

ORIGINAL HOUSE
BILL NO. 0060

ENROLLED ACT NO. 8, HOUSE OF REPRESENTATIVES

SIXTY-SECOND LEGISLATURE OF THE STATE OF WYOMING
2013 GENERAL SESSION

AN ACT relating to trade and commerce; amending the Wyoming Money Transmitters Act; authorizing the use of subdelegates by authorized delegates of licensees under the Money Transmitters Act; providing authority of the banking commissioner over subdelegates; providing a definition; and providing for an effective date.

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

Section 1. W.S. 40-22-102(a)(xiv), (xvi)(H) and by creating a new paragraph (xix), 40-22-103(b) through (e), 40-22-104(a)(iv), 40-22-107(a), 40-22-108(a)(v) and (viii), 40-22-111(a) and (b)(v), 40-22-112, 40-22-116(a)(i) and (iv) through (vi), 40-22-117(a), 40-22-118(a)(ii), 40-22-119(a), (b), (d) and by creating new subsections (e) and (f), 40-22-121, 40-22-122(a) and (b) and 40-22-128 are amended to read:

40-22-102. Definitions.

(a) As used in this act:

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

(xvi) "Permissible investments" means:

(H) Receivables which are due to a licensee from its authorized delegates ~~pursuant to a contract~~

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~~described in W.S. 40-22-118~~ or subdelegates which are not past due or doubtful of collection; or

(xix) "Subdelegate" means an entity designated by an authorized delegate by written contract to engage in the business of money transmission on behalf of a licensee.

40-22-103. License required.

(b) A person is engaged in the business of money transmission if the person ~~regularly~~ advertises, offers or provides services to Wyoming residents, for personal, family or household use, through any medium including, but not limited to, internet or other electronic means.

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

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

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

40-22-104. Exemptions.

(a) This act shall not apply to:

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(iv) Banks, bank holding companies, credit unions, building and loan associations, savings and loan associations, savings banks or mutual banks organized under the laws of any state or the United States provided that they do not issue or sell payment instruments through authorized delegates or subdelegates who are not banks, bank holding companies, credit unions, building and loan associations, savings and loan associations, savings banks or mutual banks; and

40-22-107. Permissible investments and statutory trust.

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

40-22-108. Application for license.

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

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

(viii) The location at which the applicant and its authorized delegates and its subdelegates, if any,

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propose to conduct the licensed activities in the state;
and

40-22-111. Renewal of license and annual report.

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

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

(v) A list of the locations, if any, within this state at which business regulated by this act is being conducted by either the licensee or its authorized delegates or its subdelegates;

40-22-112. Licensee liability.

A licensee's liability to any person for a money transmission conducted on that person's behalf by the licensee or an authorized delegate or a subdelegate shall be limited to the amount of money transmitted or the face amount of the payment instrument ~~or stored value~~ purchased.

40-22-116. Maintenance of records.

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

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

(iv) Outstanding payment instruments; ~~and stored value;~~

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

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

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

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

40-22-118. Authorized delegate contracts.

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

(ii) That ~~neither a licensee nor~~ an authorized delegate may not authorize subdelegates without the written consent of the commissioner; and

40-22-119. Authorized delegate and subdelegate conduct.

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

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(b) All money transmission activities conducted by an authorized delegate or subdelegate shall be in strict accord with the licensee's written procedures provided to the authorized delegate and subdelegate.

(d) An authorized delegate ~~is~~ and subdelegate are deemed to consent to the commissioner's inspection with or without prior notice to the licensee, ~~or~~ authorized delegate or subdelegate pursuant to W.S. 40-22-115.

(e) A subdelegate shall remit all money owing to the authorized delegate or licensee in accordance with the terms of the contract between the authorized delegate and the subdelegate.

(f) An authorized delegate shall not enter into contracts with subdelegates without the consent of the licensee and the commissioner.

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

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

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

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

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

(iv) The authorized delegate or subdelegate has been convicted of a violation of a state or federal money laundering statute;

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

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

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

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

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

(a) If the commissioner determines that a violation of this act or of a rule adopted or an order issued under this act by a licensee, ~~or~~ authorized delegate or

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subdelegate is likely to cause immediate and irreparable harm to the licensee, its customers or the public as a result of the violation or cause insolvency or significant dissipation of assets of the licensee, the commissioner may issue an order requiring the licensee, ~~or~~ authorized delegate or subdelegate to cease and desist from the violation. The order becomes effective upon service upon the licensee, ~~or~~ authorized delegate or subdelegate.

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

40-22-128. Hearings.

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

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Section 2. This act is effective July 1, 2013.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk