar financial institution in an account specified
22 by the licensee;

23

1 (xviii) "Stored value" means monetary value that
2 is evidenced by an electronic record.

3

4 **40-22-103. License required.**

5

6 (a) With the exception of those persons exempt
7 pursuant to W.S. 40-22-104, on and after October 1, 2003,
8 no person shall engage in the business of money
9 transmission without a license. The division shall
10 regulate money transmitters and carry out the provisions of
11 this act.

12

13 (b) A person is engaged in the business of money
14 transmission if the person regularly advertises, offers or
15 provides services to Wyoming residents, through any medium
16 including, but not limited to, internet or other electronic
17 means.

18

19 (c) A licensee with a physical presence in this state
20 may conduct its business at one (1) or more locations,
21 directly or indirectly owned, or through one (1) or more
22 authorized delegates, or both, pursuant to a single license
23 granted to the licensee, provided that for each business
24 name, a separate license shall be required.

1

2 (d) Every licensee and authorized delegate shall
3 comply with the Bank Secrecy Act, 12 U.S.C. 1951 et seq.

4

5 (e) Authorized delegates of a licensee, acting within
6 the scope of authority conferred by a written contract as
7 described in W.S. 40-22-118 shall not be required to obtain
8 a license.

9

10 **40-22-104. Exemptions.**

11

12 (a) This act shall not apply to:

13

14 (i) The United States or any department, agency,
15 or instrumentality thereof;

16

17 (ii) The United States post office;

18

19 (iii) The state or any political subdivisions
20 thereof;

21

22 (iv) Banks, bank holding companies, credit
23 unions, building and loan associations, savings and loan
24 associations, savings banks or mutual banks organized under

1 the laws of any state or the United States provided that
2 they do not issue or sell payment instruments through
3 authorized delegates who are not banks, bank holding
4 companies, credit unions, building and loan associations,
5 savings and loan associations, savings banks or mutual
6 banks; and

7

8 (v) Electronic transfer of government benefits
9 for any federal, state or county governmental agency as
10 defined in Federal Reserve Board Regulation E by a
11 contractor for and on behalf of the United States or any
12 department, agency or instrumentality thereof, or any state
13 or any political subdivisions thereof.

14

15 **40-22-105. License requirements.**

16

17 (a) Each licensee shall at all times have a net worth
18 of not less than twenty-five thousand dollars (\$25,000.00),
19 as calculated in accordance with generally accepted
20 accounting principles.

21

22 (b) Every corporate applicant at the time of filing
23 of an application for a license and at all times after a
24 license is issued, shall be in good standing in the state

1 of its incorporation. All noncorporate applicants shall at
2 the time of the filing of an application for a license and
3 at all times after a license is issued, be registered or
4 qualified to do business in the state.

5

6 **40-22-106. Bond or other security device.**

7

8 (a) Each application shall be accompanied by a surety
9 bond, irrevocable letter of credit or other similar
10 security device acceptable to the commissioner in the
11 amount of ten thousand dollars (\$10,000.00) or two and one-
12 half (2½) times the outstanding payment instruments,
13 whichever is greater. The commissioner may increase the
14 required amount of the bond or security device to a maximum
15 of five hundred thousand dollars (\$500,000.00) upon the
16 basis of the impaired financial condition of a licensee as
17 evidenced by a reduction in net worth, financial losses or
18 other relevant criteria. The security device shall be in a
19 form satisfactory to the commissioner and shall run to the
20 state for the benefit of any claimants against the licensee
21 to secure the faithful performance of the obligations of
22 the licensee with respect to the receipt, handling,
23 transmission and payment of money in connection with the
24 sale and issuance of payment instruments or transmission of

1 money. In the case of a bond, the aggregate liability of
2 the surety in no event shall exceed the principal sum of
3 the bond. Claimants against the licensee may bring suit
4 directly on the security device or the commissioner may
5 bring suit on behalf of the claimants either in one (1)
6 action or in successive actions.

7

8 (b) In lieu of a security device or any portion of
9 the principal thereof as required by this section, the
10 licensee may deposit with the commissioner or with banks in
11 this state as the licensee may designate and the
12 commissioner may approve, cash, interest bearing stocks and
13 bonds, notes, debentures or other obligations of the United
14 States or any agency or instrumentality thereof, or
15 guaranteed by the United States, or of this state or a
16 political subdivision, or guaranteed by this state, to an
17 aggregate amount, based upon principal amount or market
18 value, whichever is lower, of not less than the amount of
19 the security device or portion thereof. The securities or
20 cash shall be deposited and held to secure the same
21 obligations as would the security device. The depositor
22 shall be entitled to receive all interest and dividends and
23 shall have the right with the approval of the commissioner,
24 to substitute other securities for those deposited, and

1 shall be required to do so on written order of the
2 commissioner made for good cause shown.

3

4 (c) The security device shall remain in effect until
5 cancellation, which may occur only after written notice to
6 the commissioner thirty (30) days prior to the effective
7 date of cancellation. Cancellation shall not affect any
8 liability incurred or accrued during the thirty (30) day
9 period.

10

11 (d) The security device shall remain in place for no
12 longer than five (5) years after the licensee ceases money
13 transmission operations in the state. The commissioner may
14 permit the security device to be reduced or eliminated
15 prior to the five (5) years to the extent that the amount
16 of the licensee's payment instruments outstanding in this
17 state are reduced. The commissioner may also permit a
18 licensee to substitute a letter of credit or other form of
19 security device acceptable to the commissioner for the
20 security device in place at the time the licensee ceases
21 money transmission operations in the state.

22

23 **40-22-107. Permissible investments and statutory**
24 **trust.**

1

2 (a) Each licensee shall at all times possess
3 permissible investments having an aggregate market value
4 calculated in accordance with generally accepted accounting
5 principles, of not less than the aggregate face amount of
6 all outstanding payment instruments and stored value issued
7 or sold by the licensee in the United States. This
8 requirement may be waived by the commissioner if the dollar
9 volume of a licensee's outstanding payment instruments and
10 stored value does not exceed the bond or other security
11 devices posted by the licensee pursuant to W.S. 40-22-106.

12

13 (b) Permissible investments even if commingled with
14 other assets of the licensee, shall be deemed by operation
15 of law to be held in trust for the benefit of the
16 purchasers and holders of the licensee's outstanding
17 payment instruments in the event of the bankruptcy of the
18 licensee.

19

20 **40-22-108. Application for license.**

21

22 (a) Each application for a license shall be made in
23 writing and in a form prescribed by the commissioner. Each
24 application shall include the following:

1

2 (i) The exact name of the applicant, the
3 applicant's principal address, any fictitious or trade name
4 used by the applicant in the conduct of its business and
5 the location of the applicant's business records;

6

7 (ii) The applicant's history of material
8 litigation and criminal convictions for the five (5) year
9 period prior to the date of the application;

10

11 (iii) A description of the activities conducted
12 by the applicant and a history of operations;

13

14 (iv) A description of the business activities in
15 which the applicant seeks to be engaged in the state;

16

17 (v) A list identifying the applicant's proposed
18 authorized delegates in the state, if any, at the time of
19 the filing of the license application;

20

21 (vi) A sample authorized delegate contract, if
22 applicable;

23

1 (vii) A sample form of payment instrument, if
2 applicable;

3

4 (viii) The location at which the applicant and
5 its authorized delegates, if any, propose to conduct the
6 licensed activities in the state; and

7

8 (ix) The name and address of the clearing bank
9 on which payment instruments will be drawn or through which
10 the payment instruments will be payable.

11

12 (b) If the applicant is a corporation, the applicant
13 shall also provide:

14

15 (i) The date of the applicant's incorporation
16 and state of incorporation;

17

18 (ii) A certificate of good standing from the
19 state in which the applicant was incorporated;

20

21 (iii) A description of the corporate structure
22 of the applicant, including the identity of any parent or
23 subsidiary of the applicant and the disclosure of whether

1 any parent or subsidiary is publicly traded on any stock
2 exchange;

3

4 (iv) The name, business and residence address
5 and employment history for the past five (5) years of the
6 applicant's executive officers and the officer or manager
7 who will be in charge of the applicant's licensed
8 activities in this state;

9

10 (v) The name, business and residence address,
11 and employment history for the period five (5) years prior
12 to the date of the application of any key shareholder of
13 the applicant;

14

15 (vi) The history of material litigation and
16 criminal convictions for the five (5) year period prior to
17 the date of the application of every executive officer or
18 key shareholder of the applicant;

19

20 (vii) A copy of the applicant's most recent
21 audited financial statement including balance sheet,
22 statement of income or loss, statement of changes in
23 shareholder equity and statement of changes in financial
24 position and if available, the applicant's audited

1 financial statements for the immediately preceding two (2)
2 year period. Provided, if the applicant is a wholly owned
3 subsidiary of another corporation, the applicant may submit
4 either the parent corporation's consolidated audited
5 financial statements for the current year and for the
6 immediately preceding two (2) year period or the parent
7 corporation's Form 10K reports filed with the United States
8 securities and exchange commission for the prior three (3)
9 years in lieu of the applicant's financial statements. If
10 the applicant is a wholly owned subsidiary of a corporation
11 having its principal place of business outside the United
12 States, similar documentation filed with the parent
13 corporation's non United States regulator may be submitted
14 to satisfy this provision; and

15

16 (viii) Copies of all filings, if any, made by
17 the applicant with the United States securities and
18 exchange commission or with a similar regulator in a
19 country other than the United States, within the year
20 preceding the date of filing of the application.

21

22 (c) If the applicant is not a corporation, the
23 applicant shall also provide:

24

1 (i) The name, business and residence address,
2 personal financial statement and employment history for the
3 past five (5) years, of each principal of the applicant and
4 the name, business and residence address and employment
5 history for the past five (5) years of any other person or
6 persons who will be in charge of the applicant's licensed
7 activities;

8

9 (ii) The place and date of the applicant's
10 registration or qualification to do business in this state;

11

12 (iii) The history of material litigation and
13 criminal convictions for the five (5) year period prior to
14 the date of the application for each individual having any
15 ownership interest in the applicant and each individual who
16 exercises supervisory responsibility with respect to the
17 applicant's activities; and

18

19 (iv) Copies of the applicant's audited financial
20 statements including balance sheet, statement of income or
21 loss and statement of changes in financial position for the
22 current year and if available, for the immediately
23 preceding two (2) year period.

24

1 (d) The commissioner is authorized for good cause
2 shown, to waive any requirement of this section with
3 respect to any license application or to permit a license
4 applicant to submit substituted information in its license
5 application in lieu of the information required by this
6 section.

7

8 **40-22-109. Application fee.**

9

10 Each application shall be accompanied by a nonrefundable
11 application fee not to exceed three thousand dollars
12 (\$3,000.00) for each license applied for, as set by rule of
13 the commissioner.

14

15 **40-22-110. Issuance of license.**

16

17 (a) After the applicant files an application, the
18 commissioner shall investigate the financial condition and
19 responsibility, financial and business experience,
20 character and general fitness of the applicant. The
21 commissioner may conduct an on site investigation of the
22 applicant, the reasonable cost of which shall be borne by
23 the applicant. If the commissioner finds that the
24 applicant's business will be conducted honestly, fairly and

1 in a manner commanding the confidence and trust of the
2 community and that the applicant has fulfilled the
3 requirements imposed by this act and has paid the required
4 application fee, the commissioner shall issue a license to
5 the applicant authorizing the applicant to engage in the
6 licensed activities in this state for a term of one (1)
7 year. If these requirements have not been met, the
8 commissioner shall deny the application in writing setting
9 forth the reasons for the denial.

10

11 (b) The commissioner shall approve or deny every
12 application for an original license within one hundred
13 twenty (120) days from the date a complete application is
14 submitted, provided the time period may be extended with
15 written consent of the applicant. The commissioner shall
16 notify the applicant of the date when the application is
17 deemed complete. In the absence of approval or denial of
18 the application within time period allowed or consented to,
19 the application is deemed approved and the commissioner
20 shall issue the license effective as of the first day after
21 the one hundred twenty (120) day or extended period has
22 elapsed.

23

1 (c) Any applicant aggrieved by a denial issued by the
2 commissioner under this section may at any time within
3 thirty (30) days from the date of receipt of written notice
4 of the denial request a hearing before the commissioner.

5
6 **40-22-111. Renewal of license and annual report.**

7
8 (a) Every year on October 1 each licensee shall pay
9 an annual renewal fee not to exceed two thousand dollars
10 (\$2,000.00), plus not more than one hundred dollars
11 (\$100.00) for each authorized delegate not to exceed seven
12 thousand dollars (\$7,000.00), as set by rule of the
13 commissioner.

14
15 (b) The renewal fee shall be accompanied by a report,
16 in a form approved by the commissioner, which shall
17 include:

18
19 (i) A copy of the licensee's most recent audited
20 consolidated annual financial statement including balance
21 sheet, statement of income or loss, statement of changes in
22 shareholder's equity and statement of changes in financial
23 position, or in the case of a licensee that is a wholly
24 owned subsidiary of another corporation, the consolidated

1 audited annual financial statement of the parent
2 corporation may be filed in lieu of the licensee's audited
3 annual financial statement;

4

5 (ii) For the most recent quarter for which data
6 is available prior to the date of the filing of the renewal
7 application, but in no event more than one hundred twenty
8 (120) days prior to the renewal date, the licensee shall
9 provide the number of payment instruments sold by the
10 licensee in the state, the dollar amount of those
11 instruments and the dollar amount of those instruments
12 currently outstanding;

13

14 (iii) Any material changes to any of the
15 information submitted by the licensee on its original
16 application which have not previously been reported to the
17 commissioner on any other report required to be filed under
18 this act;

19

20 (iv) A list of the licensee's permissible
21 investments;

22

23 (v) A list of the locations, if any, within this
24 state at which business regulated by this act is being

1 conducted by either the licensee or its authorized
2 delegates;

3

4 (vi) The commissioner is authorized for good
5 cause shown to waive any requirement of this section with
6 respect to any license renewal application or to permit a
7 license renewal applicant to submit substituted information
8 in its license renewal application in lieu of the
9 information required by this section.

10

11 (c) A licensee that has not filed a renewal report or
12 paid its renewal fee by the renewal filing deadline and has
13 not been granted an extension of time to do so by the
14 commissioner, shall have its license suspended on the
15 renewal date. The licensee has thirty (30) days after its
16 license is suspended in which to file a renewal report and
17 pay the renewal fee.

18

19 **40-22-112. Licensee liability.**

20

21 A licensee's liability to any person for a money
22 transmission conducted on that person's behalf by the
23 licensee or an authorized delegate shall be limited to the

1 amount of money transmitted or the face amount of the
2 payment instrument or stored value purchased.

3

4 **40-22-113. Extraordinary reporting requirements.**

5

6 (a) Within fifteen (15) business days of the
7 occurrence of any one (1) of the events listed in this
8 subsection, a licensee shall file a written report with the
9 commissioner describing the event and its expected impact
10 on the licensee's activities in the state:

11

12 (i) Any material changes in information provided
13 in a licensee's application or renewal report;

14

15 (ii) The filing for bankruptcy or reorganization
16 by the licensee;

17

18 (iii) The institution of revocation or
19 suspension proceedings against the licensee by any state or
20 governmental authority with regard to the licensee's money
21 transmission activities;

22

1 (iv) Any felony indictment or conviction of the
2 licensee or any of its executive officers related to money
3 transmission activities.

4
5 **40-22-114. Changes in control of a licensee.**

6
7 (a) A licensee shall give the commissioner written
8 notice of a proposed change of control within fifteen (15)
9 business days after learning of the proposed change of
10 control.

11
12 (b) The commissioner may require the licensee to
13 provide additional information concerning the proposed
14 persons in control of the licensee. The additional
15 information shall be limited to the same types required of
16 the licensee or persons in control of the licensee as part
17 of its original license or renewal application.

18
19 (c) The licensee shall reapply and submit the
20 required fees established by rule, not to exceed three
21 thousand dollars (\$3,000.00) for a new license upon a
22 change in the control of the licensee as determined by the
23 commissioner. The license is not transferable nor
24 assignable to the new persons in control of the licensee.

1

2 (d) The following persons are exempt from the
3 requirements of subsections (a) through (c) of this
4 section, but the licensee shall notify the commissioner of
5 a change of control:

6

7 (i) A person that acts as a proxy for the sole
8 purpose of voting at a designated meeting of the security
9 holders or holders of voting interests of a licensee or
10 person in control of a licensee;

11

12 (ii) A person that acquires control of a
13 licensee by devise or descent;

14

15 (iii) A person that acquires control as a
16 personal representative, custodian, guardian, conservator,
17 or trustee, or as an officer appointed by a court of
18 competent jurisdiction or by operation of law; and

19

20 (iv) A person that the commissioner by rule or
21 order exempts in the public interest.

22

23 (e) Subsection (a) of this section does not apply to
24 public offerings of securities.

1

2 (f) Before filing a request for approval to acquire
3 control, a person may request in writing a determination
4 from the commissioner as to whether the person would be
5 considered a person in control of a licensee upon
6 consummation of a proposed transaction. If the commissioner
7 determines that the person would not be a person in control
8 of a licensee, the commissioner shall enter an order to
9 that effect and the proposed person and transaction is not
10 subject to the requirements of subsections (a) through (c)
11 of this section.

12

13 **40-22-115. Examinations.**

14

15 (a) The commissioner may conduct examinations of
16 persons licensed under this act at intervals he deems
17 necessary to determine whether violations of this act and
18 other applicable laws, rules and regulations pertaining to
19 money transmissions are occurring and the frequency and
20 seriousness of the violations.

21

22 (b) Each licensee or person subject to examination or
23 investigation under this act shall pay to the commissioner
24 an amount assessed by the commissioner to cover the direct

1 and indirect cost of examinations or investigations
2 conducted pursuant to this section.

3

4 **40-22-116. Maintenance of records.**

5

6 (a) Each licensee shall make, keep and preserve the
7 following books, accounts and other records for a period of
8 five (5) years and these records shall be open to
9 inspection by the commissioner:

10

11 (i) A record of each payment instrument and
12 stored value sold;

13

14 (ii) A general ledger, posted at least monthly,
15 containing all assets, liability, capital, income and
16 expense accounts;

17

18 (iii) Bank statements and bank reconciliation
19 records;

20

21 (iv) Outstanding payment instruments and stored
22 value;

23

1 (v) Records of each payment instrument and
2 stored value paid;

3

4 (vi) A list of the names and addresses of all
5 authorized delegates; and

6

7 (vii) Any other records the commissioner
8 reasonably requires by rule.

9

10 (b) The records required under this section may be
11 maintained in photographic, electronic or other similar
12 form.

13

14 (c) Records may be maintained at a location other
15 than within this state so long as they are made accessible
16 to the commissioner upon seven (7) business days written
17 notice.

18

19 **40-22-117. Confidentiality of records; exception.**

20

21 (a) Except as provided in subsection (b) of this
22 section, all information or reports obtained by the
23 commissioner from an applicant, licensee or authorized
24 delegate are confidential.

1

2 (b) The commissioner may disclose confidential
3 information to officials and examiners in other states or
4 to federal regulatory authorities or to appropriate
5 prosecuting attorneys.

6

7 (c) This section does not prohibit the commissioner
8 from disclosing to the public a list of persons licensed
9 under this act or the aggregated financial data on those
10 licensees.

11

12 **40-22-118. Authorized delegate contracts.**

13

14 (a) A licensee shall designate an authorized delegate
15 by express written contract including the following:

16

17 (i) That the licensee appoints the person as its
18 delegate with authority to engage in money transmission on
19 behalf of the licensee;

20

21 (ii) That neither a licensee nor an authorized
22 delegate may authorize subdelegates without the written
23 consent of the commissioner; and

24

1 (iii) That authorized delegates are subject to
2 supervision and regulation by the commissioner.

3

4 **40-22-119. Authorized delegate conduct.**

5

6 (a) An authorized delegate shall not make any
7 fraudulent or false statement or misrepresentation to a
8 licensee or to the commissioner.

9

10 (b) All money transmission activities conducted by an
11 authorized delegate shall be in strict accord with the
12 licensee's written procedures provided to the authorized
13 delegate.

14

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

18

19 (d) An authorized delegate is deemed to consent to
20 the commissioner's inspection with or without prior notice
21 to the licensee or authorized delegate pursuant to W.S.
22 40-22-115.

23

24 **40-22-120. License suspension or revocation.**

1

2 (a) The commissioner may suspend or revoke a
3 licensee's license if the commissioner finds that:

4

5 (i) Any fact or condition exists that, if it had
6 existed at the time when the licensee applied for its
7 license, would have been grounds for denying the
8 application;

9

10 (ii) The licensee's net worth becomes inadequate
11 and the licensee after ten (10) business days written
12 notice from the commissioner, fails to remedy the
13 deficiency;

14

15 (iii) The licensee knowingly violates any
16 material provision of this act or any rule or order validly
17 promulgated by the commissioner;

18

19 (iv) The licensee is conducting its business in
20 an unsafe or unsound manner;

21

22 (v) The licensee is insolvent;

23

1 (vi) The licensee has suspended payment of its
2 obligations, has made an assignment for the benefit of its
3 creditors or has admitted in writing its inability to pay
4 its debts as they become due;

5

6 (vii) The licensee has applied for an
7 adjudication of bankruptcy, reorganization, arrangement or
8 other relief under any bankruptcy;

9

10 (viii) The licensee refuses to permit the
11 commissioner to make any examination authorized by this
12 act;

13

14 (ix) The licensee willfully fails to make any
15 report required by this act;

16

17 (x) The competence, experience, character or
18 general fitness of the licensee indicates that it is not in
19 the public interest to permit the licensee to continue to
20 conduct business.

21

22 **40-22-121. Suspension or revocation of authorized**
23 **delegates.**

24

1 (a) The commissioner may issue an order to the
2 licensee suspending or revoking the designation of an
3 authorized delegate if the commissioner finds that:

4
5 (i) The authorized delegate violated this act or
6 a rule adopted or an order issued under this act;

7
8 (ii) The authorized delegate has not cooperated
9 with an examination or investigation by the commissioner;

10
11 (iii) The authorized delegate has engaged in
12 fraud, intentional misrepresentation or gross negligence;

13
14 (iv) The authorized delegate has been convicted
15 of a violation of a state or federal money laundering
16 statute;

17
18 (v) The competence, experience, character or
19 general fitness of the authorized delegate or a person in
20 control of the authorized delegate indicates that it is not
21 in the public interest to permit the authorized delegate to
22 provide money services; or

23

1 (vi) The authorized delegate has engaged in an
2 unsafe or unsound practice.

3

4 (b) In determining whether an authorized delegate has
5 engaged in an unsafe or unsound practice the commissioner
6 may consider the size and condition of the authorized
7 delegate's provision of money services, the magnitude of
8 the loss, the gravity of the violation of this act and the
9 previous conduct of the authorized delegate.

10

11 (c) An authorized delegate may apply for relief from
12 a suspension or revocation designation as an authorized
13 delegate according to procedures prescribed by the
14 commissioner.

15

16 **40-22-122. Orders to cease and desist.**

17

18 (a) If the commissioner determines that a violation
19 of this act or of a rule adopted or an order issued under
20 this act by a licensee or authorized delegate is likely to
21 cause immediate and irreparable harm to the licensee, its
22 customers or the public as a result of the violation or
23 cause insolvency or significant dissipation of assets of
24 the licensee, the commissioner may issue an order requiring

1 the licensee or authorized delegate to cease and desist
2 from the violation. The order becomes effective upon
3 service upon the licensee or authorized delegate.

4

5 (b) The commissioner may issue an order against a
6 licensee to cease and desist from providing money
7 transmission services through an authorized delegate that
8 is the subject of a separate order pursuant to W.S.
9 40-22-121 by the commissioner.

10

11 (c) An order to cease and desist remains effective
12 and enforceable pending the completion of an administrative
13 proceeding pursuant to Wyoming Administrative Procedure
14 Act.

15

16 **40-22-123. Consent orders.**

17

18 The commissioner may enter into a consent order at any time
19 with a person to resolve a matter arising under this act.

20 A consent order shall be signed by the person to whom it is
21 issued or by the person's authorized representative and
22 shall indicate agreement with the terms contained in the
23 order. A consent order may provide that it does not
24 constitute an admission by a person that this act or a rule

1 adopted or an order issued under this act has been
2 violated.

3

4 **40-22-124. Civil penalties.**

5

6 The commissioner may impose a civil penalty upon a person
7 who violates this act or a rule adopted or an order issued
8 under this act in an amount not to exceed five hundred
9 dollars (\$500.00) per day for each day the violation is
10 outstanding, plus the state's costs and expenses for the
11 investigation and prosecution of the matter, including
12 reasonable attorney's fees.

13

14 **40-22-125. Criminal penalties.**

15

16 (a) A person who intentionally makes a false
17 statement, misrepresentation or false certification in a
18 record filed or required to be maintained under this act or
19 who intentionally makes a false entry or omits a material
20 entry in the record is guilty of a felony, punishable for
21 not less than three (3) years imprisonment or a fine of not
22 less than ten thousand dollars (\$10,000.00), or both.

23

1 (b) An individual who knowingly engages in any
2 activity for which a license is required under this act
3 without being licensed under this act is guilty of a felony
4 punishable for not less than three (3) years imprisonment
5 or a fine of not less than ten thousand dollars
6 (\$10,000.00), or both.

7

8 **40-22-126. Unlicensed persons.**

9

10 (a) If the commissioner has reason to believe that a
11 person has violated or is violating W.S. 40-22-103 of this
12 act the commissioner may issue an order to show cause why
13 an order to cease and desist should not issue requiring
14 that the person cease and desist from the violation of W.S.
15 40-22-103.

16

17 (b) In an emergency, the commissioner may petition
18 the district court for the issuance of a temporary
19 restraining order.

20

21 (c) An order to cease and desist becomes effective
22 upon service upon the person.

23

1 (d) An order to cease and desist remains effective
2 and enforceable pending the completion of an administrative
3 proceeding pursuant to W.S. 40-22-127 and 40-22-128.

4

5 (e) A person served with an order to cease and desist
6 for violating W.S. 40-22-103 may petition the district
7 court for a judicial order setting aside, limiting, or
8 suspending the enforcement, operation, or effectiveness of
9 the order pending the completion of an administrative
10 proceeding pursuant to W.S. 40-22-127 and 40-22-128.

11

12 (f) The commissioner shall commence a contested case
13 proceeding within twenty (20) days after issuing an order
14 to cease and desist.

15

16 **40-22-127. Administrative procedures.**

17

18 All administrative proceedings under this act shall be
19 conducted in accordance with the Wyoming Administrative
20 Procedure Act.

21

22 **40-22-128. Hearings.**

23

1 Except as otherwise provided in W.S. 40-22-111(c) and
2 40-22-122(c), the commissioner may not suspend or revoke a
3 license, issue an order to cease and desist, suspend or
4 revoke the designation of an authorized delegate, or assess
5 a civil penalty without notice and an opportunity to be
6 heard. The commissioner shall also hold a hearing when
7 requested to do so by an applicant whose application for a
8 license is denied.

9

10 **40-22-129. Rulemaking and deposit of fees.**

11

12 (a) The commissioner shall promulgate all necessary
13 rules to implement and administer this act.

14

15 (b) All application, renewal and licensing fees shall
16 be deposited by the commissioner with the state treasurer
17 into the financial institutions administration account
18 within the earmarked revenue fund.

19

1 **Section 2.** This act is effective immediately upon
2 completion of all acts necessary for a bill to become law
3 as provided by Article 4, Section 8 of the Wyoming
4 Constitution.

5

6

(END)