

## **BILL ANALYSIS**

Senate Research Center  
88R12318 MLH-F

C.S.S.B. 895  
By: Johnson  
Business & Commerce  
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Committee Report (Substituted)

### **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These rapid changes in the money transmission industry have exposed unnecessary, outdated, and often conflicting state requirements across the country.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.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 895 amends current law relating to the regulation of money services business, creates a criminal offense, creates administrative penalties, and authorizes the imposition of a fee.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Finance Commission of Texas in SECTION 1.01 (Section 152.052, Finance Code) of this bill.

Rulemaking authority previously granted to the Finance Commission of Texas is rescinded in SECTION 3.01 of this bill.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. MONEY SERVICES MODERNIZATION ACT

SECTION 1.01. Amends Subtitle E, Title 3, Finance Code, by adding Chapter 152, as follows:

#### CHAPTER 152. REGULATION OF MONEY SERVICES BUSINESSES

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 152.001. SHORT TITLE. Authorizes this chapter to be cited as the Money Services Modernization Act.

Sec. 152.002. PURPOSE; CONSTRUCTION OF CHAPTER. (a) Provides that the purposes of this chapter are to:

- (1) protect the interests of purchasers of money services and the public;
- (2) preserve and protect the safety and soundness of money services businesses; and
- (3) protect against drug trafficking, terrorist funding, money laundering, structuring, or related financial crimes.

(b) Requires that consideration be given, in applying and construing this chapter, to the need to promote uniformity of the law with respect to its subject matter among states that enact laws substantially similar to this chapter.

Sec. 152.003. 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," "currency exchange licensee," "department," "eligible rating," "eligible rating service," "federally insured depository financial institution," "in this state," "key individual," "material litigation," "money" or "monetary value," "money services," "money services licensee," "money transmission," "money transmission licensee," "MSB-accredited state," "multistate licensing process," "NMLS," "outstanding money transmission obligation," "passive investor," "Patriot Act," "payment instrument," "payroll processing services," "person," "receiving money for money transmission," "stored value," "tangible net worth," and "unsafe or unsound act or practice."

Sec. 152.004. EXEMPTIONS. Provides that this chapter does not apply to:

- (1) an operator of a payment system to the extent that the operator provides processing, clearing, or settlement services, between or among persons exempted by this section or money services licensees, in connection with wire transfers, credit card transactions, debit card transactions, stored-value transactions, automated clearing house transfers, or similar funds transfers;
- (2) 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 services, provided to the payor by the payee, provided that:
  - (A) 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;
  - (B) the payee holds the agent out to the public as accepting payments for goods or services on the payee's behalf; and
  - (C) payment for the goods and services is treated as received by the payee upon receipt by the agent, 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;
- (3) a person who:
  - (A) 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;
  - (B) is licensed or exempt from licensing requirements under this chapter;
  - (C) 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

(D) 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.

(4) the United States or a department, agency, or instrumentality of the United States, or an agent of a department, agency, or instrumentality of the United States;

(5) money transmission services by the United States Postal Service or by an agent of the United States Postal Service;

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

(7) a federally insured depository financial institution, bank holding company, office of an international banking corporation, foreign bank that establishes a federal branch under the International Banking Act of 1978 (12 U.S.C. Section 3102), corporation organized under the Bank Service Company Act (12 U.S.C. Sections 1861-1867), or corporation organized under the Edge Act (12 U.S.C. Sections 611-633);

(8) a trust company, as defined by Section 187.001 (Definitions), that is organized under the laws of this state;

(9) an attorney or title company that in connection with a real property transaction receives and disburses domestic currency or issues an escrow or trust fund check only on behalf of a party to the transaction;

(10) an 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 of the United States, or on behalf of a state or governmental subdivision, agency, or instrumentality of a state;

(11) a board of trade designated as a contract market under the federal Commodity Exchange Act (7 U.S.C. Sections 1-25), or a person who, 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 a board of trade;

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

(13) a person registered as a securities broker-dealer under federal or state securities laws to the extent of the person's operation as such a broker-dealer;

(14) an individual employed by a money services licensee, authorized delegate, or person exempted from the licensing requirements of this chapter 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;

(15) a person expressly appointed as a third-party service provider to or agent of an entity exempt under Subdivision (7), solely to the extent that:

(A) the service provider or agent engages in money transmission on behalf of and under a written agreement with the exempt entity that provides the specific functions that the service provider or agent is to perform; and

(B) 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; and

(16) a person exempt by regulation or order of the Banking Commissioner of Texas (commissioner) finding that:

(A) the exemption is in the public interest; and

(B) the regulation of the person is not necessary for the purposes of this chapter.

Sec. 152.005. AUTHORITY TO REQUIRE DEMONSTRATION OF EXEMPTION. Authorizes the commissioner to require a person claiming to be exempt from licensing under Section 152.004 to provide information and documentation to the commissioner demonstrating that the person qualifies for the exemption claimed.

#### SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 152.051. ADMINISTRATION. (a) Requires the Texas Department of Banking (TDB) to administer this chapter.

Sec. 152.052. RULES; FEES. (a) Authorizes the Finance Commission of Texas (commission) to adopt rules to administer and enforce this chapter, including rules necessary or appropriate to implement and clarify this chapter.

(b) Authorizes the commission by rule to impose and collect proportionate and equitable fees and costs for notices, applications, examinations, investigations, and other actions required to:

(1) recover the cost of:

(A) maintaining and operating TDB; and

(B) administering and enforcing this chapter and other applicable law; and

(2) achieve the purposes of this chapter.

(c) 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. 152.053. IMPLEMENTATION. (a) Authorizes the commissioner, subject to Sections 152.055(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 chapter;

(2) use, hire, contract for, or employ analytical systems, methods, or software to examine or investigate a person subject to this chapter;

(3) accept from other state or federal government agencies or officials licensing, examination, or investigation reports made by the 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 money services licensee and incorporate the audit report in a report of examination or investigation.

Sec. 152.054. COMMISSIONER'S GENERAL AUTHORITY. (a) Provides that a power granted to the commissioner under this chapter is in addition to and does not limit another power granted under this chapter or other law. Provides the commissioner's exercise of authority under another law does not preclude the commissioner from exercising a power under this chapter.

(b) 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. 152.055. CONFIDENTIALITY. (a) Provides that the following, except as provided by Subsection (b), are confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code:

(1) all information or reports obtained by the commissioner from an applicant, money services licensee, or authorized delegate;

(2) 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; and

(3) financial statements, balance sheets, or authorized delegate information.

(b) Authorizes the commissioner to disclose information not otherwise subject to disclosure under Subsection (a):

(1) to representatives of state or federal agencies who affirm in a record that the representative will maintain the confidentiality of the information; or

(2) where the commissioner finds that the disclosure is reasonably necessary for the protection and interest of the public in accordance with Chapter 552, Government Code.

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

(d) Provides that that the following information for each money services licensee contained in the records of TDB is not confidential and is authorized to be made available to the public in its entirety either on TDB's Internet website or in the Nationwide Multistate Licensing System and Registry (NMLS), or as responsive on receipt by TDB of a written request:

(1) the name, business address, telephone number, and unique identifier of the licensee;

(2) the business address of the licensee's registered agent for service;

(3) the name, business address, and telephone number of each authorized delegate for the licensee, if applicable;

(4) the terms of or a copy of any bond filed by a licensee, provided that confidential information under Subsection (a), including prices and fees for the bond, is redacted;

(5) copies of any nonconfidential final orders of TDB relating to a violation of this chapter or a regulation implementing this chapter; and

(6) notice of the imposition of an administrative fine or penalty under this chapter.

Sec. 152.056. SUPERVISION. (a) Authorizes the commissioner to conduct an examination or investigation of a money services licensee or authorized delegate or otherwise take independent action authorized by this chapter or by a rule adopted or order issued under this chapter as reasonably necessary or appropriate to administer and enforce this chapter, regulations implementing this chapter, and other applicable law, including the Bank Secrecy Act and the Patriot Act.

(b) Authorizes the commissioner to:

(1) conduct an examination 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; and

(4) summon and examine under oath a key individual or employee of a money services licensee or authorized delegate and require the person to produce records regarding a matter related to the condition and business of the licensee or authorized delegate.

(c) Provides that a report under Subsection (b)(3), if the commissioner accepts the report, is considered for all purposes an official report of the commissioner.

(d) Requires a money services 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 records be provided at the location and in the format specified by the commissioner, provided the commissioner is authorized to use multistate record production standards and examination procedures when those standards will reasonably achieve the requirements of this section.

(e) Requires a money services licensee, unless otherwise directed by the commissioner, to pay all costs reasonably incurred in connection with an examination of the licensee or an authorized delegate of the licensee.

Sec. 152.057. NETWORKED SUPERVISION. (a) Authorizes the commissioner, to efficiently and effectively administer and enforce this chapter 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 of those entities for all money services licensees that hold licenses in this state and other states.

(b) Requires the commissioner, if the commissioner participates in multistate supervision, to:

(1) cooperate, coordinate, and share information with other state and federal regulators in accordance with Section 152.055(b);

(2) enter into written cooperation, coordination, or information-sharing contracts or agreements with organizations made up of state or federal governmental agencies; and

(3) cooperate, coordinate, and share information with organizations made up of state or federal governmental agencies, if the organizations agree in writing to maintain the confidentiality and security of the shared information in accordance with Section 152.055.

(c) 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 chapter or a rule adopted or order issued under this chapter to enforce compliance with applicable state or federal law.

(d) 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 chapter.

Sec. 152.058. RELATIONSHIP TO FEDERAL LAW. (a) Requires that any inconsistency between a provision of this chapter and the federal law governing money transmission, if state money transmission jurisdiction is conditioned in federal law, be governed by the applicable federal law to the extent of the inconsistency.

(b) Authorizes the commissioner, in the event of any inconsistency between this chapter and federal law that governs under Subsection (a), to provide interpretive guidance that identifies the inconsistency and that prescribes the appropriate means of compliance with federal law.

Sec. 152.059. CONSENT TO SERVICE OF PROCESS. Provides that a money services 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.

Sec. 152.060. PRESUMPTION OF CONTROL. (a) Provides that a person is presumed to exercise a controlling influence over a money services licensee if the person holds the power to directly or indirectly vote not less than 10 percent of the outstanding voting shares or voting interests of a money services licensee or person in control of a money services licensee.

(b) Provides that a person is not presumed to exercise a controlling influence over a money services licensee under this section if the person is a passive investor.

(c) Requires that the person's interest, for purposes of determining the percentage of a money services licensee controlled by a person, be aggregated with the interest of any person:

(1) related within the second degree of consanguinity or affinity, other than a person's grandparent or grandchild; or

(2) who shares the person's home.

#### SUBCHAPTER C. MONEY SERVICES LICENSES

Sec. 152.101. 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 chapter.

(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 a person who:

(1) is an authorized delegate of a money transmission licensee acting within the scope of authority conferred by a written contract with the licensee;

(2) is exempt under Section 152.004 and does not engage in money transmission outside the scope of the applicable exemption; or

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

(d) Provides that a license issued under Section 152.106 is not transferable or assignable.

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

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

(2) does not advertise or offer money transmission 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.

(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. 152.102. 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 is licensed under this chapter.

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

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

(1) is a money transmission licensee;

(2) is an authorized delegate of a money transmission licensee acting within the scope of authority conferred by a written contract with the licensee;

(3) is exempt under Section 152.004 and does not engage in currency exchange services outside the scope of the applicable exemption; or

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



(d) Provides that a license issued under Section 152.106 is not transferable or assignable.

(e) Authorizes the commissioner, on receiving an application and 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, unless:

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

(2) the change given or made as a result of the transaction with the retailer, wholesaler, or service provider exceeds \$100;

(3) the person attempts to structure the transaction in a manner that evades the licensing requirements of this chapter or avoids using a money services licensee 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).

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

**Sec. 152.103. CONSISTENT STATE LICENSING.** (a) Authorizes the commissioner to require that a person submit through the NMLS in the form and manner prescribed by the commissioner and acceptable to the NMLS 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 the 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, 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 152.104(a)(10) or (c)(13).

**Sec. 152.104. APPLICATION FOR MONEY SERVICES LICENSE.** (a) Requires an applicant for a money services license to apply in a form and medium prescribed by the commissioner. Requires that the application contain:

(1) the legal name and residential and business addresses of the applicant and any fictitious or trade name used by the applicant in conducting the applicant's 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 preceding the submission of the application;

(3) a description of any money services previously provided by the applicant and the money services that the applicant seeks to provide in this state;

(4) a list of the applicant's proposed authorized delegates and the locations in this state where the applicant and the applicant's authorized delegates propose to engage in money transmission, if applicable;

(5) a list of other states in which the applicant is licensed to engage in money services, 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 applicant or a person in control of the applicant;

(7) a sample form of contract for authorized delegates, if applicable;

(8) a sample form of payment instrument or stored value, if 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) Provides that a form adopted by the commissioner under Subsection (a) is required to contain content as provided by commission rule or 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 chapter and maintain consistency with NMLS licensing standards and practices.

(c) 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) a certificate of good standing from the state or country in which the applicant is incorporated or formed, if applicable;

(3) a brief description of the structure or organization of the applicant, including any parent entity or subsidiary of the applicant, and whether any parent entity or subsidiary is publicly traded;

(4) the legal name, any fictitious or trade name, all business and residential addresses, and the employment, as applicable, of each key individual and person in control of the applicant in the 10-year period preceding the submission of the application;

(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 the application is 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 preceding the submission of the application;

(7) if the application is for a currency exchange license, or if the commissioner otherwise determines it to be acceptable, certified unaudited financial statements for the most recent fiscal year or other period acceptable to the commissioner;

(8) a certified copy of unaudited financial statements of the applicant for the most recent fiscal quarter;

(9) 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, Securities Exchange Act of 1934 (15 U.S.C. Section 78m);

(10) if the applicant is a wholly owned subsidiary of 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, Securities Exchange Act of 1934 (15 U.S.C. Section 78m);

(11) if the applicant is a corporation publicly traded outside the United States, a copy of documentation similar to the documentation required under Subdivision (10) filed with the regulator of the parent corporation's domicile outside the United States;

(12) the name and address of the applicant's registered agent in this state; and

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

(d) Requires an applicant, at the time an application for a license under this section is submitted, to file with TDB a nonrefundable application fee in the amount established by commission rule.

(e) Authorizes the commissioner to waive one or more requirements of Subsections (a) and (c) or permit an applicant to submit other information in lieu of the information required by this section.

**Sec. 152.105. INFORMATION REQUIREMENTS FOR CERTAIN INDIVIDUALS.** (a) Requires an applicant, in addition to the requirements of Section 152.104, to provide additional information to the commissioner if the applicant is an individual who is in control of a money services licensee or applicant, seeks to acquire control of a money services licensee, or is a key individual.

(b) Requires that additional information provided to the commissioner by an individual under this section include the individual's:

(1) fingerprints for submission to the Federal Bureau of Investigation 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 10-year period preceding the submission of the application; and

(2) personal history and experience, in a form and medium prescribed by the commissioner, that contains the following information:

(A) if the individual has a social security number, an independent credit report for the individual from a consumer reporting agency;

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

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

(c) Requires an individual to whom this section applies, if the individual has resided outside of the United States at any time in the preceding 10 years, to also provide an investigative background report prepared by an independent search firm that at a minimum:

(1) demonstrates that the search firm:

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

(B) is not affiliated with and does not have an interest with the individual being researched; and

(2) is written in the English language and contains the following information:

(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 a 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 10 years, including 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 money transmission services, securities, banking, insurance, and mortgage-related industries.

Sec. 152.106. ISSUANCE OF LICENSE. (a) Provides that an application for a license under this chapter that appears to include all the items and address all of the matters that are required under Sections 152.104 and 152.105 is considered complete and the commissioner is required to promptly notify the applicant in writing of the date on which the application is determined to be complete.

(b) Requires the commissioner to approve or deny the application not later than the 120th day after the date the application is determined to be complete under Subsection (a). Provides that the application, if the application is not approved or denied within 120 days after the completion date, is approved and the license takes effect on the first business day after expiration of the 120-day period.

Authorizes the commissioner to extend the application approval period for good cause.

(c) Provides that a determination by the commissioner under Subsection (a) that an application is complete and is accepted for processing is not an assessment of the substance of the application or of the sufficiency of the information provided, and means only that the application, on its face, appears to include all of the items, including the national criminal history background check response from the Federal Bureau of Investigation under Section 152.105(b), and address all of the matters that are required under Sections 152.104 and 152.105.

(d) 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.

(e) Requires the commissioner to issue a license to an applicant under this section if the commissioner finds that:

(1) the applicant has complied with Sections 152.104 and 152.105; and

(2) it is in the interest of the public to permit the applicant to engage in money transmission services, currency exchange services, or both, considering:

(A) the financial condition and responsibility, financial and business experience, competence, character, and general fitness of the applicant; and

(B) the experience, competence, character, and general fitness of the key individuals and persons in control of the applicant.

(f) Provides that, if an applicant participates in or is subject to a multistate licensing process:

(1) the commissioner is authorized to accept the investigation results of a lead investigative state for the purpose of Subsection (d) if the lead investigative state has sufficient staffing, expertise, and minimum standards; or

(2) if this state is a lead investigative state, the commissioner is authorized to investigate the applicant under Subsection (d) and the time frames established by agreement through the multistate licensing process, provided that the time frame complies with the period in Subsection (b).

(g) Requires the commissioner, if the commissioner finds that the applicant fails to meet 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 152.451.

(h) Provides that the license, except as provided by Subsection (b), takes effect on the day the application is approved.

Sec. 152.107. MAINTENANCE OF LICENSE. (a) Authorizes the commissioner, if a money services licensee does not continue to meet the qualifications or satisfy the requirements that apply to an applicant for a money services license, to suspend or revoke the licensee's license in accordance with the procedures established by this chapter or other applicable state law governing suspension or revocation.

(b) Requires an applicant for a money transmission license to demonstrate that it meets or will meet the requirements in Sections 152.351, 152.352, 152.354, and 152.355. Requires a money transmission licensee to at all times continue to meet the requirements of those sections.

(c) Requires an applicant for a currency exchange license to demonstrate that it meets or will meet the requirements in Sections 152.353, 152.354, and 152.355. Requires a currency exchange licensee to at all times continue to meet the requirements of those sections.

(d) Requires a money services licensee, in addition to complying with the requirements of Subsection (a) and, as applicable, Subsection (b) or (c), to annually:

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

(2) submit a report under oath in the form and medium prescribed by the commissioner that contains the following information:

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

(B) if the licensee is a currency exchange licensee, a financial statement, audited or unaudited, dated as of the last day of the currency exchange licensee'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:

(i) the security, net worth, permissible investments, and other requirements the money services licensee is required to satisfy; and

(ii) whether the money services licensee continues to meet the qualifications and requirements for licensure.

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

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

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

(f) Provides that the license expires, and the money services licensee is required to cease and desist from engaging in the business of money services as of that date if the money services licensee fails to submit the completed annual report and pay the annual license fee and any late fee due within the time prescribed by Subsection (e). Provides that the expiration of a license under this section is not subject to appeal.

(g) Requires TDB, on timely receipt of a money services licensee'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 money services licensee. Authorizes the commissioner, on completion of the review and investigation, if any, to impose conditions on the license the commissioner considers reasonably necessary or appropriate or to suspend or revoke the license on the basis of a ground specified in Section 152.403.

(h) 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.

(i) Requires the holder, principal, or person in control of the holder of a license issued under this chapter that has expired or that the holder has surrendered under Section 152.108 that wishes to conduct activities for which a license is required under this chapter to file a new license application under Section 152.104 and satisfy all requirements for licensure that apply at the time the new application is filed.

Sec. 152.108. SURRENDER OF LICENSE. (a) Authorizes a money services 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 money services licensee to surrender the licensee's license under this section if the licensee becomes ineligible for a license issued under this chapter.

(c) Provides that the surrender of a license does not reduce or eliminate a money services 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, assess an administrative penalty, order the payment of restitution, or exercise any other authority under this chapter. Provides that the surrender of a license, further, does not release the security required of a licensee under Section 152.352 or 152.353.

Sec. 152.109. REFUND OF FEE OR COST PAID BY MONEY SERVICES LICENSEE. Provides that a fee or cost paid by a money services licensee under this chapter is not refundable.

#### SUBCHAPTER D. ACQUISITION OF CONTROL AND CHANGE OF KEY INDIVIDUAL

Sec. 152.151. ACQUISITION OF CONTROL. (a) Requires a person or group of persons acting in concert seeking to acquire control of a money services licensee to obtain written approval from the commissioner before acquiring control. Provides that an individual is not considered to acquire control of a money services licensee and is not subject to the acquisition of control provisions of this subchapter if 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 money services licensee, in cooperation with the licensee, to submit:

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

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

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

(d) Requires that the application required by Subsection (b)(1) include information required by Section 152.105 for any new key individual that has not previously completed the requirements of Section 152.105 for the money services licensee.

(e) Provides 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, is considered complete and the commissioner is required to promptly notify the applicant in writing of the date on which the application was determined to be complete.

(f) Requires the commissioner to approve or deny the application not later than the 60th day after the completion date. Provides that the application, if the application is not approved or denied before the 61st day after the completion date, is approved and the person or group of persons acting in concert are not prohibited from acquiring control. Authorizes the commissioner to extend the application period for good cause.

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

(h) 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.

(i) Requires the commissioner to approve an acquisition of control under this section if the commissioner finds that:

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

(2) it is in the interest of the public to permit the person or group of persons acting in concert to control the money services licensee, considering:

(A) 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

(B) the experience, competence, character, and general fitness of the key individuals and persons that would be in control of the money services licensee after the acquisition of control.



(j) Provides that, if an applicant participates in or is subject to a multistate licensing process:

(1) the commissioner is authorized to accept the investigation results of a lead investigative state for the purpose of Subsection (h) if the lead investigative state has sufficient staffing, expertise, and minimum standards; or

(2) if this state is a lead investigative state, the commissioner is authorized to investigate the applicant under Subsection (h) and the time frames established by agreement through the multistate licensing process, provided that the time frame complies with the period in Subsection (f).

(k) Requires the commissioner, if the commissioner determines that a proposed person in control fails to meet the qualifications or satisfy the requirements of this chapter, to inform the money services licensee and the proposed person in control in writing that the application is denied and state the reasons for the denial. Authorizes the money services licensee 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. 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 152.451.

(l) Provides that the requirements of Subsections (a) and (b) do not apply to:

(1) a person who 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 money services licensee or a person in control of a money services licensee;

(2) a person who acquires control of a money services licensee by devise or descent;

(3) a person who acquires control of a money services 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 who is exempt under Section 152.004(7);

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

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

(7) an internal reorganization of a person in control of the money services licensee resulting in the same person remaining in control of the licensee.

(m) Requires a person to whom Subsections (a) and (b) do not apply under Subsection (l)(2), (3), (4), (6), or (7), in cooperation with the money services licensee, to notify the commissioner not later than the 15th day after the date of the acquisition of control of the person's grounds for not complying with Subsection (a) or (b).

Sec. 152.152. STREAMLINED ACQUISITION OF CONTROL. (a) Provides that the requirements of Section 152.151 do not apply to a person who has complied with and

received approval to engage in money services under this chapter or was identified as a person in control in a previous application filed with and approved by the commissioner or by an MSB-accredited state under a multistate licensing process, provided that:

(1) the person has not:

(A) had a money services license revoked or suspended; or

(B) controlled a money services licensee that has had a money services license revoked or suspended while the person was in control of the licensee in the previous five years;

(2) if the person is a money services licensee, the person:

(A) is well managed; and

(B) if a rating for compliance has been given to the person by an MSB-accredited state, received a satisfactory rating in its most recent examination;

(3) in the case of a money transmission licensee, the person to be acquired and the person acquiring control are both money transmission licensees projected to meet the requirements of Sections 152.351, 152.352, 152.354, and 152.355 after the acquisition of control is completed;

(4) in the case of a currency exchange licensee, the person to be acquired and the person acquiring control are both currency exchange licensees projected to meet the requirements of Sections 152.353 and 152.354 after the acquisition of control is completed;

(5) the money services licensee to be acquired will not implement any material changes to the licensee's business plan as a result of the acquisition of control, and if the person acquiring control is a money services licensee, the acquiring licensee also will not implement any material changes to its business plan as a result of the acquisition of control; and

(6) the person provides notice of the acquisition in cooperation with the money services licensee and attests to Subdivisions (1) through (5), as applicable, in a form and medium prescribed by the commissioner.

(b) Provides that the notice under Subsection (a)(6), if the notice is not disapproved before the 31st day after the date on which the notice was determined to be complete, is considered approved.

(c) Authorizes a person, before filing an application for approval to acquire control of a money services licensee, to request in writing a determination from the commissioner as to whether the person would be considered a person in control of a money services licensee on consummation of a proposed transaction. Provides that the proposed transaction, if the commissioner determines that the person would not be a person in control of a money services licensee, is not subject to the requirements of Section 152.151.

(d) Provides that, if a multistate licensing process includes a determination under Subsection (c) and an applicant participates in or is subject to the multistate licensing process:

(1) the commissioner is authorized to accept the control determination of a lead investigative state with sufficient staffing, expertise, and minimum standards for the purpose of Subsection (c); or

(2) if this state is a lead investigative state, the commissioner is authorized to investigate the applicant under Subsection (c) and the time frames established by agreement through the multistate licensing process.

Sec. 152.153. NOTICE AND INFORMATION REQUIREMENTS FOR CHANGE OF KEY INDIVIDUALS. (a) Requires a money services licensee adding or replacing a key individual to provide:

(1) notice in a manner prescribed by the commissioner not later than the 15th day after the effective date of the key individual's appointment; and

(2) information as required by Section 152.105 not later than the 45th day after that effective date.

(b) Authorizes the commissioner, not later than the 90th day after the date on which notice provided under Subsection (a) is determined to be complete, to issue a notice of disapproval of a key individual if it would not be in the best interests of the public or the customers of the money services licensee to permit the individual to be a key individual of the licensee, considering the competence, experience, character, or integrity of the individual.

(c) Requires that a notice of disapproval be sent to the money services licensee and the disapproved individual and contain a statement of the basis for disapproval. Authorizes a money services 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 152.451.

(d) Provides that the key individual, if the notice provided under Subsection (a) is not disapproved before the 91st day after the date on which the notice is determined to be complete, is considered approved.

(e) Provides that, if a multistate licensing process includes a key individual notice review and disapproval process under this section and the money services licensee participates in or is subject to the multistate licensing process:

(1) the commissioner is authorized to accept the determination of another state if the investigating state has sufficient staffing, expertise, and minimum standards for the purposes of this section; or

(2) if this state is a lead investigative state, the commissioner is authorized to investigate the applicant in the same manner as for a determination under Subsection (b) and in accordance with the time frames established by agreement through the multistate licensing process.

#### SUBCHAPTER E. REPORTING AND RECORDS

Sec. 152.201. MONEY TRANSMISSION REPORT. (a) Requires each money transmission licensee to submit a report of condition not later than the 45th day after the end of the calendar quarter, or within an extended time as the commissioner is authorized to prescribe.

(b) Requires that the report of condition include:

(1) the licensee's financial information;

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

(3) a report on the licensee's permissible investments;

(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.

(c) Authorizes the commissioner to use the NMLS for the submission of the report required by this section and to change or update the requirements of this section as necessary to carry out the purposes of this chapter and maintain consistency with NMLS reporting.

(d) Authorizes the information required by Subsection (b)(4) to be included only in a report of condition submitted not later than the 45th day after the end of the fourth calendar quarter.

Sec. 152.202. CURRENCY EXCHANGE REPORT. (a) Requires a currency exchange licensee to submit:

(1) the annual report required by Section 152.107(d)(2), including a financial statement that is authorized to be audited or unaudited and that is dated as of the last day of the currency exchange licensee's fiscal year that ended in the immediately preceding calendar year;

(2) a quarterly interim financial statement and transaction report that reflects the licensee's financial condition and currency exchange services 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 end of the calendar quarter; and

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

(b) Requires a currency exchange 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.

(c) 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. 152.203. FINANCIAL STATEMENTS. (a) Requires a money services licensee, not later than the 90th day after the end of each fiscal year, or within an extended time prescribed by the commissioner, to file with the commissioner:

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

(2) for a currency exchange licensee, 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 a financial statement required by Subsection (a)(1) be prepared by an independent certified public accountant or independent public accountant who is satisfactory to the commissioner.

(c) Requires that an audited financial statement required by Subsection (a) 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 of opinion is qualified, to order the money services licensee to take any action the commissioner finds necessary to enable the independent certified public accountant or independent public accountant to remove the qualification.

Sec. 152.204. AUTHORIZED DELEGATE REPORTING. (a) Requires a money transmission licensee to submit a report of authorized delegates not later than the 45th day after the end of each calendar quarter. Authorizes the commissioner to use the NMLS for the submission of the report required by this section if NMLS functionality is consistent with the requirements of this section.

(b) Requires that the authorized delegate report include for each authorized delegate:

- (1) the authorized delegate's legal name;
- (2) the authorized delegate's taxpayer employer identification number;
- (3) the authorized delegate's principal provider identifier;
- (4) the authorized delegate's physical address;
- (5) the authorized delegate's mailing address;
- (6) any business the authorized delegate conducts in other states;
- (7) any fictitious or trade name the authorized delegate uses;
- (8) a contact person name, phone number, and e-mail;
- (9) a start date as the money transmission licensee's authorized delegate;
- (10) an end date as the money transmission licensee's authorized delegate, if applicable; and
- (11) any other information the commissioner reasonably requires with respect to the authorized delegate.

Sec. 152.205. REPORTS OF CERTAIN EVENTS. (a) Requires a money services licensee to file a report with the commissioner not later than the first business day after the licensee has reason to know of:

- (1) the filing of a petition by or against the licensee under the United States Bankruptcy Code (11 U.S.C. Sections 101-1532) 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 the licensee's dissolution or reorganization, or the making of a general assignment for the benefit of the licensee's creditors; or

(3) the commencement of a proceeding to revoke or suspend the licensee's license in a state or country in which the licensee engages in or is licensed to engage in money services business.

(b) Requires a money services licensee to file a report with the commissioner not later than the third business day after the licensee has reason to know of the occurrence of a felony charge or conviction of the licensee or a key individual, a person in control of the licensee, or an authorized delegate.

Sec. 152.206. **BANK SECRECY ACT REPORTS.** Requires a money services licensee and an authorized delegate to file all reports required by federal currency reporting, record keeping, and suspicious activity reporting requirements as provided by the Bank Secrecy Act and other federal and state laws relating to money laundering. Provides that the timely filing of a complete and accurate report required under this section with the appropriate federal agency is considered compliant with the requirements of this section.

Sec. 152.207. **RECORDS.** (a) Requires a money services licensee to maintain the following records for determining its compliance with this chapter for at least five years:

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

(2) bank statements and bank reconciliation records;

(3) for a money transmission licensee:

(A) records of outstanding money transmission obligations;

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

(C) records of each outstanding money transmission obligation sold; and

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

(4) for a currency exchange licensee, a record of each currency exchange transaction; and

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

(b) Authorizes records required to be maintained by Subsection (a)(3)(C) to be maintained in any form of record.

(c) Authorizes records required to be maintained by Subsection (a) to be maintained outside this state if they are made accessible to the commissioner not later than the seventh business day after the commissioner sends notice in writing.

(d) Provides that all records maintained by a money services licensee as required by this section are open to examination by the commissioner under Section 152.056(a).

#### SUBCHAPTER F. AUTHORIZED DELEGATES

Sec. 152.251. **LIABILITY OF MONEY TRANSMISSION 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 under this subchapter.

Sec. 152.252. RELATIONSHIP BETWEEN MONEY TRANSMISSION LICENSEE AND AUTHORIZED DELEGATE. (a) Defines "remit."

(b) Requires a money transmission licensee, before the licensee is authorized to conduct business through an authorized delegate or to allow 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 delegate complies with applicable state and federal law;

(2) enter into a written contract appointing an authorized delegate 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 with and will likely comply with applicable state and federal law.

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

(d) Requires that the written contract required by Subsection (b)(2) be signed by the money transmission 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 services on behalf of the licensee;

(2) provide 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 services, including this chapter and regulations implementing this chapter, relevant provisions of the Bank Secrecy Act, and the 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 chapter or regulations implementing this chapter, 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 a money transmission licensee, if the licensee's license is suspended, revoked, surrendered, or expired, not later than the fifth business day after the date the licensee's license is suspended, revoked, surrendered, or expired, to provide documentation 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, on suspension, revocation, surrender, or expiration of a license, to immediately cease to provide money transmission services as an authorized delegate of the money transmission licensee.

(f) Provides that an authorized delegate of a money transmission 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 an 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 money transmission 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 money transmission licensee.

Sec. 152.253. DISCLOSURE REQUIREMENTS. (a) Requires that a money transmission 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 money transmission licensee receiving currency or an instrument payable in currency for transmission to comply with Chapter 278 (Regulation of Currency Transmissions).

Sec. 152.254. UNAUTHORIZED ACTIVITIES. Prohibits a person from engaging in the business of money transmission on behalf of a person not licensed under this chapter or not exempt under Section 152.004. Provides that a person who engages in unauthorized activity provides money transmission to the same extent as if the person were a money transmission 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 G. TIMELY TRANSMISSION, REFUNDS, AND DISCLOSURES BY MONEY TRANSMISSION LICENSEE

Sec. 152.301. TIMELY TRANSMISSION. (a) Requires a money transmission licensee to forward all money received for money 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 money transmission licensee, if the licensee fails to forward money received for money 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. 152.302. REFUNDS. (a) Provides that this section does not apply to money received for money transmission that is:



(1) subject to the federal requirements for remittance transfers under 12 C.F.R. Part 1005, Subpart B; or

(2) under a written agreement between a money transmission licensee and a payee to process payments for goods or services provided by the payee.

(b) Requires a money transmission licensee to refund any and all money received for money transmission services to the sender not later than the 10th day after the date of receipt of the sender's written request for a refund unless:

(1) the money has been forwarded not later than the 10th day after 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 not later than the 10th day after the date on which the money was received for transmission;

(3) an agreement between the licensee and the sender instructs the licensee to forward the money at a time that is later than the 10th day after the date on which the money was received for transmission;

(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; or

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

(c) Requires a money transmission licensee, if funds have not yet been forwarded in accordance with the terms of an agreement between the licensee and a sender under Subsection (b)(3), to issue a refund in accordance with the other provisions of this section.

Sec. 152.303. RECEIPTS. (a) Provides that this section does not apply to:

(1) money received for money transmission subject to the federal requirements for remittance transfers under 12 C.F.R. Part 1005, Subpart B;

(2) money received for money transmission that is not primarily for personal, family, or household purposes;

(3) money received for money transmission under a written agreement between a money transmission licensee and a payee to process payments for goods or services provided by the payee; or

(4) payroll processing services.

(b) Defines "receipt."

(c) 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, a receipt to be provided electronically. Requires that all electronic receipts be provided in a retainable form.

(d) Requires a money transmission licensee or the licensee's authorized delegate to provide the sender a receipt for money received for money transmission services.

(e) Requires that a receipt contain, as applicable:

(1) the name of the sender;

(2) the name of the designated recipient;

(3) the date of the transaction;

(4) the unique transaction or identification number;

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

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

(7) any fee charged by the money transmission licensee to the sender for the transaction; and

(8) any taxes collected by the money transmission licensee from the sender for the transaction.

(f) Requires that the receipt required by this section be in English and in a language other than English if the money transmission licensee or authorized delegate principally uses that language to advertise, solicit, or negotiate, either orally or in writing, for a transaction conducted in person, electronically, or by phone.

**Sec. 152.304. DISCLOSURES FOR PAYROLL PROCESSING SERVICES.** (a) Requires a money transmission 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 pay stubs or an equivalent statement to workers.

(b) Provides that Subsection (a) does not apply to a money transmission 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 H. PRUDENTIAL STANDARDS

**Sec. 152.351. NET WORTH OF MONEY TRANSMISSION LICENSEE** (a) Requires a money transmission licensee under this chapter to maintain at all times a tangible net worth in an amount not less than:

(1) for a licensee with total assets in an amount not greater than \$100 million, the greater of \$100,000 or 3 percent of the value of the licensee's total assets;

(2) for a licensee with total assets in an amount greater than \$100 million and not greater than \$1 billion, the sum of \$3 million and 2 percent of the additional assets in excess of \$100 million; and

(3) for a licensee with total assets in an amount greater than \$1 billion, the sum of \$21 million and 0.5 percent of the additional assets in excess of \$1 billion.

(b) Requires that tangible net worth under this section be demonstrated at the initial application by the applicant's most recent audited or unaudited financial statements under Section 152.104(c)(6).

(c) Authorizes the commissioner, notwithstanding other provisions of this section, for good cause shown, to exempt a money transmission licensee wholly or partly from the requirements of this section.

Sec. 152.352. SECURITY FOR MONEY TRANSMISSION LICENSEE. (a) Requires a money transmission licensee to at all times maintain security consisting of a surety bond in a form satisfactory to the commissioner. Authorizes a money transmission licensee, with the commissioner's approval, to maintain a deposit in lieu of a bond under this section.

(b) Provides that the amount of the required security for a money transmission licensee under this section is:

(1) for a licensee with a tangible net worth in an amount not greater than 10 percent of the licensee's total assets, the greater of:

(A) \$100,000; or

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

(2) for a licensee with a tangible net worth in an amount greater than 10 percent of the licensee's total assets, \$100,000.

(c) Prohibits a money transmission licensee that maintains a bond in the maximum amount provided for under Subsection (b) from being required to calculate the licensee's average daily money transmission liability in this state for purposes of this section.

(d) Authorizes a money transmission licensee to exceed the maximum required bond amount under Section 152.356(a)(5).

Sec. 152.353. SECURITY FOR CURRENCY EXCHANGE LICENSEE. (a) Requires a currency exchange licensee to at all times maintain security in the amount applicable to the licensee under this section. Requires that the security satisfy the requirements of and is subject to Section 152.354.

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

(c) Requires a currency exchange licensee, except as provided by Subsection (e), if Subsection (b) does not apply to the licensee, to maintain security in an amount not less than the greater of:

(1) \$2,500; or

(2) 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) Authorizes an applicant for a currency exchange license, for purposes of demonstrating prospective compliance with this section under Section 152.107(c), to use the applicant's projected total dollar volume of currency exchange business in this state for the first year of licensure to determine the amount under Subsection (c)(2).

(e) Provides that the maximum amount of security that is authorized to be required under this section is \$1 million.

Sec. 152.354. ADDITIONAL SECURITY REQUIREMENTS. (a) Requires that a security under this subchapter, in addition to the requirements of Section 152.352 or 152.353:

(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 a money transmission licensee'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.

(b) 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.

(c) 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 money services licensee. 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 money services licensee, provided that a surety is prohibited from being considered an interested, aggrieved, or affected person for purposes of an administrative proceeding under Section 152.451 of this code or Chapter 2001 (Administrative Procedure), Government Code.

(d) Provides that a 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.

(e) Requires that a security cover claims for at least five years after the money services licensee surrenders the licensee's 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 money services licensee's obligations to TDB and to purchasers in this state is reduced. Authorizes the commissioner to permit a money services licensee to substitute another form of security when the licensee ceases to provide money transmission in this state.

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

(g) Authorizes an applicant for a money services license or a money services licensee, 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.

(h) Provides that a deposit under Subsection (g):

(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 money services licensee in the event of bankruptcy, receivership, or a claim against the licensee unrelated to the licensee's obligations under this chapter.

Sec. 152.355. MAINTENANCE OF PERMISSIBLE INVESTMENTS BY MONEY TRANSMISSION LICENSEE. (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 allowed under Section 152.356(a), with respect to a money transmission 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 money transmission licensee's outstanding money transmission obligations in the event of:

(1) insolvency;

(2) the filing of a petition by or against the licensee under the United States Bankruptcy Code (11 U.S.C. Sections 101-1532) for bankruptcy or reorganization;

(3) the filing of a petition by or against the licensee for receivership;

(4) the commencement of any other judicial or administrative proceeding for the licensee's dissolution or reorganization; or

(5) an action by a creditor who is not a beneficiary of the trust under this section against the licensee.

(d) Provides that a permissible investment impressed with a trust under Subsection (c) is not subject to attachment, levy of execution, or sequestration by order of any court, except for a beneficiary of the trust.

(e) Requires the commissioner, on the establishment of a trust under Subsection (c) or when any funds are drawn on a letter of credit under Section 152.356(a)(4), to notify the applicable regulator of each state in which the money transmission licensee is licensed to engage in money transmission services of the establishment of the trust or the funds drawn on the letter of credit, as applicable. Provides that notice under this subsection is considered to be given if performed under a multistate agreement or through the NMLS.

(f) 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 money transmission licensee's outstanding money transmission obligations, are considered held in trust for the benefit of those purchasers and holders on a pro rata and equitable basis in accordance with statutes under which permissible investments are required to be held in this state, and other states, as applicable.

(g) Requires that a trust established under Subsection (c) be terminated on extinguishment of all of the money transmission licensee's outstanding money transmission obligations.

(h) 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. 152.356. TYPES OF PERMISSIBLE INVESTMENTS. (a) Provides that the following investments are permissible under Section 152.355:

(1) cash, including:

(A) demand deposits;

(B) savings deposits;

(C) funds in accounts under Paragraphs (A) and (B) held for the benefit of a money transmission licensee's customers in a federally insured depository financial institution;

(D) cash equivalents, including automated clearing house items in transit to the money transmission licensee and in transit to a payee;

(E) international wires in transit to a payee;

(F) cash in transit via armored car;

(G) cash in smart safes;

(H) cash in money transmission licensee-owned locations;

(I) debit card or credit card-funded transmission receivables owed by a bank; or

(J) money market mutual funds rated "AAA" by S&P Global or an equivalent rating from an eligible rating service;

(2) certificates of deposit or senior debt obligations of an insured depository institution, as defined by Section 3, Federal Deposit Insurance Act (12 U.S.C. Section 1813) or the Federal Credit Union Act (12 U.S.C. Section 1781);

(3) an obligation:

(A) of the United States or a commission, agency, or instrumentality of the United States;

(B) that is guaranteed fully as to principal and interest by the United States; or

(C) of a state or a governmental subdivision, agency, or instrumentality of the United States;

(4) the full drawable amount of an irrevocable standby letter of credit for which the stated beneficiary is the commissioner that stipulates that the commissioner need only draw a sight draft under the letter of credit and present it to obtain funds up to the letter of credit amount on presentation of the items required by Subsection (f);

(5) 100 percent of the surety bond or deposit provided for under Section 152.352 that exceeds the average daily money transmission liability in this state; or

(6) stablecoin, to the extent of outstanding transmission obligations received by the licensee in the same kind of stablecoin.

(b) Provides that the following investments, unless permitted by the commissioner to exceed the limit provided, are permissible under Section 152.355 to the extent specified:

(1) receivables that are payable to a money transmission licensee from its authorized delegates in the ordinary course of business that are less than seven days old are permissible up to the amount of 50 percent of the aggregate value of the licensee's total permissible investments;

(2) receivables under Subdivision (1) that are payable to a money transmission licensee from a single authorized delegate in the ordinary course of business are permissible up to the amount of 10 percent of the aggregate value of the licensee's total permissible investments;

(3) the following investments are permissible up to the amount of 20 percent of the aggregate value of a money transmission licensee's total permissible investments for the amount under each paragraph and the amount of 50 percent of the aggregate value of the licensee's total permissible investments for the total amount under this subdivision:

(A) a short-term investment of not more than six months bearing an eligible rating;

(B) commercial paper bearing an eligible rating;

(C) a bill, note, bond, or debenture bearing an eligible rating;

(D) a United States tri-party repurchase agreement collateralized at 100 percent or more with United States or agency security, municipal bonds, or other security bearing an eligible rating;

(E) a money market mutual fund rated less than "AAA" and not less than "A-" by S&P Global, or the equivalent from an 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 an account held for the benefit of a money transmission licensee's customers at a foreign depository institution is permissible up to the amount of 10 percent of the aggregate value of the licensee's total permissible investments if:

(A) the licensee has received a satisfactory rating in its most recent examination; and

(B) the foreign depository institution:

(i) has an eligible rating;

(ii) is registered under the Foreign Account Tax Compliance Act (Pub. L. No. 111-147);

(iii) is not located in a country subject to sanctions from the Office of Foreign Assets Control; and

(iv) is not located in a jurisdiction designated high-risk or uncooperative by the Financial Action Task Force.

(c) Requires that the letter of credit under Subsection (a)(4):

(1) be issued by:

(A) a federally insured depository financial institution;

(B) a foreign bank authorized under federal law to maintain a federal agency or federal branch office in a state or states; or

(C) a foreign bank that is authorized under state law to maintain a branch in a state that:

(i) bears an eligible rating or whose parent company bears an eligible rating;

(ii) is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks, credit unions, and trust companies; and

(iii) is approved by the commissioner;

(2) be irrevocable and unconditional and indicate that it is not subject to any condition or qualifications outside of the letter of credit;

(3) not contain reference to any other agreement, document or entity, or otherwise provide for a security interest in the money transmission licensee;

(4) contain an issue date and expiration date; and

(5) expressly provide for automatic extension without a written amendment for an additional period of one year from a current or future expiration date, unless the issuer of the letter of credit notifies the commissioner in writing by certified or registered mail, courier mail, or



other receipted means, not more than the 60th day before any expiration date, that the irrevocable letter of credit will not be extended.

(d) Requires the commissioner, on receipt of a notice of expiration or non-extension of a letter of credit issued under Subsection (c)(5), to require a money transmission licensee to demonstrate to the satisfaction of the commissioner, not later than the 15th day before expiration, that the licensee maintains and will maintain permissible investments in accordance with Section 152.355 after the letter of credit expires.

(e) Authorizes the commissioner, if the money transmission licensee is not able to satisfactorily demonstrate to the commissioner that the licensee will maintain permissible investments under Subsection (d), 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 152.355. Requires the commissioner to offset the draw against the money transmission licensee's outstanding money transmission obligations. Requires the commissioner or the commissioner's designated agent to hold drawn funds in trust to the extent authorized by law as agent for the benefit of the purchasers and holders of the money transmission licensee's outstanding money transmission obligations.

(f) Requires that a letter of credit under Subsection (a)(4) provide that the issuer of the letter of credit will honor, at sight, a presentation made by the commissioner to the issuer on or before the expiration date of the letter of credit of:

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

(2) a written statement from the commissioner stating that:

(A) a petition has been filed by or against the money transmission licensee under the United States Bankruptcy Code (11 U.S.C. Sections 101-1532) for bankruptcy or reorganization;

(B) a petition has been filed by or against the money transmission licensee for receivership, or the commencement of any other judicial or administrative proceeding for the licensee's dissolution or reorganization;

(C) a money transmission licensee's assets have been seized by the commissioner under 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

(D) the commissioner has received notice of expiration or non-extension of a letter of credit under Subsection (c)(5), and the money transmission licensee failed to demonstrate to the satisfaction of the commissioner under Subsection (d) that the licensee will maintain permissible investments in accordance with Section 152.355 on the expiration or non-extension of the letter of credit.

(g) Authorizes the commissioner to designate an agent to serve on the commissioner's behalf as beneficiary to a letter of credit if 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.

(h) 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.

#### SUBCHAPTER I. ENFORCEMENT

Sec. 152.401. INJUNCTIVE RELIEF. (a) Authorizes the following persons, if a person appears to have violated, or if 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) Authorizes an action brought under this section 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. 152.402. 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 152.409, unless the order is issued as an emergency order. Authorizes the commissioner to issue an emergency cease and desist order under Section 152.410 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. 152.403. SUSPENSION AND REVOCATION OF MONEY SERVICES LICENSE

(a) Requires the commissioner to revoke a money services license if the commissioner finds that the money services licensee does not provide the security required under this chapter or, for a money transmission licensee, if the net worth of the licensee is less than the amount required under this chapter.

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

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

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

(3) the money services 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 money transmission 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 money services licensee or the authorized delegate of a money transmission licensee, or a principal of, person in control of, or responsible person of a money services licensee or authorized delegate of a money transmission licensee, indicates that it is not in the public interest to permit the licensee or authorized delegate to provide money services;

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

(7) the money services 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 money transmission 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 money services licensee applied for the license, would have been grounds for denying the application;

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

(11) the money services 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 money services 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 the department under this chapter; or

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

(c) Authorizes the commissioner, in determining whether a money services 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 money services license or directing a money transmission licensee to revoke the designation of an authorized delegate is subject to Section 152.409, unless the order is issued as an emergency order. Authorizes the commissioner to issue an emergency order suspending a money services license or directing a money transmission licensee to revoke the designation of an authorized delegate in accordance with Section 152.410 if the commissioner finds that the factors identified in Section 152.410(b) exist.

**Sec. 152.404. SUSPENSION AND REVOCATION OF AUTHORIZED DELEGATE DESIGNATION.** (a) Authorizes the commissioner to suspend or revoke the designation of an authorized delegate by a money transmission licensee 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 the department, or any other state or federal law applicable to a money transmission 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 money transmission 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 transmission;

(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 Specially 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 transmission;

(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 152.409, 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 152.410 if the commissioner finds that the factors identified in Section 152.410(b) exist.

**Sec. 152.405. CEASE AND DESIST ORDERS FOR MONEY SERVICES LICENSEE OR AUTHORIZED DELEGATE.** (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 152.403 or 152.404 exists with respect to a money services licensee or authorized delegate; and

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

(b) Authorizes a cease and desist order to require a money services 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 152.409, unless the order is issued as an emergency order. Authorizes the commissioner to issue

an emergency cease and desist order in accordance with Section 152.410 if the commissioner finds that the factors identified in Section 152.410(b) exist.

Sec. 152.406. 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 the person has violated this chapter or a rule adopted or order issued under this chapter.

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

Sec. 152.407. ADMINISTRATIVE PENALTY. (a) Authorizes the commissioner, after notice and hearing, to assess an administrative penalty against a person who:

(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 the department sends written notice of the violation to the person;

(2) if the person is a money services licensee, has engaged in conduct described by Section 152.403;

(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 the department 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 152.451.

(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 money services licensee or an authorized delegate, from the proceeds of the licensee's security in accordance with Section 152.354(c).

Sec. 152.408. 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 the department 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 money services license is required under this chapter 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. 152.409. 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 the 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 a 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 non-appealable by that person from that date.

(d) Requires that a hearing on the order be held not 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 152.451(b).

Sec. 152.410. 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 money services licensee;

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

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

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

(2) immediate action is necessary to protect the interests of the money services 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 money services 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 money services 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 non-appealable 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 required to be held not 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 152.451(b).

#### SUBCHAPTER J. MISCELLANEOUS PROVISIONS

Sec. 152.451. 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.

#### ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Amends Section 140A.104(e), Civil Practice and Remedies Code, as follows:

(e) Prohibits certain entities, including the holder of a money transmission license as defined by Chapter 152, rather than by Chapter 151 (Regulation of Money Services Businesses), Finance Code, from being held liable in damages or for other relief under Chapter 140A (Civil Racketeering Related to Trafficking of Persons), unless certain criteria are met.

SECTION 2.02. Amends Article 59.01(2), Code of Criminal Procedure, to redefine "contraband."

SECTION 2.03. Amends Section 182.021, Finance Code, as follows:

Sec. 182.021. ACTIVITIES NOT REQUIRING CHARTER. Provides that a company, subject to Subchapter C (Out-of-State Trust Institution Representative Trust Office), Chapter 187, does not engage in the trust business in a manner requiring a state charter by taking certain actions, including engaging as a principal in the money services business under a license issued by the banking commissioner under Chapter 152, rather than Chapter 151.

SECTION 2.04. Amends Section 278.001(1), Finance Code, to redefine "currency."

SECTION 2.05. Amends Section 213.012(a), Labor Code, to redefine "payment instrument."

SECTION 2.06. Amends Section 151.0035(b), Tax Code, to redefine "data processing service."

#### ARTICLE 3. REPEALER

SECTION 3.01. Repealer: Chapter 151 (Regulation of Money Services Businesses), Finance Code.

#### ARTICLE 4. TRANSITIONAL PROVISIONS

SECTION 4.01. (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 152, Finance Code. Requires a licensee, not later than September 1, 2024, to satisfy the minimum requirements to maintain a license established by Chapter 152, Finance Code, as added by this Act.

(b) Requires that a contract between a licensee and an authorized delegate entered into or renewed on or after the effective date of this Act satisfy the contract requirements established by Chapter 152, Finance Code, as added by this Act.

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

#### ARTICLE 5. EFFECTIVE DATE

SECTION 5.01. Effective date: September 1, 2023.