

BILL ANALYSIS

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S.B. 895
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Money transmitters, also known as money transfer services, are businesses that receive, hold, or send currency, funds, or other value for customers. More recently, the money transmission industry has undergone a technological resurgence as advances in financial technology (or "fintech") continues to accelerate the need for global payments.

These rapid changes in the money transmission industry have exposed unnecessary, outdated, and often conflicting state requirements across the country. These conflicting requirements exacerbate difficulties including consistently regulating money transmitters, operating as state-licensed money transmitters, and defending the state regulatory system from federal preemption.

S.B. 895 borrows language from the Model Money Transmission Modernization Act, created by the board of the National Trade Association, Conference for State Bank Supervisors, with the help of fintech industry experts and state regulators. The bill provides a clear set of standards that can be implemented by Texas agencies in a consistent and coordinated manner for domestic and international money transmitters of all sizes. By enacting S.B. 895, Texas will join other states in common licensing and regulatory standards to add efficiencies to the multi-state process, allowing states to leverage common practices, analyses, and data. In addition, S.B. 895 will improve consumer protections from financial crimes, increasing the safety of customer funds.

As proposed, S.B. 895 amends current law relating to modernizing the regulation of money services businesses.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Finance Commission of Texas in SECTION 1 (Section 151.101, Finance Code) and SECTION 2 of this bill.

Rulemaking authority previously granted to the Finance Commission of Texas is rescinded in SECTION 3 (Sections 151.102 and 151.402, Finance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle E, Title 3, Finance Code, by adding Chapter 151, as follows:

CHAPTER 151. REGULATION OF MONEY SERVICES BUSINESSES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 151.2000. SHORT TITLE. Authorizes this Act to be cited as the Texas Money Services Modernization Act.

Sec. 151.002. DEFINITIONS. Defines "acting in concert," "authorized delegate," "average daily money transmission liability," "Bank Secrecy Act," "closed loop stored value," "commission," "commissioner," "control," "currency," "currency exchange," "department," "eligible rating," "eligible rating service," "federally insured depository financial institution," "in this state," "individual," "key individual," "licensee," "material litigation," "money" or "monetary value," "money transmission," "MSB accredited state,"

"multistate licensing process," "negotiable instrument," "NMLS," "outstanding money transmission obligations," "passive investor," "payment instrument," "payroll processing services," "person," "receiving money for transmission" or "money received for transmission," "stored value," "tangible net worth," and "unsafe or unsound act or practice."

Sec. 151.003. EXEMPTIONS. Provides that this Act does not apply to:

(a) an operator of a payment system to the extent that it provides processing, clearing, or settlement services, between or among persons exempted by this section or licensees, in connection with wire transfers, credit card transactions, debit card transactions, stored-value transactions, automated clearing house transfers, or similar funds transfers.

(b) 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, provided that:

(1) 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;

(2) the payee holds the agent out to the public as accepting payments for goods or services on the payee's behalf; and

(3) 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.

(c) a person that acts as an intermediary by processing payments between an entity that has directly incurred an outstanding money transmission obligation to a sender, and the sender's designated recipient, provided that the entity:

(1) is properly licensed or exempt from licensing requirements under this Act;

(2) provides a receipt, electronic record, or other written confirmation to the sender identifying the entity as the provider of money transmission in the transaction; and

(3) 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.

(d) the United States or a department, agency, or instrumentality thereof, or its agent.

(e) money transmission by the United States Postal Service or by an agent of the United States Postal Service.

(f) a state, county, city, or any other governmental agency or governmental subdivision or instrumentality of a state, or its agent.

(g) a federally insured depository financial institution, bank holding company, office of an international banking corporation, foreign bank that establishes a federal branch pursuant to the International Bank Act, 12 U.S.C. Section 3102, as amended or recodified from time to time, corporation organized pursuant to the Bank Service Corporation Act, 12 U.S.C. Sections 1861-1867, as amended or

recodified from time to time, or corporation organized under the Edge Act, 12 U.S.C. Sections 611-633, as amended or recodified from time to time, under the laws of a state or the United States.

(h) a trust company, as defined by Section 187.001(a) (relating to defining terms for multistate trust businesses), that is organized under the laws of this state.

(i) electronic funds transfer of governmental benefits for a federal, state, county, or governmental agency by a contractor on behalf of the United States or a department, agency, or instrumentality thereof, or on behalf of a state or governmental subdivision, agency, or instrumentality thereof.

(j) a board of trade designated as a contract market under the federal Commodity Exchange Act, 7 U.S.C. Sections 1-25, as amended or recodified from time to time, or a 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.

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

(l) 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.

(m) an individual employed by a licensee, authorized delegate, or any person exempted from the licensing requirements of the Act 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.

(n) a person expressly appointed as a third party service provider to or agent of an entity exempt under Section 151.003(g), solely to the extent that:

(1) such service provider or agent is engaging in money transmission on behalf of and pursuant to a written agreement with the exempt entity that sets forth the specific functions that the service provider or agent is to perform; and

(2) 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 the outstanding money transmission obligations upon receipt of the purchaser's or holder's money or monetary value by the service provider or agent.

(o) a person exempt by regulation or order if the Banking Commissioner of Texas (commissioner) finds such exemption to be in the public interest and that the regulation of such person is not necessary for the purposes of this Act.

Sec. 151.004. **AUTHORITY TO REQUIRE DEMONSTRATION OF EXEMPTION.** Authorizes the commissioner to require that any person claiming to be exempt from licensing pursuant to Section 151.003 provide information and documentation to the commissioner demonstrating that it qualifies for any claimed exemption.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 151.101. **ADMINISTRATION.** (a) Requires the Texas Department of Banking (TDB) to administer this chapter. Authorizes the Finance Commission of Texas (commission) to adopt rules to administer and enforce this chapter, including rules necessary or appropriate to:

(1) implement and clarify this chapter; and

(2) recover the cost of maintaining and operating TDB and the cost of administering and enforcing this chapter and other applicable law by imposing and collecting proportionate and equitable fees and costs for notices, applications, examinations, investigations, and other actions required to achieve the purposes of this chapter.

(b) Provides that the presence or absence of a specific reference in this chapter to a rule regarding a particular subject is not intended to and does not limit the general rulemaking authority granted to the commission by this section.

Sec. 151.102. **PURPOSE.** Provides that the purpose of this Act is to protect the interests of purchasers of money services and the public, preserve and protect the safety and soundness of money services businesses, and protect against drug trafficking, terrorist funding, and money laundering, structuring, or related financial crime.

Sec. 151.103. **IMPLEMENTATION.** (a) Authorizes the commissioner, in order to carry out the purposes of this Act, subject to the provisions of Section 151.105(a) and(b), to:

(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 standardizing methods or procedures, and sharing resources, records or related information obtained under this Act;

(2) use, hire, contract, or employ analytical systems, methods, or software to examine or investigate any person subject to this Act.

(3) accept, from other state or federal government agencies or officials, licensing, examination, or investigation reports made by such other state or federal government agencies or officials; and

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

Sec. 151.104. **COMMISSIONER'S GENERAL AUTHORITY.** (a) Provides that each power granted to the commissioner under this chapter is in addition to, and not in limitation of, each other power granted under this chapter. Provides that the fact that the commissioner possesses, or has exercised, a power under a provision of this chapter does not preclude the commissioner from exercising a power under any other provision of this chapter.

(b) Provides that each power granted to the commissioner under this chapter is in addition to, and not in limitation of, powers granted to the commissioner under other law. Provides that the fact that the commissioner possesses, or has exercised, a power under any other provision of law does not preclude the commissioner from exercising any power under this chapter. Provides that the fact that the commissioner possesses, or has exercised, a power under a provision of this chapter does not preclude the commissioner from exercising a power under any other law.

(c) Authorizes the commissioner to impose on any authority, approval, exemption, license, or order issued or granted under this chapter any condition the commissioner considers reasonably necessary or appropriate to carry out and achieve the purposes of this chapter.

Sec. 151.105. **CONFIDENTIALITY.** (a) Provides that all information or reports obtained by the commissioner from an applicant, licensee, or authorized delegate, and 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 commissioner, or financial statements, balance sheets, or authorized delegate information, except as otherwise provided in Subsection (b), are confidential and are not subject to disclosure under the Public Information Act.

(b) Authorizes the commissioner to disclose information not otherwise subject to disclosure under Subsection (a) to representatives of state or federal agencies who promise in a record that they will maintain the confidentiality of the information or where the commissioner finds that the release is reasonably necessary for the protection and interest of the public in accordance with the Public Information Act.

(c) Provides that this section does not prohibit the commissioner from disclosing to the public a list of all licensees or the aggregated financial or transactional data concerning those licensees.

(d) Requires that information contained in the records of TDB that is not confidential and is authorized to be made available to the public either on TDB's website, upon receipt by TDB of a written request, or in the Nationwide Multistate Licensing System and Registry (NMLS) include:

- (1) the name, business address, telephone number, and unique identifier of a licensee;
- (2) the business address of a licensee's registered agent for service;
- (3) the name, business address, and telephone number of all authorized delegates;
- (4) the terms of or a copy of any bond filed by a licensee, provided that confidential information, including, but not limited to, prices and fees for such bond is redacted;
- (5) copies of any non-confidential final orders of TDB relating to any violation of this Act or regulations implementing this Act; and
- (6) imposition of an administrative fine or penalty under this Act.

Sec. 151.106. SUPERVISION. (a) Authorizes the commissioner to conduct an examination or investigation of a licensee or authorized delegate or otherwise take independent action authorized by this Act or by a rule adopted or order issued under this Act as reasonably necessary or appropriate to administer and enforce this Act, regulations implementing this Act, and other applicable law, including the Bank Secrecy Act and the USA PATRIOT ACT. Authorizes the commissioner to:

- (1) conduct an examination either on-site or off-site as the commissioner may reasonably require;
- (2) conduct an examination in conjunction with an examination conducted by representatives of 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, which on being accepted is considered for all purposes as an official report of the commissioner; 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) Requires a licensee or authorized delegate to provide, and the commissioner to have full and complete access to, all records the commissioner may reasonably require to conduct a complete examination. Requires that the records be provided at the location and in the format specified by the commissioner, provided, the commissioner is authorized to utilize multistate record production standards and examination procedures when such standards will reasonably achieve the requirements of this section.

(c) Requires a licensee, unless otherwise directed by the commissioner, to pay all costs reasonably incurred in connection with an examination of the licensee or the licensee's authorized delegates.

Sec. 151.107. NETWORKED SUPERVISION. (a) Authorizes the commissioner, to efficiently and effectively administer and enforce this Act and to minimize regulatory burden, to participate in multistate supervisory processes established between states and coordinated through the Conference of State Bank Supervisors, Money Transmitter Regulators Association, and affiliates and successors thereof for all licensees that hold licenses in this state and other states. Provides that the commissioner, as a participant in multistate supervision, to:

(1) cooperate, coordinate, and share information with other state and federal regulators in accordance with Section 151.105 of this Act;

(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, provided that the organizations agree in writing to maintain the confidentiality and security of the shared information in accordance with Section 151.105 of this Act.

(b) Provides that the commissioner is prohibited from waiving, and nothing in this section constitutes a waiver of, the commissioner's authority to conduct an examination or investigation or otherwise take independent action authorized by this Act or a rule adopted or order issued under this Act to enforce compliance with applicable state or federal law.

(c) Provides that a joint examination or investigation, or acceptance of an examination or investigation report, does not waive an examination assessment provided for in this Act.

Sec. 151.108. RELATIONSHIP TO FEDERAL LAW. (a) Requires that any inconsistencies between a provision of this Act and the federal law governing money transmission, in the event state money transmission jurisdiction is conditioned on a federal law, be governed by the applicable federal law to the extent of the inconsistency.

(b) Authorizes the commissioner, in the event of any inconsistencies between this Act and a federal law that governs pursuant to Subsection (a), to provide interpretive guidance that:

(1) identifies the inconsistency; and

(2) identifies the appropriate means of compliance with federal law.

Sec. 151.109. CONSENT TO SERVICE OF PROCESS. Provides that a licensee, an authorized delegate, or a person who knowingly engages in activities that are regulated and require a license under this chapter, with or without filing an application for a license or holding a license under this chapter, is considered to have consented to the jurisdiction of the courts of this state for all actions arising under this chapter.

SUBCHAPTER C. MONEY SERVICES LICENSES

Sec. 151.201. MONEY TRANSMISSION LICENSE REQUIRED. (a) Prohibits a person from engaging in the business of money transmission or advertising, soliciting, or holding itself out as engaging in the business of money transmission unless the person is licensed under this Act.

(b) Provides that a person, for the purposes of this chapter, engages in the business of money transmission if the person receives compensation or expects to receive compensation, directly or indirectly, for conducting money transmission.

(c) Provides that Subsection (a) does not apply to:

(1) a person that is an authorized delegate of a person licensed under this Act acting within the scope of authority conferred by a written contract with the licensee;

(2) a person that is exempt pursuant to Section 151.003 and does not engage in money transmission outside the scope of such exemption; or

(3) a person that has been granted an exemption under Subsection (e).

(d) Provides that a license issued under Section 151.206 is not transferable or assignable.

(e) Authorizes the commissioner, on application and a finding that the exemption is in the public interest, to exempt a person that:

(1) incidentally engages in the money transmission business only to the extent reasonable and necessary to accomplish a primary business objective unrelated to the money transmission business;

(2) does not advertise or offer money transmission services to the public except to the extent reasonable and necessary to fairly advertise or offer the person's primary business services; and

(3) transmits money without a fee as an inducement for customer participation in the person's primary business.

Sec. 151.202. CURRENCY EXCHANGE LICENSE REQUIRED. (a) Prohibits a person from engaging in the business of currency exchange or advertising, soliciting, or holding itself out as providing currency exchange unless the person:

(1) is licensed under this subchapter;

(2) is an authorized delegate of a person licensed for money transmission under this subchapter;

(3) is excluded under Section 151.003; or

(4) has been granted an exemption under Subsection (e).

(b) Provides that a person, for purposes of this chapter, engages in the business of currency exchange if the person exchanges currency and receives compensation

or expects to receive compensation, directly or indirectly, for the currency exchange.

(c) Authorizes a licensee to engage in the currency exchange business at one or more locations in this state owned, directly or indirectly by the licensee, under a single license.

(d) Provides that a license issued under Section 151.206 is not transferable or assignable.

(e) Authorizes the commissioner, on application and a finding that the exemption is in the public interest, to exempt a retailer, wholesaler, or service provider that in the ordinary course of business accepts currency of a foreign country or government as payment for goods or services, provided that a person is not eligible for the exemption if:

(1) the value of the goods or services purchased in a single transaction exceeds \$10,000;

(2) the change given or made as a result of the transaction exceeds \$100;

(3) an attempt is made to structure a transaction in a manner that evades the licensing requirements of this subchapter or avoids using a business licensed under this chapter;

(4) the person is engaged in the business of cashing checks, drafts, or other payment instruments for consideration and is not otherwise exempt from licensing under this chapter; or

(5) the person would not be eligible for a license under this chapter.

(f) Authorizes the commissioner, in accordance with the investigation provisions of this chapter, to examine a person to verify the person's exempt status under Subsection (e).

Sec. 151.203. CONSISTENT STATE LICENSING. (a) Authorizes the commissioner to require that a person submit through NMLS in the form and manner prescribed by the commissioner and acceptable to the registry any information or document or payment of a fee required to be submitted under this chapter or rules adopted under this chapter.

(b) Authorizes the commissioner to use NMLS as a channeling agent for obtaining information required for licensing purposes under this chapter or rules adopted under this chapter, including:

(1) criminal history record information from the Federal Bureau of Investigation (FBI), the United States Department of Justice, or any other agency or entity at the commissioner's discretion;

(2) information related to any administrative, civil, or criminal findings by a governmental jurisdiction; and

(3) information requested by the commissioner under Section 151.204(a)(10) or Section 151.204(b)(11).

Sec. 151.204. APPLICATION FOR A MONEY SERVICES LICENSE. (a) Requires applicants for a license to apply in a form and in a medium as prescribed by the commissioner. Provides that each such form is required to contain content as set forth by rule, regulation, instruction or procedure of the commissioner and is authorized to be

changed or updated by the commissioner in accordance with applicable law in order to carry out the purposes of this Act and maintain consistency with NMLS licensing standards and practices. Requires that the application state or contain, 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 10-year period next preceding the submission of the application;
- (3) a description of any money transmission or currency exchange previously provided by the applicant and the money transmission or currency exchange that the applicant seeks to provide in this state;
- (4) if applicable, a list of the applicant's proposed authorized delegates and the locations in this state 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, currency exchange, or both 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 licensee or a person in control of a licensee;
- (7) a sample form of contract for authorized delegates, if applicable;
- (8) a sample 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 licensable activity; and
- (10) any other information the commissioner reasonably requires with respect to the applicant.

(b) Requires an applicant, if the applicant is a corporation, limited liability company, partnership, or other legal entity, to also provide:

- (1) the date of the applicant's incorporation or formation and state or country of incorporation or formation;
- (2) if applicable, a certificate of good standing from the state or country in which the applicant is 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) the legal name, any fictitious or trade name, all business and residential addresses, and the employment, as applicable, in the 10-year period next preceding the submission of the application of each key individual and person in control of the applicant;
- (5) a list of any criminal convictions and material litigation in which a person in control of the applicant that is not an individual has been

involved in the 10-year period preceding the submission of the application;

(6) if applying for a money transmission license, a copy of audited financial statements of the applicant for the most recent fiscal year and for the two-year period next preceding the submission of the application or, if applying for a currency exchange license or if otherwise determined to be acceptable to the commissioner, certified unaudited financial statements for the most recent fiscal year or other period acceptable to the commissioner;

(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. Section 78m, as amended or recodified from time to time;

(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 United States Securities Exchange Act of 1934, 15 U.S.C. Section 78m, as amended or recodified from time to time; 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 this state; and

(11) any other information the commissioner reasonably requires with respect to the applicant.

(c) A nonrefundable application fee in the amount established by commission rule.

(d) Authorizes the commissioner to waive one or more requirements of Sections 151.204(a) and (b) or permit an applicant to submit other information in lieu of the required information.

Sec. 151.205. INFORMATION REQUIREMENTS FOR CERTAIN INDIVIDUALS. (a) Requires any individual in control of a licensee or applicant, any individual that seeks to acquire control of a licensee, and each key individual to furnish to the commissioner the following items:

(1) the individual's fingerprints for submission to the FBI and the commissioner for purposes of a national criminal history background check unless the person currently resides outside of the United States and has resided outside of the United States for the last ten years; and

(2) personal history and experience in a form and in a medium prescribed by the commissioner, to obtain 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, this requirement is required to be waived;

(B) information related to any criminal convictions or pending charges; and

(C) information related to any regulatory or administrative action and any civil litigation involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty, or breach of contract.

(b) Requires the individual, if the individual has resided outside of the United States at any time in the last ten years, to also provide an investigative background report prepared by an independent search firm that meets the following requirements:

(1) the search firm, at a minimum, is required to:

(A) demonstrate that it has sufficient knowledge, resources, and employs accepted and reasonable methodologies to conduct the research of the background report; and

(B) not be affiliated with or have an interest with the individual it is researching; and

(2) the investigative background report, at a minimum, is required to be written in the English language and contain the following:

(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 accomplish such report, including a search of the court data in the countries, provinces, states, cities, towns, and contiguous areas where the individual resided and worked;

(B) criminal records information for the past ten years, including, but not limited to, felonies, misdemeanors, or similar convictions for violations of law in the countries, provinces, states, cities, towns, and contiguous areas where 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; and

(E) financial services-related regulatory history, including but not limited to, money transmission, securities, banking, insurance, and mortgage-related industries.

Sec. 151.206. ISSUANCE OF LICENSE. (a) Provides that an application for an original license under this Act, when the application appears to include all the items and addresses all of the matters that are required, is complete and the commissioner is required to promptly notify the applicant in a record of the date on which the application is determined to be complete, and:

(1) the commissioner is required to approve or deny the application within 120 days after the completion date; or

(2) if the application is not approved or denied within 120 days after the completion date, the application is approved and the license takes effect as of the first business day after expiration of the 120-day period. Authorizes the commissioner for good cause to extend the application period.

(b) Provides that a determination by the commissioner that an application is complete and is accepted for processing means only that the application, on its face, appears to include all of the items, including the Criminal Background Check response from the FBI, and address all of the matters that are required, and is not an assessment of the substance of the application or of the sufficiency of the information provided.

(c) Requires the commissioner, when an application is filed and considered complete under this section, to investigate the applicant's financial condition and responsibility, financial and business experience, character, and general fitness. Authorizes the commissioner to conduct an on-site investigation of the applicant, the reasonable cost of which the applicant is required to pay. Requires the commissioner to issue a license to an applicant under this section if the commissioner finds that all of the following conditions have been fulfilled:

(1) the applicant has complied with Sections 151.204 and 151.205; and

(2) the financial condition and responsibility, financial and business experience, competence, character, and general fitness of the applicant; and the competence, experience, character, and general fitness of the key individuals 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, currency exchange, or both.

(d) Authorizes the commissioner, if an applicant avails itself or is otherwise subject to a multistate licensing process, to:

(1) accept the investigation results of a lead investigative state for the purpose of Section 151.206(c) if the lead investigative state has sufficient staffing, expertise, and minimum standards; or

(2) if Texas is a lead investigative state, investigate the applicant pursuant to Section 151.206(c) and the timeframes established by agreement through the multistate licensing process, provided however, that such timeframe is prohibited from being noncompliant with the application period in Section 151.206(a)(1).

(e) Requires the commissioner, if the commissioner finds that the applicant for any reason fails to possess the qualifications or satisfy the requirements for the license for which application is made, to inform the applicant in writing that the application is denied and state the reasons for the denial. Authorizes the applicant to appeal the denial by filing a written request for a hearing with the commissioner not later than the 30th day after the date the notice is mailed. Requires that a hearing on the denial be held not later than the 45th day after the date the commissioner receives the written request unless the administrative law judge extends the period for good cause or the parties agree to a later hearing date. Provides that the hearing is considered a contested case hearing and is subject to Section 151.801.

(f) Requires that the initial license term begin on the day the application is approved.

Sec. 151.207. MAINTENANCE OF LICENSE. (a) Authorizes the commissioner, 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, to suspend or revoke the

licensee's license in accordance with the procedures established by this Act or other applicable state law for such suspension or revocation.

(b) Requires an applicant for a money transmission license to demonstrate that it meets or will meet, and a money transmission licensee to at all times meet, the requirements in Sections 151.701, 151.702, 151.704, and 151.705 of this Act.

(c) Requires a license holder, in addition to complying with Subsection (a), to annually:

(1) pay a license fee in an amount established by commission rule; and

(2) submit a report that is under oath, is in the form and medium required by the commissioner, and contains:

(A) if the license is a money transmission license, an audited unconsolidated financial statement dated as of the last day of the license holder's fiscal year that ended in the immediately preceding calendar year;

(B) if the license is a currency exchange license, a financial statement, audited or unaudited, dated as of the last day of the license holder's fiscal year that ended in the immediately preceding calendar year; and

(C) documentation and certification, or any other information the commissioner reasonably requires to determine the security, net worth, permissible investments, and other requirements the license holder is required to satisfy and whether the license holder continues to meet the qualifications and requirements for licensure.

(d) Requires the commissioner, if TDB does not receive a license holder's annual license fee and complete annual report on or before the due date prescribed by the commissioner under this section, to notify the license holder in writing that:

(1) the license holder is required to submit the report and pay the license fee not later than the 45th day after the due date prescribed by the commissioner; and

(2) the license holder is required to pay a late fee, in an amount that is established by commission rule and not subject to appeal, for each business day after the report due date specified by the commissioner that the commissioner does not receive the completed report and license fee.

(e) Provides that, if the license holder fails to submit the completed annual report and pay the annual license fee and any late fee due within the time prescribed by Subsection (d)(1), the license expires, and the license holder is required to cease and desist from engaging in the business of money transmission or currency exchange, as applicable, as of that date. Provides that the expiration of a license is not subject to appeal.

(f) Requires TDB, on timely receipt of a license holder's complete annual report, annual license fee, and any late fee due, to review the report and, if necessary, investigate the business and records of the license holder. Authorizes the commissioner, on completion of the review and investigation, if any, to:

(1) impose conditions on the license the commissioner considers reasonably necessary or appropriate; or

(2) suspend or revoke the license on the basis of a ground specified in Section 151.803.

(g) Authorizes the commissioner, on written application and for good cause shown, to extend the due date for filing the annual license fee and annual report required under this section.

(h) Requires the holder or principal of or the person in control of the holder of an expired license, or the holder or principal of or person in control of the holder of a license surrendered under Section 151.208, that wishes to conduct activities for which a license is required under this chapter to file a new license application and satisfy all requirements for licensure that apply at the time the new application is filed.

Sec. 151.208. SURRENDER OF LICENSE. (a) Authorizes a licensee to surrender the licensee's license by delivering the original license to the commissioner along with a written notice of surrender that includes the location at which the licensee's records will be stored and the name, address, telephone number, and other contact information for an individual who is authorized to provide access to the records.

(b) Requires a licensee to surrender the licensee's license if the licensee becomes ineligible for a license issued under this chapter.

(c) Provides that a surrender of a license does not reduce or eliminate a licensee's civil or criminal liability arising from any acts or omissions before the surrender of the license, including any administrative action undertaken by the commissioner to revoke or suspend a license, to assess an administrative penalty, to order the payment of restitution, or to exercise any other authority under this chapter. Provides that the surrender of a license, further, does not release the security required of the licensee under Section 151.702 or 151.703.

Sec. 151.209. REFUNDS. (a) Provides that a fee or cost paid under this chapter is not refundable.

SUBCHAPTER E. ACQUISITION OF CONTROL AND CHANGE OF KEY INDIVIDUAL

Sec. 151.301. ACQUISITION OF CONTROL. (a) Requires any person, or group of persons acting in concert, seeking to acquire control of a licensee to obtain the written approval of the commissioner prior to acquiring control. Provides that an individual is not deemed to acquire control of a licensee and is not subject to these acquisition of control provisions when that individual becomes a key individual in the ordinary course of business.

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

(1) submit an application in a form and in a medium prescribed by the commissioner; and

(2) submit a nonrefundable fee in the amount established by commission rule.

(c) Authorizes the commissioner, upon request, to permit a licensee or the person, or group of persons acting in concert, to submit some or all information required by the commissioner pursuant to Subsection (b)(1) without using NMLS.

(d) Requires that the application required by Subsection (b)(1) include information required by Section 151.205 for any new key individuals that have not previously completed the requirements of Section 151.205 for a licensee.

(e) Requires that an application for acquisition of control under this section, when the application appears to include all the items and address all of the matters that are required, be considered complete and the commissioner to promptly notify the applicant in a record of the date on which the application was determined to be complete and:

(1) the commissioner is required to approve or deny the application within 60 days after the completion date; or

(2) if the application is not approved or denied within 60 days after the completion date, the application is approved and the person, or group of persons acting in concert, are not prohibited from acquiring control.

(3) Authorizes the commissioner for good cause to extend the application period.

(f) Provides that a determination by the commissioner that an application is complete and is accepted for processing means only that the application, on its face, appears to include all of the items and address all of the matters that are required, and is not an assessment of the substance of the application or of the sufficiency of the information provided.

(g) Requires the commissioner, when an application is filed and considered complete under Subsection (e), to 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. Requires the commissioner to approve an acquisition of control pursuant to this section if the commissioner finds that all of the following conditions have been fulfilled:

(1) the requirements of Subsections (b) and (d) have been met, as applicable; and

(2) the 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 the 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) Authorizes the commissioner, if an applicant avails itself or is otherwise subject to a multistate licensing process, to:

(1) 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 Texas is a lead investigative state, investigate the applicant pursuant to Subsection (g) and the timeframes established by agreement through the multistate licensing process.

(i) Requires the commissioner, if the commissioner determines that the proposed person in control fails to meet the qualifications, standards, and requirements of this chapter, to inform the license holder and the proposed person in control in writing that the application is denied and state the reasons for the denial. Authorizes the license holder or the proposed person in control to appeal the denial by filing a written request for a hearing with the commissioner not later than the 30th day after the date the notice is mailed. Prohibits a hearing on the

denial from being held later than the 45th day after the date the commissioner receives the written request unless the administrative law judge extends the period for good cause or the parties agree to a later hearing date. Provides that the hearing is considered a contested case hearing and is subject to Section 151.801.

(j) Provides that 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 shareholders or holders of voting shares or voting interests of a licensee or a person in control of a licensee;

(2) a person that acquires control of a licensee by devise or descent;

(3) a person that acquires control of a licensee as a personal representative, custodian, guardian, conservator, or trustee, or as an officer appointed by a court of competent jurisdiction or by operation of law;

(4) a person that is exempt under Section 151.003(g);

(5) a person that the commissioner determines is not subject to Subsection (a) based on the public interest;

(6) a public offering of securities of a licensee or a person in control of a licensee; or

(7) an internal reorganization of a person in control of the licensee where the ultimate person in control of the licensee remains the same.

(k) Requires persons in Subsections (j)(2), (3), (4), (6), (7) in cooperation with the licensee to notify the commissioner within 15 days after the acquisition of control.

(l) Streamlined Acquisition of Control

(1) Provides that 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 Act or was identified as a person in control in a prior application filed with and approved by the commissioner or by an MSB accredited state pursuant to a multistate licensing process, provided that:

(A) the person has not had a license revoked or suspended or controlled a licensee that has had a license revoked or suspended while the person was in control of the licensee in the previous 5-years;

(B) 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 such rating was given;

(C) the licensee to be acquired is projected to meet the requirements of Sections 151.701, 151.702, and 151.705 of this Act 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 151.701, 151.702, and 151.705 of this Act after the acquisition of control is completed;

(D) 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, that licensee also will not implement any material changes to its business plan as a result of the acquisition of control; and

(E) the person provides notice of the acquisition in cooperation with the licensee and attests to Subsections (k)(1)(A), (B), (C), and (D) in a form and in a medium prescribed by the commissioner.

(2) Provides that the notice, if the notice is not disapproved within 30 days after the date on which the notice was determined to be complete, is deemed approved.

(m) Authorizes a person, before filing an application for approval to acquire control of a licensee, to request in writing a determination from the commissioner as to whether the person would be considered a person in control of a licensee upon consummation of a proposed transaction. Provides that the proposed person and transaction, if the commissioner determines that the person would not be a person in control of a licensee, is not subject to the requirements of Subsections (a) and (b).

(n) Authorizes the commissioner, if a multistate licensing process includes a determination pursuant to Subsection (m) and an applicant avails itself or is otherwise subject to the multistate licensing process, to:

(1) 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 state is a lead investigative state, investigate the applicant pursuant to Subsection (m) and the timeframes established by agreement through the multistate licensing process.

Sec. 151.302. NOTICE AND INFORMATION REQUIREMENTS FOR A CHANGE OF KEY INDIVIDUALS. (a) Requires a licensee adding or replacing any key individual to:

(1) provide notice in a manner prescribed by the commissioner within 15 days after the effective date of the key individual's appointment; and

(2) provide information as required by Section 151.205 within 45 days of the effective date.

(b) Authorizes the commissioner, within 90 days of the date on which the notice provided pursuant to Subsection (a) was determined to be complete, to 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 the public or the customers of the licensee to permit the individual to be a key individual of such licensee.

(c) Requires that a notice of disapproval contain a statement of the basis for disapproval and be sent to the licensee and the disapproved individual. Authorizes a licensee to appeal a notice of disapproval by filing a written request for a hearing with the commissioner not later than the 30th day after the date the notice is mailed. Requires that a hearing on the denial be held not later than the 45th day after the date the commissioner receives the written request unless the administrative law judge extends the period for good cause or the parties agree to a later hearing date. Provides that a hearing is considered a contested case hearing and is subject to Section 151.901.

(d) Provides that the key individual, if the notice provided pursuant to Subsection (a) is not disapproved within 90 days after the date on which the notice was determined to be complete, is deemed approved.

(e) Authorizes the commissioner, if a multistate licensing process includes a key individual notice review and disapproval process pursuant to this section and the licensee avails itself or is otherwise subject to the multistate licensing process, to:

(1) 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 Texas is a lead investigative state, investigate the applicant pursuant to Subsection (b) and the timeframes established by agreement through the multistate licensing process.

SUBCHAPTER F. REPORTING AND RECORDS

Sec. 151.401. REPORT OF CONDITION. (a) Requires that each money transmission licensee submit a report of condition within 45 days of the end of the calendar quarter, or within any extended time as the commissioner is authorized to prescribe.

(b) Requires that the report of condition include:

(1) financial information at the licensee level;

(2) nationwide and state-specific money transmission transaction information in every jurisdiction in the United States where the licensee is licensed to engage in money transmission;

(3) permissible investments report;

(4) transaction destination country reporting for money received for transmission, if applicable; and

(5) any other information the commissioner reasonably requires with respect to the licensee. Authorizes the commissioner to utilize NMLS for the submission of the report required by this section and is authorized to change or update as necessary the requirements of this section to carry out the purposes of this Act and maintain consistency with NMLS reporting.

(c) Requires that the information required by Subsection (b)(4) only be included in a report of condition submitted within 45 days of the end of the fourth calendar quarter.

Sec. 151.402. CURRENCY EXCHANGE REPORT. (a) Requires that each currency exchange licensee submit a quarterly interim financial statement and transaction report that reflects the licensee's financial condition and currency exchange business as of the last day of the calendar quarter to which the statement and report relate and that are prepared not later than the 45th day after the last day of the calendar quarter; and

(b) any other report required by rule of the commission or reasonably requested by the commissioner to determine compliance with this chapter.

(c) Requires a licensee to file the statements and reports required under this section with the commissioner as required by this chapter, by commission rule, or as requested by the commissioner.

(d) Authorizes the commissioner, on written application and for good cause shown, to extend the time for preparing or filing a statement or report required under this section.

Sec. 151.403. FINANCIAL STATEMENTS. (a) Requires each licensee, within 90 days after the end of each fiscal year, or within any extended time as the commissioner may prescribe, to file with the commissioner:

(1) if the licensee holds a money transmission license, an audited unconsolidated financial statement of the licensee for the fiscal year prepared in accordance with United States generally accepted accounting principles;

(2) if the licensee holds a currency exchange license, a financial statement, audited or unaudited, dated as of the last day of the licensee's fiscal year that ended in the immediately preceding calendar year; and

(3) any other information as the commissioner may reasonably require.

(b) Requires that the audited unconsolidated financial statements be prepared by an independent certified public accountant or independent public accountant who is satisfactory to the commissioner.

(c) Requires that the audited financial statements 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 commissioner. Authorizes the commissioner, if the certificate or opinion is qualified, to order the licensee to take any action as the commissioner may find necessary to enable the independent or certified public accountant or independent public accountant to remove the qualification.

Sec. 151.404. AUTHORIZED DELEGATE REPORTING. (a) Requires each licensee to submit a report of authorized delegates within 45 days of the end of the calendar quarter. Authorizes the commissioner to utilize NMLS for the submission of the report required by this section provided that such functionality is consistent with the requirements of this section.

(b) Requires that the authorized delegate report include, at a minimum, each authorized delegate's:

(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) contact person name, phone number, and email;

(9) start date as licensee's authorized delegate;

(10) end date acting as licensee's authorized delegate, if applicable; and

(11) any other information the commissioner reasonably requires with respect to the authorized delegate.

Sec. 151.405. REPORTS OF CERTAIN EVENTS. (a) Requires a licensee to file a report with the commissioner within one 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 United States Bankruptcy Code, 11 U.S.C. Section 101-110, as amended or recodified from time to time, 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; or

(3) the commencement of a proceeding to revoke or suspend its license in a state or country in which the licensee engages in business or is licensed.

(b) Requires a licensee to file a report with the commissioner within three business day after the licensee has reason to know of the occurrence of any of the following events: a charge or conviction of the licensee or of a key individual or person in control of the licensee for a felony, or a charge or conviction of an authorized delegate for a felony.

Sec. 151.406. BANK SECRECY ACT REPORTS. Requires a licensee and an authorized delegate to 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. Provides that the timely filing of a complete and accurate report required under this section with the appropriate federal agency is deemed compliant with the requirements of this section.

Sec. 151.407. RECORDS. (a) Requires a licensee to maintain the following records, for determining its compliance with this Act for at least five years:

(1) a record of each outstanding money transmission obligation sold;

(2) a record of each currency exchange transaction;

(3) a general ledger posted at least monthly containing all asset, liability, capital, income, and expense accounts;

(4) bank statements and bank reconciliation records;

(5) records of outstanding money services obligations;

(6) records of each outstanding money services obligation paid within the five-year period;

(7) a list of the last known names and addresses of all of the licensee's authorized delegates; and

(8) any other records the commissioner reasonably requires by rule.

(b) Authorizes the items specified in Subsection (a)(1) to be maintained in any form of record.

(c) Authorizes records specified in Subsection (a) to be maintained outside this state if they are made accessible to the commissioner on seven business-days' notice that is sent in a record.

(d) Provides that all records maintained by the licensee as required in Subsections (a)-(c) are open to inspection by the commissioner pursuant to Section 151.106(a).

SUBCHAPTER G. AUTHORIZED DELEGATES

Sec. 151.501. **LIABILITY OF LICENSEE.** Provides that a money transmission licensee is liable for the payment of all money or monetary value received for transmission directly or by an authorized delegate appointed in accordance with Section 151.502.

Sec. 151.502. **RELATIONSHIP BETWEEN LICENSEE AND AUTHORIZED DELEGATE.** (a) Defines "remit."

(b) Requires a licensee, before the licensee is authorized to conduct business through an authorized delegate or allows a person to act as the licensee's authorized delegate, to:

(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) Requires an authorized delegate to operate in full compliance with this Act.

(d) Requires that the written contract required by Subsection (b) be signed by the licensee and the authorized delegate and, at a minimum:

(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 the nature and scope of the relationship between the licensee and the authorized delegate and 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 Act and regulations implementing this Act, relevant provisions of the Bank Secrecy Act and the USA PATRIOT ACT;

(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 Act or regulations implementing this Act, or as reasonably requested by the commissioner;

(7) acknowledge that the authorized delegate consents to examination or investigation by the commissioner;

(8) state that the licensee is subject to regulation by the commissioner and that, as part of that regulation, the commissioner is authorized to suspend or revoke an authorized delegate designation or require the licensee to terminate an authorized delegate designation; and

(9) acknowledge receipt of the written policies and procedures required under Subsection (b)(1).

(e) Requires the licensee, if the licensee's license is suspended, revoked, surrendered, or expired, to provide documentation, within five (5) business days, to the commissioner that the licensee has notified all applicable authorized delegates of the licensee whose names are in a record filed with the commissioner of the suspension, revocation, surrender, or expiration of a license. Requires applicable authorized delegates, upon suspension, revocation, surrender, or expiration of a license, to immediately cease to provide money transmission as an authorized delegate of the licensee.

(f) Provides that an authorized delegate of a licensee holds in trust for the benefit of the licensee all money net of fees received from money transmission. Requires that all commingled funds and other property, if any authorized delegate commingles any funds received from money transmission with any other funds or property owned or controlled by the authorized delegate, be 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) Prohibits an authorized delegate from using a subdelegate to conduct money transmission on behalf of a licensee.

Sec. 151.503. DISCLOSURE REQUIREMENTS. (a) Requires that a licensee's name and mailing address or telephone number be provided to the purchaser in connection with each money transmission transaction conducted by the licensee directly or through an authorized delegate.

(b) Requires a licensee receiving currency or an instrument payable in currency for transmission to comply with Chapter 278 (Regulation of Currency Transmissions).

Sec. 151.504. UNAUTHORIZED ACTIVITIES. Prohibits a person from engaging in the business of money transmission on behalf of a person not licensed under this Act or not exempt pursuant to Section 151.003 of this Act. Provides that a person that engages in such activity provides money transmission to the same extent as if the person were a licensee, and is required to be jointly and severally liable with the unlicensed or nonexempt person. Provides that any business for which a license is required under this chapter that is conducted by an authorized delegate outside the scope of authority conferred in the contract between the authorized delegate and the licensee is unlicensed activity.

SUBCHAPTER H. TIMELY TRANSMISSION, REFUNDS, AND DISCLOSURES

Sec. 151.601. TIMELY TRANSMISSION. (a) Requires every licensee to 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 the sender may be a victim of fraud or that a crime or violation of law, rule, or regulation has occurred, is occurring, or may occur.

(b) Requires a licensee, if the licensee fails to forward money received for transmission in accordance with this section, to respond to inquiries by the sender with the reason for the failure unless providing a response would violate a state or federal law, rule, or regulation.

Sec. 151.602. REFUNDS. (a) Provides that this section does not apply to:

(1) money received for transmission subject to the federal Remittance Rule (12 C.F.R. Part 1005, Subpart B), as amended or recodified from time to time; or

(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) Requires every licensee to refund to the sender within 10 days of receipt of the sender's written request for a refund of any and all money received for transmission unless any of the following occurs:

(1) the money has been forwarded within 10 days of 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 10 days of 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 beyond 10 days of the date on which the money was received for transmission. Requires the licensee, if funds have not yet been forwarded in accordance with the terms of the agreement between the licensee and the sender, to issue a refund in accordance with the other provisions of this section; or

(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) Provides that the refund request does not enable the licensee to identify the sender's name and address or telephone number or identify the particular transaction to be refunded in the event the sender has multiple transactions outstanding.

Sec. 151.603. RECEIPTS. (a) Provides that this section does not apply to:

(1) money received for transmission subject to the federal Remittance Rule (12 C.F.R. Part 1005, Subpart B), as amended or recodified from time to time;

(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; or

(4) payroll processing services.

(b) Defines "receipt." Authorizes a receipt, for a transaction conducted in person, to be provided electronically if the sender requests or agrees to receive an electronic receipt. Authorizes a receipt, for a transaction conducted electronically or by phone, to be provided electronically. Requires that all electronic receipts be provided in a retainable form.

(c) Requires every licensee or its authorized delegate to provide the sender a receipt for money received for transmission.

(1) Requires that the receipt contain the following information, as applicable:

(A) the name of the sender;

(B) the name of the designated recipient;

(C) the date of the transaction;

(D) the unique transaction or identification number;

(E) the name of the licensee, NMLS Unique ID, the licensee's business address, and the licensee's customer service telephone number;

(F) the amount of the transaction in United States dollars;

(G) any fee charged by the licensee to the sender for the transaction; and

(H) any taxes collected by the licensee from the sender for the transaction.

(2) Requires that the receipt required by this section be in English and in 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. 151.604. DISCLOSURES FOR PAYROLL PROCESSING SERVICES. (a) Requires a licensee that provides payroll processing services to:

(1) issue reports to clients detailing client payroll obligations in advance of the payroll funds being deducted from an account; and

(2) make available worker paystubs or an equivalent statement to workers.

(b) Provides that Subsection (a) does not apply to a licensee providing payroll processing services where the licensee's client designates the intended recipients to the licensee and is responsible for providing the disclosures required by Subsection (a)(2).

SUBCHAPTER I. PRUDENTIAL STANDARDS

Sec. 151.701. NET WORTH. (a) Requires a money transmission licensee under this Act to maintain at all times a tangible net worth of the greater of \$100,000 or 3 percent of total assets for the first \$100 million, 2 percent of additional assets for \$100 million to \$1 billion, and 0.5 percent of additional assets for over \$1 billion.

(b) Requires that tangible net worth be demonstrated at initial application by the applicant's most recent audited or unaudited financial statements pursuant to Section 151.204(b)(6).

(c) Requires the commissioner, notwithstanding the foregoing provisions of this section, to have the authority, for good cause shown, to exempt, in-part or in whole, from the requirements of this section any applicant or licensee.

Sec. 151.702. SECURITY FOR MONEY TRANSMISSION. (a) Requires an applicant for a money transmission license to provide, and a licensee at all times to maintain, security consisting of a surety bond in a form satisfactory to the commissioner or, with the commissioner's approval, a deposit instead of a bond in accordance with this section.

(b) Requires that the amount of the required security be:

(1) the greater of \$100,000 or an amount equal to one hundred percent of the licensee's average daily money transmission liability in this state calculated for the most recently completed three-month period, up to a maximum of \$500,000; or

(2) in the event that the licensee's tangible net worth exceeds 10 percent of total assets, the licensee is required to maintain a surety bond of \$100,000.

(c) Prohibits a licensee that maintains a bond in the maximum amount provided for in Subsections (b)(1) or (2), as applicable, from being required to calculate its average daily money transmission liability in this state for purposes of this section.

(d) Authorizes a licensee to exceed the maximum required bond amount pursuant to Section 151.705(a)(5).

Sec. 151.703. SECURITY FOR CURRENCY EXCHANGE. (a) Requires an applicant for a currency exchange license to provide and a currency exchange licensee to maintain at all times security in the amount applicable to the applicant or licensee under this section.

(b) Requires an applicant to provide and a licensee to maintain security in the amount of \$2,500 if the applicant will conduct or the licensee conducts business with persons located in this state exclusively at one or more physical locations through in-person, contemporaneous transactions.

(c) Provides that, except as provided by Subsection (d), if Subsection (b) does not apply to:

(1) the applicant, the applicant is required to provide security in the amount that is the greater of \$2,500 or an amount equal to one percent of the applicant's projected total dollar volume of currency exchange business in this state for the first year of licensure; or

(2) the licensee, the licensee is required to maintain security in the amount that is the greater of \$2,500 or an amount equal to one percent of the licensee's total dollar volume of currency exchange business in this state for the preceding year.

(d) Provides that the maximum amount of security that is authorized to be required under Subsection (c) is \$1 million.

Sec. 151.704. ADDITIONAL REQUIREMENTS FOR SECURITY. (a) Provides that Subsections (b)-(i) of this section define additional requirements applicable to the security provided pursuant to Sections 151.702 and 151.703.

(b) Requires that the security:

(1) be in a form satisfactory to the commissioner;

(2) be payable to any claimant or to the commissioner, on behalf of a claimant or this state, for any liability arising out of the license holder's

money transmission business in this state, incurred under, subject to, or by virtue of this chapter; and

(3) if the security is a bond, be issued by a qualified surety company authorized to engage in business in this state and acceptable to the commissioner or, if the security is an irrevocable letter of credit, be issued by a financial institution acceptable to the commissioner.

(c) Authorizes a claimant to bring suit directly on the security, or the commissioner to bring suit on behalf of the claimant or the state, either in one action or in successive actions.

(d) Authorizes the commissioner to collect from the security or proceeds of the security any delinquent fee, assessment, cost, penalty, or other amount imposed on and owed by a license holder. Requires the commissioner, if the security is a surety bond, to give the surety reasonable prior notice of a hearing to impose an administrative penalty against the license holder, provided that a surety is prohibited from being considered an interested, aggrieved, or affected person for purposes of an administrative proceeding under Section 151.901 or Chapter 2001 (Administrative Purpose), Government Code.

(e) Provides that the security remains in effect until canceled, which is authorized to occur only after providing 30 days' written notice to the commissioner. Provides that cancellation does not affect any liability incurred or accrued during the period covered by the security.

(f) Requires that the security cover claims for at least five years after the license holder surrenders its license or otherwise ceases to engage in activities for which a license is required under this subchapter. Authorizes the commissioner, however, to permit the amount of the security to be reduced or eliminated before that time to the extent that the amount of the license holder's obligations to TDB and to purchasers in this state is reduced. Authorizes the commissioner to permit a license holder to substitute another form of security when the license holder ceases to provide money transmission in this state.

(g) Requires the commissioner by written order, if the commissioner at any time reasonably determines that the required security is insecure, deficient in amount, or exhausted in whole or in part, to require the license holder to file or make new or additional security to comply with this section.

(h) Authorizes an applicant or license holder, instead of providing all or part of the amount of the security required by this section, to deposit, with a financial institution possessing trust powers that is authorized to conduct a trust business in this state and is acceptable to the commissioner, an aggregate amount of United States currency, certificates of deposit, or other cash equivalents that equals the total amount of the required security or the remaining part of the security. Provides that the deposit:

(1) is required to be held in trust in the name of and be pledged to the commissioner;

(2) is required to secure the same obligations as the security; and

(3) is subject to other conditions and terms the commissioner may reasonably require.

(i) Provides that the security is considered by operation of law to be held in trust for the benefit of this state and any individual to whom an obligation arising under this chapter is owed, and is prohibited from being considered an asset or property

of the license holder in the event of bankruptcy, receivership, or a claim against the license holder unrelated to the license holder's obligations under this chapter.

Sec. 151.705. MAINTENANCE OF PERMISSIBLE INVESTMENTS. (a) Requires a money transmission licensee to 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 its outstanding money transmission obligations.

(b) Authorizes the commissioner, except for permissible investments enumerated in Section 151.706(a), with respect to any licensee, to limit the extent to which a specific investment maintained by a licensee within a class of permissible investments is authorized to be considered a permissible investment, if the specific investment represents undue risk to customers, not reflected in the market value of investments.

(c) Provides that permissible investments are held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations in the event of insolvency, the filing of a petition by or against the licensee under the United States Bankruptcy Code, 11 U.S.C. Section 101-110, as amended or recodified from time to time, for bankruptcy or reorganization, 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 in the event of an action by a creditor against the licensee who is not a beneficiary of this statutory trust. Prohibits any permissible investments impressed with a trust pursuant to this section from being subject to attachment, levy of execution, or sequestration by order of any court, except for a beneficiary of this statutory trust.

(d) Requires the commissioner, 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 151.705(a)(4), to 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. Requires that the notice be deemed satisfied if performed pursuant to a multistate agreement or through NMLS. Provides that 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 deemed held in trust for the benefit of such 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 this state, and other states, as applicable. Requires that any statutory trust established hereunder be terminated upon extinguishment of all of the licensee's outstanding money transmission obligations.

(e) Authorizes the commissioner to allow other types of investments that the commissioner determines are of sufficient liquidity and quality to be a permissible investment. Authorizes the commissioner to 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. 151.706. TYPES OF PERMISSIBLE INVESTMENTS. (a) Provides that the following investments are permissible under Section 151.705:

(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 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 in 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, 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. Section 1813, as amended or recodified from time to time, or as defined under the federal Credit Union Act, 12 U.S.C. Section 1781, as amended or recodified from time to time;

(3) an obligation of the United States or a commission, agency, or instrumentality thereof; an obligation that is guaranteed fully as to principal and interest by the United States; or an obligation of a state or a governmental subdivision, agency, or instrumentality thereof;

(4) the full drawable amount of an irrevocable standby letter of credit for which the stated beneficiary is the commissioner 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 upon presentation of the items required by Subsection (a)(4)(C).

(A) Requires that the letter of credit:

(i) be issued by a federally insured depository financial institution, a foreign bank that is authorized under federal law to maintain a federal agency or federal branch office in a state or states, or a foreign bank that is authorized under state law to maintain a branch in a state that (1) bears an eligible rating or whose parent company bears an eligible rating; (2) is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks, credit unions, and trust companies; and (3) is approved by the commissioner;

(ii) be irrevocable, 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 year from the present or each future expiration date, unless the issuer of the letter of credit notifies the commissioner in writing by certified or registered mail or courier mail or other receipted means, at least sixty (60) days prior to any expiration date, that the irrevocable letter of credit will not be extended.

(B) Requires the licensee, in the event of any notice of expiration or non-extension of a letter of credit issued under Subsection (a)(4)(A)(iv), to be required to demonstrate to the satisfaction of the commissioner, 15 days prior to expiration, that the licensee maintains and will maintain permissible investments in accordance with Section 151.705(a) upon the expiration of the letter of credit. Authorizes the commissioner, if the licensee is not able to do so, to 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 Section 151.705(a). Requires that any such draw be offset against the licensee's outstanding money transmission obligations. Requires that the drawn funds be held in trust by the commissioner or the commissioner'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) Requires that the letter of credit provide that the issuer of the letter of credit will honor, at sight, a presentation made by the beneficiary to the issuer of the following documents on or prior to the expiration date of the letter of credit:

(i) the original letter of credit (including any amendments); and

(ii) a written statement from the beneficiary stating that any of the following events have occurred:

1. the filing of a petition by or against the licensee under the United States Bankruptcy Code, 11 U.S.C. Section 101-110, as amended or recodified from time to time, for bankruptcy or reorganization;

2. 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;

3. the seizure of assets of a licensee by a commissioner 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; or

4. the beneficiary has received notice of expiration or non-extension 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 Section 151.705(a) upon the expiration or non-extension of the letter of credit.

(D) Authorizes the commissioner to designate an agent to serve on the commissioner's behalf as beneficiary to a letter of credit so long as the agent and letter of credit meet requirements established by the commissioner. Authorizes the commissioner's agent to 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 Subsection (a)(4) are assigned to the commissioner.

(E) Authorizes the commissioner to participate in multistate processes designed to facilitate the issuance and administration of letters of credit, including but not limited to services provided by the NMLS and State Regulatory Registry, LLC.

(5) one hundred percent of the surety bond or deposit provided for under Section 151.702 that exceeds the average daily money transmission liability in this state.

(6) stablecoin but only to the extent of outstanding transmission obligations received by the licensee in like kind stablecoin.

(b) Provides that the following investments, unless permitted by the commissioner to exceed the limit as set forth herein, are permissible under Section 151.705 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 days old, up to 50 percent of the aggregate value of the licensee's total permissible investments;

(2) of the receivables permissible under Subsection (b)(1), receivables that are payable to a licensee from a single authorized delegate in the ordinary course of business are prohibited from exceeding 10 percent of the aggregate value of the licensee's total permissible investments;

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

(A) a short-term (up to six 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) United States tri-party repurchase agreements collateralized at 100 percent or more with United States government or agency securities, municipal bonds, or other securities bearing an eligible rating;

(E) money market mutual funds rated less than "AAA" and equal to or higher than "A-" by S&P, or the equivalent from any other eligible rating service; and

(F) a mutual fund or other investment fund composed solely and exclusively of one or more permissible investments listed in Subsections (a)(1)-(3); and

(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 10 percent 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 Office of Foreign Asset Control; and

(D) is not located in a high-risk or non-cooperative jurisdiction as designated by the Financial Action Task Force.

SUBCHAPTER J. ENFORCEMENT

Sec. 151.801. INJUNCTIVE RELIEF. (a) Authorizes the following persons, whenever it appears that a person has violated, or that reasonable cause exists to believe that a person is likely to violate, this chapter or a rule adopted under this chapter, to bring an action for injunctive relief to enjoin the violation or enforce compliance with the provision:

- (1) the commissioner, through the attorney general;
- (2) the attorney general;
- (3) the district attorney of Travis County; or
- (4) the prosecuting attorney of the county in which the violation is alleged to have occurred.

(b) Authorizes the commissioner, through the attorney general, in addition to the authority granted to the commissioner under Subsection (a), to bring an action for injunctive relief if the commissioner has reason to believe that a person has violated or is likely to violate an order of the commissioner issued under this chapter.

(c) Requires that an action for injunctive relief brought by the commissioner, the attorney general, or the district attorney of Travis County under Subsection (a), or brought by the commissioner under Subsection (b), be brought in a district court in Travis County. Requires that an action brought by a prosecuting attorney under Subsection (a)(4) be brought in a district court in the county in which all or part of the violation is alleged to have occurred.

(d) Authorizes the court, on a proper showing, to issue a restraining order, an order freezing assets, a preliminary or permanent injunction, or a writ of mandate, or to appoint a receiver for the defendant or the defendant's assets.

(e) Authorizes a receiver appointed by the court under Subsection (d), with approval of the court, to exercise all of the powers of the defendant's directors, officers, partners, trustees, or persons who exercise similar powers and perform similar duties.

(f) Provides that an action brought under this section is authorized to include a claim for ancillary relief, including a claim by the commissioner for costs or civil penalties authorized under this chapter, or for restitution or damages on behalf of the persons injured by the act constituting the subject matter of the action, and the court has jurisdiction to award that relief.

Sec. 151.802. CEASE AND DESIST ORDERS FOR UNLICENSED PERSONS. (a) Authorizes the commissioner, if the commissioner has reason to believe that an unlicensed person has engaged or is likely to engage in an activity for which a license is required under this chapter, to order the person to cease and desist from the violation until the person is issued a license under this chapter. Provides that the commissioner's order is subject to Section 151.709, unless the order is issued as an emergency order. Authorizes the commissioner to issue an emergency cease and desist order in accordance with Section 151.710 if the commissioner finds that the person's violation or likely violation threatens immediate and irreparable harm to the public.

(b) Authorizes a cease and desist order under this section to require the unlicensed person to take affirmative action to correct any condition resulting from or

contributing to the activity or violation, including the payment of restitution to each resident of this state damaged by the violation.

Sec. 151.803. SUSPENSION AND REVOCATION OF LICENSE. (a) Requires the commissioner to revoke a license if the commissioner finds that the net worth of the licensee is less than the amount required under this chapter or the licensee does not provide the security required under this chapter.

(b) Authorizes the commissioner to suspend or revoke a license or order a licensee to revoke the designation of an authorized delegate if the commissioner has reason to believe that:

(1) the licensee has violated this chapter, a rule adopted or order issued under this chapter, a written agreement entered into with TDB or the commissioner, or any other state or federal law applicable to the licensee's money services business;

(2) the licensee has refused to permit or has not cooperated with an examination or investigation authorized by this chapter;

(3) the licensee has engaged in fraud, knowing misrepresentation, deceit, or gross negligence in connection with the operation of the licensee's money services business or any transaction subject to this chapter;

(4) an authorized delegate of the licensee has knowingly violated this chapter, a rule adopted or order issued under this chapter, or a state or federal anti-money-laundering or terrorist funding law, and the licensee knows or should have known of the violation and has failed to make a reasonable effort to prevent or correct the violation;

(5) the competence, experience, character, or general fitness of the licensee or an authorized delegate of the licensee, or a principal of, person in control of, or responsible person of a licensee or authorized delegate, indicates that it is not in the public interest to permit the licensee or authorized delegate to provide money services;

(6) the licensee has engaged in an unsafe or unsound act or practice or has conducted business in an unsafe or unsound manner;

(7) the licensee has suspended payment of the licensee's obligations, made a general assignment for the benefit of the licensee's creditors, or admitted in writing the licensee's inability to pay debts of the licensee as they become due;

(8) the licensee has failed to terminate the authority of an authorized delegate after the commissioner has issued and served on the licensee a final order finding that the authorized delegate has violated this chapter;

(9) a fact or condition exists that, if it had been known at the time the licensee applied for the license, would have been grounds for denying the application;

(10) the licensee has engaged in false, misleading, or deceptive advertising;

(11) the licensee has failed to pay a judgment entered in favor of a claimant or creditor in an action arising out of the licensee's activities under this chapter not later than the 30th day after the date the judgment becomes final or not later than the 30th day after the date the stay of execution expires or is terminated, as applicable;

(12) the licensee has knowingly made a material misstatement or has suppressed or withheld material information on an application, request for approval, report, or other document required to be filed with TDB under this chapter; or

(13) the licensee has committed a breach of trust or of a fiduciary duty.

(c) Authorizes the commissioner, in determining whether a licensee has engaged in an unsafe or unsound act or practice or has conducted business in an unsafe or unsound manner, to consider factors that include:

(1) the size and condition of the licensee's provision of money services;

(2) the magnitude of the loss or potential loss;

(3) the gravity of the violation of this chapter or rule adopted or order issued under this chapter;

(4) any action taken against the licensee by this state, another state, or the federal government; and

(5) the previous conduct of the licensee.

(d) Provides that the commissioner's order suspending or revoking a license or directing a licensee to revoke the designation of an authorized delegate is subject to Section 151.709, unless the order is issued as an emergency order. Authorizes the commissioner to issue an emergency order suspending a license or directing a licensee to revoke the designation of an authorized delegate in accordance with Section 151.810 if the commissioner finds that the factors identified in Section 151.810(b) exist.

Sec. 151.804. SUSPENSION AND REVOCATION OF AUTHORIZED DELEGATE DESIGNATION. (a) Authorizes the commissioner to suspend or revoke the designation of an authorized delegate if the commissioner has reason to believe that:

(1) the authorized delegate has violated this chapter, a rule adopted or order issued under this chapter, a written agreement entered into with the commissioner or TDB, or any other state or federal law applicable to a money services business;

(2) the authorized delegate has refused to permit or has not cooperated with an examination or investigation under this chapter;

(3) the authorized delegate has engaged in fraud, knowing misrepresentation, deceit, gross negligence, or an unfair or deceptive act or practice in connection with the operation of the delegate's business on behalf of the licensee or any transaction subject to this chapter;

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

(5) the authorized delegate has engaged in an unsafe or unsound act or practice or conducted business in an unsafe and unsound manner;

(6) the authorized delegate, or a principal or responsible person of the authorized delegate, is listed on the specifically designated nationals and blocked persons list prepared by the United States Department of the

Treasury as a potential threat to commit terrorist acts or to fund terrorist acts; or

(7) the authorized delegate, or a principal or responsible person of the authorized delegate, has been convicted of a state or federal anti-money-laundering or terrorist funding law.

(b) Authorizes the commissioner, in determining whether an authorized delegate has engaged in an unsafe or unsound act or practice or conducted business in an unsafe or unsound manner, to consider factors that include:

(1) the size and condition of the authorized delegate's provision of money services;

(2) the magnitude of the loss or potential loss;

(3) the gravity of the violation of this chapter or rule adopted or order issued under this chapter;

(4) any action taken against the authorized delegate by this state, another state, or the federal government; and

(5) the previous conduct of the authorized delegate.

(c) Provides that the commissioner's order suspending or revoking the designation of an authorized delegate is subject to Section 151.709, unless the order is issued as an emergency order. Authorizes the commissioner to issue an emergency order suspending the designation of an authorized delegate in accordance with Section 151.710 if the commissioner finds that the factors identified in Section 151.710(b) exist.

Sec. 151.805. CEASE AND DESIST ORDERS FOR LICENSEES OR AUTHORIZED DELEGATES. (a) Authorizes the commissioner to issue an order to cease and desist if the commissioner finds that:

(1) an action, violation, or condition listed in Section 151.803 or 151.804 exists with respect to a licensee or authorized delegate; and

(2) a cease and desist order is necessary to protect the interests of the licensee, the purchasers of the licensee's money services, or the public.

(b) Authorizes a cease and desist order to require a licensee or authorized delegate to cease and desist from the action or violation or to take affirmative action to correct any condition resulting from or contributing to the action or violation, and the requirements of the order to apply to a principal or responsible person of the licensee or authorized delegate.

(c) Provides that the cease and desist order is subject to Section 151.809, unless the order is issued as an emergency order. Authorizes the commissioner to issue an emergency cease and desist order in accordance with Section 151.810 if the commissioner finds that the factors identified in Section 151.810(b) exist.

Sec. 151.806. CONSENT ORDERS. (a) Authorizes the commissioner to enter into a consent order at any time with a person to resolve a matter arising under this chapter or a rule adopted or order issued under this chapter.

(b) Requires that a consent order be signed by the person to whom the order is issued or by the person's authorized representative and indicate agreement with the terms contained in the order. Authorizes a consent order, however, to provide

that the order does not constitute an admission by a person that this chapter or a rule adopted or order issued under this chapter has been violated.

(c) Provides that a consent order is a final order and is prohibited from being appealed.

Sec. 151.807. ADMINISTRATIVE PENALTY. (a) Authorizes the commissioner, after notice and hearing, to assess an administrative penalty against a person that:

(1) has violated this chapter or a rule adopted or order issued under this chapter and has failed to correct the violation not later than the 30th day after the date TDB sends written notice of the violation to the person;

(2) if the person is a licensee, has engaged in conduct specified in Section 151.803;

(3) has engaged in a pattern of violations; or

(4) has demonstrated wilful disregard for the requirements of this chapter, the rules adopted under this chapter, or an order issued under this chapter.

(b) Authorizes a violation corrected after a person receives written notice from TDB of the violation to be considered for purposes of determining whether a person has engaged in a pattern of violations under Subsection (a)(3) or demonstrated wilful disregard under Subsection (a)(4).

(c) Prohibits the amount of the penalty from exceeding \$5,000 for each violation or, in the case of a continuing violation, \$5,000 for each day that the violation continues. Provides that each transaction in violation of this chapter and each day that a violation continues is a separate violation.

(d) Requires the commissioner, in determining the amount of the penalty, to consider factors that include the seriousness of the violation, the person's compliance history, and the person's good faith in attempting to comply with this chapter, provided that if the person is found to have demonstrated wilful disregard under Subsection (a)(4), the trier of fact is authorized to recommend that the commissioner impose the maximum administrative penalty permitted under Subsection (c).

(e) Provides that a hearing to assess an administrative penalty is considered a contested case hearing and is subject to Section 151.801.

(f) Provides that an order imposing an administrative penalty after notice and hearing becomes effective and is final for purposes of collection and appeal immediately on issuance.

(g) Authorizes the commissioner to collect an administrative penalty assessed under this section:

(1) in the same manner that a money judgment is enforced in court; or

(2) if the penalty is imposed against a licensee or a licensee's authorized delegate, from the proceeds of the licensee's security in accordance with Section 151.308(e).

Sec. 151.808. CRIMINAL PENALTY. (a) Provides that a person commits an offense if the person:

(1) intentionally makes a false statement, misrepresentation, or certification in a record or application filed with TDB or required to be

maintained under this chapter or a rule adopted or order issued under this chapter, or intentionally makes a false entry or omits a material entry in the record or application; or

(2) knowingly engages in an activity for which a license is required under Subchapter D or F without being licensed under this chapter.

(b) Provides that an offense under this section is a felony of the third degree.

(c) Authorizes an offense under this section to be prosecuted in Travis County or in the county in which the offense is alleged to have been committed.

(d) Provides that nothing in this section limits the power of the state to punish a person for an act that constitutes an offense under this or any other law.

Sec. 151.809. NOTICE, HEARING, AND OTHER PROCEDURES FOR NONEMERGENCY ORDERS. (a) Provides that this section applies to an order issued by the commissioner under this subchapter that is not an emergency order.

(b) Provides that an order to which this section applies becomes effective only after notice and an opportunity for hearing. Requires that an order:

(1) state the grounds on which the order is based;

(2) to the extent applicable, state the action or violation from which the person subject to the order is required to cease and desist or the affirmative action the person is required to take to correct a condition resulting from the violation or that is otherwise appropriate;

(3) be delivered by personal delivery or sent by certified mail, return receipt requested, to the person against whom the order is directed at the person's last known address;

(4) state the effective date of the order, which is prohibited from being before the 21st day after the date the order is delivered or mailed; and

(5) include a notice that a person is authorized to file a written request for a hearing on the order with the commissioner not later than the 20th day after the date the order is delivered or mailed.

(c) Provides that the order, unless the commissioner receives a written request for hearing from the person against whom the order is directed not later than the 20th day after the date the order is delivered or mailed, takes effect as stated in the order and is final against and nonappealable by that person from that date.

(d) Prohibits a hearing on the order from being held later than the 45th day after the date the commissioner receives the written request for the hearing unless the administrative law judge extends the period for good cause or the parties agree to a later hearing date.

(e) Provides that an order that has been affirmed or modified after a hearing becomes effective and is final for purposes of enforcement and appeal immediately on issuance. Authorizes the order to be appealed to the district court of Travis County as provided by Section 151.901(b).

Sec. 151.810. REQUIREMENTS AND NOTICE AND HEARING PROCEDURES FOR EMERGENCY ORDERS. (a) Provides that this section applies to an emergency order issued by the commissioner under this subchapter.

(b) Authorizes the commissioner to issue an emergency order, without prior notice and an opportunity for hearing, if the commissioner finds that:

(1) the action, violation, or condition that is the basis for the order

(A) has caused or is likely to cause the insolvency of the licensee;

(B) has caused or is likely to cause the substantial dissipation of the licensee's assets or earnings;

(C) has seriously weakened or is likely to seriously weaken the condition of the licensee; or

(D) has seriously prejudiced or is likely to seriously prejudice the interests of the licensee, a purchaser of the licensee's money services, or the public; and

(2) immediate action is necessary to protect the interests of the licensee, a purchaser of the licensee's money services, or the public.

(c) Authorizes the commissioner, in connection with and as directed by an emergency order, to seize the records and assets of a licensee or authorized delegate that relate to the licensee's money services business.

(d) Requires that an emergency order:

(1) state the grounds on which the order is based;

(2) advise the person against whom the order is directed that the order takes effect immediately, and, to the extent applicable, require the person to immediately cease and desist from the conduct or violation that is the subject of the order or to take the affirmative action stated in the order as necessary to correct a condition resulting from the conduct or violation or as otherwise appropriate;

(3) be delivered by personal delivery or sent by certified mail, return receipt requested, to the person against whom the order is directed at the person's last known address; and

(4) include a notice that a person is authorized to request a hearing on the order by filing a written request for hearing with the commissioner not later than the 15th day after the date the order is delivered or mailed.

(e) Provides that an emergency order takes effect as soon as the person against whom the order is directed has actual or constructive knowledge of the issuance of the order.

(f) Requires a licensee or authorized delegate against whom an emergency order is directed to submit a written certification to the commissioner, signed by the licensee or authorized delegate, and their principals and responsible individuals, as applicable, and each person named in the order, stating that each person has received a copy of and has read and understands the order.

(g) Provides that an emergency order, unless the commissioner receives a written request for a hearing from a person against whom the order is directed not later than the 15th day after the date the order is delivered or mailed, is final and nonappealable as to that person on the 16th day after the date the order is delivered or mailed.

(h) Provides that a request for a hearing does not stay an emergency order.

(i) Provides that a hearing on an emergency order takes precedence over any other matter pending before the commissioner, and is prohibited from being held later than the 10th day after the date the commissioner receives the written request for hearing unless the administrative law judge extends the period for good cause or the parties agree to a later hearing date.

(j) Provides that an emergency order that has been affirmed or modified after a hearing is final for purposes of enforcement and appeal. Authorizes the order to be appealed to the district court of Travis County as provided in Section 151.901(b).

SUBCHAPTER K. MISCELLANEOUS PROVISIONS

Sec. 151.901. ADMINISTRATIVE PROCEDURES. (a) Requires that all administrative proceedings under this chapter be conducted in accordance with Chapter 2001, Government Code, and Title 7, Chapter 9, Texas Administrative Code.

(b) Authorizes a person affected by a final order of the commissioner issued under this chapter after a hearing to appeal the order by filing a petition for judicial review in a district court of Travis County. Provides that a petition for judicial review filed in the district court under this subsection does not stay or vacate the appealed order unless the court, after notice and hearing, specifically stays or vacates the order.

Sec. 151.902. UNIFORMITY OF APPLICATION AND CONSTRUCTION. Requires that consideration, in applying and construing this Act, be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Sec. 151.903. SEVERABILITY CLAUSE. Severability clause.

SECTION 2. (a) Provides that a license issued under Chapter 151, Finance Code, that is in effect on September 1, 2023, remains in force as a license under Chapter 151, Finance Code. Requires a licensee, by September 1, 2024, to satisfy the minimum requirements to maintain a license established in Chapter 151, Finance Code, as added by this Act.

(b) Provides that a contract between a licensee and an authorized delegate that is in effect on September 1, 2023, remains in effect until the earlier of the date the contract is renewed or December 31, 2024. Requires that a new or renewal contract entered into between a licensee and an authorized delegate after the effective date of this Act satisfy the contract requirements established in Chapter 151, Finance Code, as added by this Act.

(e) Authorizes the commission to adopt rules to further provide for the orderly transition to licensing and regulation under this Act.

SECTION 3. Repealer: Chapter 151 (Regulation of Money Services Businesses), Finance Code.

SECTION 4. Amends Section 278.001(1), Finance Code, to redefine "currency."

SECTION 5. Effective date: September 1, 2023.