

By: Johnson

S.B. No. 895

A BILL TO BE ENTITLED

AN ACT

relating to modernizing the regulation of money services businesses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle E, Title 3, Finance Code, is amended by adding Chapter 151 to read as follows:

CHAPTER 151. REGULATION OF MONEY SERVICES BUSINESSES

SUBCHAPTER A. GENERAL PROVISIONS

Section 151.2000 Short Title. This Act may be cited as the Texas Money Services Modernization Act.

Section 151.002 Definitions. For purposes of this Act, the following definitions shall apply:

(a) "Acting in concert" means persons knowingly acting together with a common goal of jointly acquiring control of a licensee whether or not pursuant to an express agreement.

(b) "Authorized delegate" means a person a licensee designates to engage in money transmission on behalf of the licensee.

(c) "Average daily money transmission liability" means the amount of the licensee's outstanding money transmission obligations in this state at the end of each day in a given period of time, added together, and divided by the total number of days in the given period of time. For purposes of calculating average daily money transmission liability under this Act for any licensee

1 required to do so, the given period of time shall be the quarters  
2 ending March 31, June 30, September 30, and December 31 and at any  
3 other date that may be requested during an examination.

4 (d) "Bank Secrecy Act" means the Bank Secrecy Act, 31 U.S.C.  
5 Section 5311, et seq. and its implementing regulations, as amended  
6 and recodified from time to time.

7 (e) "Closed loop stored value" means stored value that is  
8 redeemable by the issuer only for goods or services provided by the  
9 issuer or its affiliate or franchisees of the issuer or its  
10 affiliate, except to the extent required by applicable law to be  
11 redeemable in cash for its cash value;

12 (f) "Commission" means the Finance Commission of Texas.

13 (g) "Commissioner" means the Banking Commissioner of Texas  
14 or a person designated by the banking commissioner and acting under  
15 the banking commissioner's direction and authority.

16 (h) "Control" means

17 (1) (A) the power to vote, directly or indirectly, at least  
18 25 percent of the outstanding voting shares or voting interests of a  
19 licensee or person in control of a licensee;

20 (B) the power to elect or appoint a majority of  
21 key individuals or executive officers, managers, directors,  
22 trustees, or other persons exercising managerial authority of a  
23 person in control of a licensee; or

24 (C) the power to exercise, directly or  
25 indirectly, a controlling influence over the management or policies  
26 of a licensee or person in control of a licensee.

27 (2) Rebuttable Presumption of Control.

1           (A) A person is presumed to exercise a  
2 controlling influence when the person holds the power to vote,  
3 directly or indirectly, at least 10 percent of the outstanding  
4 voting shares or voting interests of a licensee or person in control  
5 of a licensee.

6           (B) A person presumed to exercise a controlling  
7 influence as defined by this section can rebut the presumption of  
8 control if the person is a passive investor.

9           (3) For purposes of determining the percentage of a  
10 person controlled by any other person, the person's interest shall  
11 be aggregated with the interest of any other immediate family  
12 member, including the person's spouse, parents, children,  
13 siblings, mothers- and fathers-in law, sons- and daughters-in-law,  
14 brothers- and sisters-in-law, and any other person who shares such  
15 person's home.

16           (i) "Currency" means the coin and paper money issued by the  
17 United States or another country that is designated as legal tender  
18 and circulates and is customarily used and accepted as a medium of  
19 exchange in the country of issuance.

20           (j) "Currency exchange" means:

21               (1) receiving the currency of one government and  
22 exchanging it for the currency of another government; or

23               (2) receiving a negotiable instrument and exchanging  
24 it for the currency of another government.

25           (k) "Department" means the Texas Department of Banking.

26           (l) "Eligible rating" shall mean a credit rating of any of  
27 the three highest rating categories provided by an eligible rating

1 service, whereby each category may include rating category  
2 modifiers such as "plus" or "minus" for S&P, or the equivalent for  
3 any other eligible rating service. Long-term credit ratings are  
4 deemed eligible if the rating is equal to A- or higher by S&P, or the  
5 equivalent from any other eligible rating service. Short-term  
6 credit ratings are deemed eligible if the rating is equal to or  
7 higher than A-2 or SP-2 by S&P, or the equivalent from any other  
8 eligible rating service. In the event that ratings differ among  
9 eligible rating services, the highest rating shall apply when  
10 determining whether a security bears an eligible rating.

11 (m) "Eligible rating service" shall mean any Nationally  
12 Recognized Statistical Rating Organization (NRSRO) as defined by  
13 the U.S. Securities and Exchange Commission, and any other  
14 organization designated by the Commissioner by rule or order.

15 (n) "Federally insured depository financial institution"  
16 means a bank, credit union, savings and loan association, trust  
17 company, savings association, savings bank, industrial bank, or  
18 industrial loan company organized under the laws of the United  
19 States or any state of the United States, when such bank, credit  
20 union, savings and loan association, trust company, savings  
21 association, savings bank, industrial bank, or industrial loan  
22 company has federally insured deposits.

23 (o) "In this state" means at a physical location within this  
24 state for a transaction requested in person. For a transaction  
25 requested electronically or by phone, the provider of money  
26 transmission may determine if the person requesting the transaction  
27 is "in this state" by relying on other information provided by the

1 person regarding the location of the individual's residential  
2 address or a business entity's principal place of business or other  
3 physical address location, and any records associated with the  
4 person that the provider of money transmission may have that  
5 indicate such location, including but not limited to an address  
6 associated with an account.

7 (p) "Individual" means a natural person.

8 (q) "Key individual" means any individual ultimately  
9 responsible for establishing or directing policies and procedures  
10 of the licensee, such as an executive officer, manager, director,  
11 or trustee.

12 (r) "Licensee" means a person licensed under this Act.

13 (s) "Material litigation" means litigation, that according  
14 to United States generally accepted accounting principles, is  
15 significant to a person's financial health and would be required to  
16 be disclosed in the person's annual audited financial statements,  
17 report to shareholders, or similar records.

18 (t) "Money" or "monetary value" means currency or a claim  
19 that can be converted into currency through a financial  
20 institution, electronic payments network, or other formal or  
21 informal payment system. The term "monetary value" includes:

22 (1) Stablecoin that is fully backed by sovereign  
23 currency and grants the holder the right to redeem the coin for  
24 sovereign currency from the issuer.

25 (u) "Money transmission" means any of the following:

26 (1) Selling or issuing payment instruments to a person  
27 located in this state.

1           (2) Selling or issuing stored value to a person  
2 located in this state.

3           (3) Receiving money for transmission from a person  
4 located in this state.

5 The term includes payroll processing services. The term does not  
6 include the provision solely of online or telecommunications  
7 services or network access.

8           (v) "MSB accredited state" means a state agency that is  
9 accredited by the Conference of State Bank Supervisors and Money  
10 Transmitter Regulators Association for money transmission  
11 licensing and supervision.

12           (w) "Multistate licensing process" means any agreement  
13 entered into by and among state regulators relating to coordinated  
14 processing of applications for money transmission licenses,  
15 applications for the acquisition of control of a licensee, control  
16 determinations, or notice and information requirements for a change  
17 of key individuals.

18           (x) "Negotiable instrument" has the meaning assigned by  
19 Section 3.104, Business & Commerce Code.

20           (y) "NMLS" means the Nationwide Multistate Licensing System  
21 and Registry developed by the Conference of State Bank Supervisors  
22 and the American Association of Residential Mortgage Regulators and  
23 owned and operated by the State Regulatory Registry, LLC, or any  
24 successor or affiliated entity, for the licensing and registration  
25 of persons in financial services industries.

26           (z) "Outstanding money transmission obligations" shall be  
27 established and extinguished in accordance with applicable state

1 law and shall mean:

2 (1) Any payment instrument or stored value issued or  
3 sold by the licensee to a person located in the United States or  
4 reported as sold by an authorized delegate of the licensee to a  
5 person that is located in the United States that has not yet been  
6 paid or refunded by or for the licensee, or escheated in accordance  
7 with applicable abandoned property laws; or

8 (2) Any money received for transmission by the  
9 licensee or an authorized delegate in the United States from a  
10 person located in the United States that has not been received by  
11 the payee or refunded to the sender, or escheated in accordance with  
12 applicable abandoned property laws.

13 (3) For purposes of this section, "in the United  
14 States" shall include, to the extent applicable, a person in any  
15 state, territory, or possession of the United States; the District  
16 of Columbia; the Commonwealth of Puerto Rico; or a U.S. military  
17 installation that is located in a foreign country.

18 (aa) "Passive investor" means a person that:

19 (1) Does not have the power to elect a majority of key  
20 individuals or executive officers, managers, directors, trustees,  
21 or other persons exercising managerial authority of a person in  
22 control of a licensee;

23 (2) Is not employed by and does not have any managerial  
24 duties of the licensee or person in control of a licensee;

25 (3) Does not have the power to exercise, directly or  
26 indirectly, a controlling influence over the management or policies  
27 of a licensee or person in control of a licensee; and

1 (4) Either:

2 (A) Attests to (1), (2), and (3), in a form and in  
3 a medium prescribed by the Commissioner; or

4 (B) Commits to the passivity characteristics of  
5 (1), (2), and (3), in a written document.

6 (bb) "Payment instrument" means a written or electronic  
7 check, draft, money order, traveler's check, or other written or  
8 electronic instrument for the transmission or payment of money or  
9 monetary value, whether or not negotiable. The term does not  
10 include stored value or any instrument that (1) is redeemable by the  
11 issuer only for goods or services provided by the issuer or its  
12 affiliate or franchisees of the issuer or its affiliate, except to  
13 the extent required by applicable law to be redeemable in cash for  
14 its cash value; or (2) not sold to the public but issued and  
15 distributed as part of a loyalty, rewards, or promotional program.

16 (cc) "Payroll processing services" means receiving money  
17 for transmission pursuant to a contract with a person to deliver  
18 wages or salaries, make payment of payroll taxes to state and  
19 federal agencies, make payments relating to employee benefit plan],  
20 or make distributions of other authorized deductions from wages or  
21 salaries. The term payroll processing services does not include an  
22 employer performing payroll processing services on its own behalf  
23 or on behalf of its affiliate, or a professional employment  
24 organization subject to regulation under other applicable state  
25 law.

26 (dd) "Person" means any individual, general partnership,  
27 limited partnership, limited liability company, corporation,



1 trust, association, joint stock corporation, or other corporate  
2 entity identified by the Commissioner.

3 (ee) "Receiving money for transmission" or "money received  
4 for transmission" means receiving money or monetary value in the  
5 United States for transmission within or outside the United States  
6 by electronic or other means.

7 (ff) "Stored value" means monetary value representing a  
8 claim against the issuer evidenced by an electronic or digital  
9 record, and that is intended and accepted for use as a means of  
10 redemption for money or monetary value, or payment for goods or  
11 services. The term includes, but is not limited to, "prepaid  
12 access" as defined by 31 C.F.R. Section 1010.100, as amended or  
13 recodified from time to time. Notwithstanding the foregoing, the  
14 term "stored value" does not include a payment instrument or closed  
15 loop stored value, or stored value not sold to the public but issued  
16 and distributed as part of a loyalty, rewards, or promotional  
17 program.

18 (gg) "Tangible net worth" shall mean the aggregate assets of  
19 a licensee excluding all intangible assets, less liabilities, as  
20 determined in accordance with United States generally accepted  
21 accounting principles.

22 (hh) "Unsafe or unsound act or practice" means a practice of  
23 or conduct by a licensee or an authorized delegate of the licensee  
24 that creates the likelihood of material loss, insolvency, or  
25 dissipation of the licensee's assets, or that otherwise materially  
26 prejudices the interests of the licensee or the licensee's  
27 customers.

1 Section 151.003 Exemptions. This Act does not apply to:

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

8 (b) A person appointed as an agent of a payee to collect and  
9 process a payment from a payor to the payee for goods or services,  
10 other than money transmission itself, provided to the payor by the  
11 payee, provided that:

12 (1) there exists a written agreement between the payee  
13 and the agent directing the agent to collect and process payments  
14 from payors on the payee's behalf;

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

17 (3) payment for the goods and services is treated as  
18 received by the payee upon receipt by the agent so that the payor's  
19 obligation is extinguished and there is no risk of loss to the payor  
20 if the agent fails to remit the funds to the payee.

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

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

27 (2) provides a receipt, electronic record, or other

1 written confirmation to the sender identifying the entity as the  
2 provider of money transmission in the transaction; and

3 (3) bears sole responsibility to satisfy the  
4 outstanding money transmission obligation to the sender, including  
5 the obligation to make the sender whole in connection with any  
6 failure to transmit the funds to the sender's designated recipient.

7 (d) The United States or a department, agency, or  
8 instrumentality thereof, or its agent.

9 (e) Money transmission by the United States Postal Service  
10 or by an agent of the United States Postal Service.

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

14 (g) A federally insured depository financial institution,  
15 bank holding company, office of an international banking  
16 corporation, foreign bank that establishes a federal branch  
17 pursuant to the International Bank Act, 12 U.S.C. Section 3102, as  
18 amended or recodified from time to time, corporation organized  
19 pursuant to the Bank Service Corporation Act, 12 U.S.C. Sections  
20 1861-1867, as amended or recodified from time to time, or  
21 corporation organized under the Edge Act, 12 U.S.C. Sections  
22 611-633, as amended or recodified from time to time, under the laws  
23 of a state or the United States.

24 (h) A trust company, as defined by Section 187.001(a), that  
25 is organized under the laws of this state.

26 (i) Electronic funds transfer of governmental benefits for  
27 a federal, state, county, or governmental agency by a contractor on

1 behalf of the United States or a department, agency, or  
2 instrumentality thereof, or on behalf of a state or governmental  
3 subdivision, agency, or instrumentality thereof.

4 (j) A board of trade designated as a contract market under  
5 the federal Commodity Exchange Act, 7 U.S.C. Sections 1-25, as  
6 amended or recodified from time to time, or a person that, in the  
7 ordinary course of business, provides clearance and settlement  
8 services for a board of trade to the extent of its operation as or  
9 for such a board.

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

13 (l) A person registered as a securities broker-dealer under  
14 federal or state securities laws to the extent of its operation as  
15 such a broker-dealer.

16 (m) An individual employed by a licensee, authorized  
17 delegate, or any person exempted from the licensing requirements of  
18 the Act when acting within the scope of employment and under the  
19 supervision of the licensee, authorized delegate, or exempted  
20 person as an employee and not as an independent contractor.

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

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

1           (2) the exempt entity assumes all risk of loss and all  
2 legal responsibility for satisfying the outstanding money  
3 transmission obligations owed to purchasers and holders of the  
4 outstanding money transmission obligations upon receipt of the  
5 purchaser's or holder's money or monetary value by the service  
6 provider or agent.

7           (o) A person exempt by regulation or order if the  
8 Commissioner finds such exemption to be in the public interest and  
9 that the regulation of such person is not necessary for the purposes  
10 of this Act.

11           Section 151.004 Authority to Require Demonstration of  
12 Exemption. The Commissioner may require that any person claiming to  
13 be exempt from licensing pursuant to Section 151.003 provide  
14 information and documentation to the Commissioner demonstrating  
15 that it qualifies for any claimed exemption.

16                           SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

17           Section 151.101 Administration.

18           (a) The department shall administer this chapter. The  
19 commission may adopt rules to administer and enforce this chapter,  
20 including rules necessary or appropriate to:

21                   (1) implement and clarify this chapter; and

22                   (2) recover the cost of maintaining and operating the  
23 department and the cost of administering and enforcing this chapter  
24 and other applicable law by imposing and collecting proportionate  
25 and equitable fees and costs for notices, applications,  
26 examinations, investigations, and other actions required to  
27 achieve the purposes of this chap

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

5           Section 151.102 Purpose. The purpose of this Act is to  
6 protect the interests of purchasers of money services and the  
7 public, preserve and protect the safety and soundness of money  
8 services businesses, and protect against drug trafficking,  
9 terrorist funding, and money laundering, structuring, or related  
10 financial crime.

11           Section 151.103 Implementation.

12           (a) In order to carry out the purposes of this Act, the  
13 Commissioner may, subject to the provisions of Section 151.105(a)  
14 and(b):

15                   (1) Enter into agreements or relationships with other  
16 government officials or federal and state regulatory agencies and  
17 regulatory associations in order to improve efficiencies and reduce  
18 regulatory burden by standardizing methods or procedures, and  
19 sharing resources, records or related information obtained under  
20 this Act;

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

24                   (3) Accept, from other state or federal government  
25 agencies or officials, licensing, examination, or investigation  
26 reports made by such other state or federal government agencies or  
27 officials; and

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

5           Section 151.104 Commissioner's General Authority.

6           (a) Each power granted to the commissioner under this  
7 chapter is in addition to, and not in limitation of, each other  
8 power granted under this chapter. The fact that the commissioner  
9 possesses, or has exercised, a power under a provision of this  
10 chapter does not preclude the commissioner from exercising a power  
11 under any other provision of this chapter.

12           (b) Each power granted to the commissioner under this  
13 chapter is in addition to, and not in limitation of, powers granted  
14 to the commissioner under other law. The fact that the commissioner  
15 possesses, or has exercised, a power under any other provision of  
16 law does not preclude the commissioner from exercising any power  
17 under this chapter. The fact that the commissioner possesses, or  
18 has exercised, a power under a provision of this chapter does not  
19 preclude the commissioner from exercising a power under any other  
20 law.

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

25           Section 151.105 Confidentiality.

26           (a) Except as otherwise provided in Subsection (b), all  
27 information or reports obtained by the Commissioner from an

1 applicant, licensee, or authorized delegate, and all information  
2 contained in or related to an examination, investigation, operating  
3 report, or condition report prepared by, on behalf of, or for the  
4 use of the Commissioner, or financial statements, balance sheets,  
5 or authorized delegate information, are confidential and are not  
6 subject to disclosure under the Public Information Act.

7 (b) The Commissioner may disclose information not otherwise  
8 subject to disclosure under Subsection (a) to representatives of  
9 state or federal agencies who promise in a record that they will  
10 maintain the confidentiality of the information or where the  
11 Commissioner finds that the release is reasonably necessary for the  
12 protection and interest of the public in accordance with the Public  
13 Information Act.

14 (c) This Section 151.105 does not prohibit the Commissioner  
15 from disclosing to the public a list of all licensees or the  
16 aggregated financial or transactional data concerning those  
17 licensees.

18 (d) Information contained in the records of the Department  
19 that is not confidential and may be made available to the public  
20 either on the Department's website, upon receipt by the Department  
21 of a written request, or in NMLS shall include:

22 (1) The name, business address, telephone number, and  
23 unique identifier of a licensee;

24 (2) The business address of a licensee's registered  
25 agent for service;

26 (3) The name, business address, and telephone number  
27 of all authorized delegates;



1           (4) The terms of or a copy of any bond filed by a  
2 licensee, provided that confidential information, including, but  
3 not limited to, prices and fees for such bond is redacted;

4           (5) Copies of any non-confidential final orders of the  
5 Department relating to any violation of this Act or regulations  
6 implementing this Act; and

7           (6) Imposition of an administrative fine or penalty  
8 under this Act.

9           Section [151.106](#) Supervision.

10          (a) The Commissioner may conduct an examination or  
11 investigation of a licensee or authorized delegate or otherwise  
12 take independent action authorized by this Act or by a rule adopted  
13 or order issued under this Act as reasonably necessary or  
14 appropriate to administer and enforce this Act, regulations  
15 implementing this Act, and other applicable law, including the Bank  
16 Secrecy Act and the USA PATRIOT ACT. The Commissioner may:

17           (1) conduct an examination either on-site or off-site  
18 as the Commissioner may reasonably require;

19           (2) conduct an examination in conjunction with an  
20 examination conducted by representatives of other state agencies or  
21 agencies of another state or of the federal government;

22           (3) accept the examination report of another state  
23 agency or an agency of another state or of the federal government,  
24 or a report prepared by an independent accounting firm, which on  
25 being accepted is considered for all purposes as an official report  
26 of the Commissioner; and

27           (4) summon and examine under oath a key individual or

1 employee of a licensee or authorized delegate and require the  
2 person to produce records regarding any matter related to the  
3 condition and business of the licensee or authorized delegate.

4 (b) A licensee or authorized delegate shall provide, and the  
5 Commissioner shall have full and complete access to, all records  
6 the Commissioner may reasonably require to conduct a complete  
7 examination. The records must be provided at the location and in the  
8 format specified by the Commissioner, provided, the Commissioner  
9 may utilize multistate record production standards and examination  
10 procedures when such standards will reasonably achieve the  
11 requirements of this section.

12 (c) Unless otherwise directed by the Commissioner, a  
13 licensee shall pay all costs reasonably incurred in connection with  
14 an examination of the licensee or the licensee's authorized  
15 delegates.

16 Section 151.107 Networked Supervision.

17 (a) To efficiently and effectively administer and enforce  
18 this Act and to minimize regulatory burden, the Commissioner may  
19 participate in multistate supervisory processes established  
20 between states and coordinated through the Conference of State Bank  
21 Supervisors, Money Transmitter Regulators Association, and  
22 affiliates and successors thereof for all licensees that hold  
23 licenses in this state and other states. As a participant in  
24 multistate supervision, the Commissioner will:

25 (1) cooperate, coordinate, and share information with  
26 other state and federal regulators in accordance with Section  
27 151.105 of this Act;

1           (2) enter into written cooperation, coordination, or  
2 information-sharing contracts or agreements with organizations the  
3 membership of which is made up of state or federal governmental  
4 agencies; and

5           (3) cooperate, coordinate, and share information with  
6 organizations the membership of which is made up of state or federal  
7 governmental agencies, provided that the organizations agree in  
8 writing to maintain the confidentiality and security of the shared  
9 information in accordance with Section 151.105 of this Act.

10          (b) The Commissioner may not waive, and nothing in this  
11 section constitutes a waiver of, the Commissioner's authority to  
12 conduct an examination or investigation or otherwise take  
13 independent action authorized by this Act or a rule adopted or order  
14 issued under this Act to enforce compliance with applicable state  
15 or federal law.

16          (c) A joint examination or investigation, or acceptance of  
17 an examination or investigation report, does not waive an  
18 examination assessment provided for in this Act.

19           Section 151.108 Relationship to Federal Law.

20          (a) In the event state money transmission jurisdiction is  
21 conditioned on a federal law, any inconsistencies between a  
22 provision of this Act and the federal law governing money  
23 transmission shall be governed by the applicable federal law to the  
24 extent of the inconsistency.

25          (b) In the event of any inconsistencies between this Act and  
26 a federal law that governs pursuant to Subsection (a), the  
27 Commissioner may provide interpretive guidance that:

- 1 (1) identifies the inconsistency; and
- 2 (2) identifies the appropriate means of compliance
- 3 with federal law.

4 Section 151.109 Consent To Service Of Process. A licensee, an  
5 authorized delegate, or a person who knowingly engages in  
6 activities that are regulated and require a license under this  
7 chapter, with or without filing an application for a license or  
8 holding a license under this chapter, is considered to have  
9 consented to the jurisdiction of the courts of this state for all  
10 actions arising under this chapter.

11 SUBCHAPTER C. MONEY SERVICES LICENSES

12 Section 151.201 Money Transmission License Required.

13 (a) A person may not engage in the business of money  
14 transmission or advertise, solicit, or hold itself out as engaging  
15 in the business of money transmission unless the person is licensed  
16 under this Act.

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

21 (c) Subsection (a) does not apply to:

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

25 (2) A person that is exempt pursuant to Section  
26 151.003 and does not engage in money transmission outside the scope  
27 of such exemption.

1           (3) A person that has been granted an exemption under  
2 Subsection (e).

3           (d) A license issued under Section 151.206 is not  
4 transferable or assignable.

5           (e) On application and a finding that the exemption is in  
6 the public interest, the commissioner may exempt a person that:

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

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

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

17           Section 151.202 Currency Exchange License Required.

18           (a) A person may not engage in the business of currency  
19 exchange or advertise, solicit, or hold itself out as providing  
20 currency exchange unless the person:

21           (1) is licensed under this subchapter;

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

24           (3) is excluded under Section 151.003; or

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

27           (b) For purposes of this chapter, a person engages in the

1 business of currency exchange if the person exchanges currency and  
2 receives compensation or expects to receive compensation, directly  
3 or indirectly, for the currency exchange.

4 (c) A licensee may engage in the currency exchange business  
5 at one or more locations in this state owned, directly or indirectly  
6 by the licensee, under a single license.

7 (d) A license issued under Section 151.206 is not  
8 transferable or assignable.

9 (e) On application and a finding that the exemption is in  
10 the public interest, the commissioner may exempt a retailer,  
11 wholesaler, or service provider that in the ordinary course of  
12 business accepts currency of a foreign country or government as  
13 payment for goods or services, provided that a person is not  
14 eligible for the exemption if:

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

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

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

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

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

27 (f) In accordance with the investigation provisions of this

1 chapter, the commissioner may examine a person to verify the  
2 person's exempt status under Subsection (e).

3 Section 151.203 Consistent State Licensing.

4 (a) The commissioner may require that a person submit  
5 through NMLS in the form and manner prescribed by the commissioner  
6 and acceptable to the registry any information or document or  
7 payment of a fee required to be submitted under this chapter or  
8 rules adopted under this chapter.

9 (b) The commissioner may use NMLS as a channeling agent for  
10 obtaining information required for licensing purposes under this  
11 chapter or rules adopted under this chapter, including:

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

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

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

20 Section 151.204 Application for a Money Services License.

21 (a) Applicants for a license shall apply in a form and in a  
22 medium as prescribed by the Commissioner. Each such form shall  
23 contain content as set forth by rule, regulation, instruction or  
24 procedure of the Commissioner and may be changed or updated by the  
25 Commissioner in accordance with applicable law in order to carry  
26 out the purposes of this Act and maintain consistency with NMLS  
27 licensing standards and practices. The application must state or

1 contain, as applicable:

2 (1) the legal name and residential and business  
3 addresses of the applicant and any fictitious or trade name used by  
4 the applicant in conducting its business;

5 (2) a list of any criminal convictions of the  
6 applicant and any material litigation in which the applicant has  
7 been involved in the 10-year period next preceding the submission  
8 of the application;

9 (3) a description of any money transmission or  
10 currency exchange previously provided by the applicant and the  
11 money transmission or currency exchange that the applicant seeks to  
12 provide in this state;

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

17 (5) a list of other states in which the applicant is  
18 licensed to engage in money transmission, currency exchange, or  
19 both and any license revocations, suspensions, or other  
20 disciplinary action taken against the applicant in another state;

21 (6) information concerning any bankruptcy or  
22 receivership proceedings affecting the licensee or a person in  
23 control of a licensee;

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

26 (8) a sample form of payment instrument or stored  
27 value, as applicable;



1           (9) the name and address of any federally insured  
2 depository financial institution through which the applicant plans  
3 to conduct licensable activity; and

4           (10) any other information the Commissioner  
5 reasonably requires with respect to the applicant.

6           (b) If an applicant is a corporation, limited liability  
7 company, partnership, or other legal entity, the applicant shall  
8 also provide:

9           (1) the date of the applicant's incorporation or  
10 formation and state or country of incorporation or formation;

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

14           (3) a brief description of the structure or  
15 organization of the applicant, including any parents or  
16 subsidiaries of the applicant, and whether any parents or  
17 subsidiaries are publicly traded;

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

23           (5) a list of any criminal convictions and material  
24 litigation in which a person in control of the applicant that is not  
25 an individual has been involved in the 10-year period preceding the  
26 submission of the application;

27           (6) if applying for a money transmission license, a

1 copy of audited financial statements of the applicant for the most  
2 recent fiscal year and for the two-year period next preceding the  
3 submission of the application or, if applying for a currency  
4 exchange license or if otherwise determined to be acceptable to the  
5 Commissioner, certified unaudited financial statements for the  
6 most recent fiscal year or other period acceptable to the  
7 Commissioner;

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

10 (8) if the applicant is a publicly traded corporation,  
11 a copy of the most recent report filed with the United States  
12 Securities and Exchange Commission under Section 13 of the federal  
13 Securities Exchange Act of 1934, 15 U.S.C. Section 78m, as amended  
14 or recodified from time to time;

15 (9) if the applicant is a wholly owned subsidiary of:

16 (A) a corporation publicly traded in the United  
17 States, a copy of audited financial statements for the parent  
18 corporation for the most recent fiscal year or a copy of the parent  
19 corporation's most recent report filed under Section 13 of the U.S.  
20 Securities Exchange Act of 1934, 15 U.S.C. Section 78m, as amended  
21 or recodified from time to time; or

22 (B) a corporation publicly traded outside the  
23 United States, a copy of similar documentation filed with the  
24 regulator of the parent corporation's domicile outside the United  
25 States;

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

1           (11) any other information the Commissioner  
2 reasonably requires with respect to the applicant.

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

5           (d) The Commissioner may waive one or more requirements of  
6 Sections 151.204(a) and (b) or permit an applicant to submit other  
7 information in lieu of the required information.

8           Section 151.205 Information Requirements for Certain  
9 Individuals.

10          (a) Any individual in control of a licensee or applicant,  
11 any individual that seeks to acquire control of a licensee, and each  
12 key individual shall furnish to the Commissioner the following  
13 items:

14           (1) The individual's fingerprints for submission to  
15 the Federal Bureau of Investigation and the Commissioner for  
16 purposes of a national criminal history background check unless the  
17 person currently resides outside of the United States and has  
18 resided outside of the United States for the last ten years.

19           (2) Personal history and experience in a form and in a  
20 medium prescribed by the Commissioner, to obtain the following:

21           (A) An independent credit report from a consumer  
22 reporting agency unless the individual does not have a Social  
23 Security number, in which case, this requirement shall be waived;

24           (B) Information related to any criminal  
25 convictions or pending charges; and

26           (C) Information related to any regulatory or  
27 administrative action and any civil litigation involving claims of

1 fraud, misrepresentation, conversion, mismanagement of funds,  
2 breach of fiduciary duty, or breach of contract.

3 (b) If the individual has resided outside of the United  
4 States at any time in the last ten years, the individual shall also  
5 provide an investigative background report prepared by an  
6 independent search firm that meets the following requirements:

7 (1) At a minimum, the search firm shall:

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

11 (B) Not be affiliated with or have an interest  
12 with the individual it is researching.

13 (2) At a minimum, the investigative background report  
14 shall be written in the English language and shall contain the  
15 following:

16 (A) If available in the individual's current  
17 jurisdiction of residency, a comprehensive credit report, or any  
18 equivalent information obtained or generated by the independent  
19 search firm to accomplish such report, including a search of the  
20 court data in the countries, provinces, states, cities, towns, and  
21 contiguous areas where the individual resided and worked;

22 (B) Criminal records information for the past ten  
23 years, including, but not limited to, felonies, misdemeanors, or  
24 similar convictions for violations of law in the countries,  
25 provinces, states, cities, towns, and contiguous areas where the  
26 individual resided and worked;

27 (C) Employment history;

1 (D) Media history, including an electronic  
2 search of national and local publications, wire services, and  
3 business applications; and

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

7 Section 151.206 Issuance of License.

8 (a) When an application for an original license under this  
9 Act appears to include all the items and addresses all of the  
10 matters that are required, the application is complete and the  
11 Commissioner shall promptly notify the applicant in a record of the  
12 date on which the application is determined to be complete, and:

13 (1) The Commissioner shall approve or deny the  
14 application within 120 days after the completion date; or

15 (2) if the application is not approved or denied  
16 within 120 days after the completion date:

17 (A) the application is approved; and

18 (B) the license takes effect as of the first  
19 business day after expiration of the 120-day period.

20 (C) The Commissioner may for good cause extend  
21 the application period.

22 (b) A determination by the Commissioner that an application  
23 is complete and is accepted for processing means only that the  
24 application, on its face, appears to include all of the items,  
25 including the Criminal Background Check response from the FBI, and  
26 address all of the matters that are required, and is not an  
27 assessment of the substance of the application or of the

1 sufficiency of the information provided.

2 (c) When an application is filed and considered complete  
3 under this section, the Commissioner shall investigate the  
4 applicant's financial condition and responsibility, financial and  
5 business experience, character, and general fitness. The  
6 Commissioner may conduct an on-site investigation of the applicant,  
7 the reasonable cost of which the applicant must pay. The  
8 Commissioner shall issue a license to an applicant under this  
9 section if the Commissioner finds that all of the following  
10 conditions have been fulfilled:

11 (1) The applicant has complied with Sections [151.204](#)  
12 and [151.205](#); and

13 (2) the financial condition and responsibility,  
14 financial and business experience, competence, character, and  
15 general fitness of the applicant; and the competence, experience,  
16 character, and general fitness of the key individuals and persons  
17 in control of the applicant indicate that it is in the interest of  
18 the public to permit the applicant to engage in money transmission,  
19 currency exchange, or both.

20 (d) If an applicant avails itself or is otherwise subject to  
21 a multistate licensing process:

22 (1) the Commissioner may accept the investigation  
23 results of a lead investigative state for the purpose of Section  
24 [151.206](#)(c) if the lead investigative state has sufficient staffing,  
25 expertise, and minimum standards; or

26 (2) if Texas is a lead investigative state, the  
27 Commissioner may investigate the applicant pursuant to Section

1 151.206(c) and the timeframes established by agreement through the  
2 multistate licensing process, provided however, that in no case  
3 shall such timeframe be noncompliant with the application period in  
4 Section 151.206(a)(1).

5 (e) If the commissioner finds that the applicant for any  
6 reason fails to possess the qualifications or satisfy the  
7 requirements for the license for which application is made, the  
8 commissioner shall inform the applicant in writing that the  
9 application is denied and state the reasons for the denial. The  
10 applicant may appeal the denial by filing a written request for a  
11 hearing with the commissioner not later than the 30th day after the  
12 date the notice is mailed. A hearing on the denial must be held not  
13 later than the 45th day after the date the commissioner receives the  
14 written request unless the administrative law judge extends the  
15 period for good cause or the parties agree to a later hearing date.  
16 The hearing is considered a contested case hearing and is subject to  
17 Section 151.801.

18 (f) The initial license term shall begin on the day the  
19 application is approved.

20 Section 151.207 Maintenance of License.

21 (a) If a licensee does not continue to meet the  
22 qualifications or satisfy the requirements that apply to an  
23 applicant for a new money transmission license, the Commissioner  
24 may suspend or revoke the licensee's license in accordance with the  
25 procedures established by this Act or other applicable state law  
26 for such suspension or revocation.

27 (b) An applicant for a money transmission license must

1 demonstrate that it meets or will meet, and a money transmission  
2 licensee must at all times meet, the requirements in Sections  
3 151.701, 151.702, 151.704, and 151.705 of this Act.

4 (c) In addition to complying with Subsection (a), a license  
5 holder must annually:

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

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

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

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

18 (C) documentation and certification, or any  
19 other information the commissioner reasonably requires to  
20 determine the security, net worth, permissible investments, and  
21 other requirements the license holder must satisfy and whether the  
22 license holder continues to meet the qualifications and  
23 requirements for licensure.

24 (d) If the department does not receive a license holder's  
25 annual license fee and complete annual report on or before the due  
26 date prescribed by the commissioner under this section, the  
27 commissioner shall notify the license holder in writing that:



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

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

9           (e) If the license holder fails to submit the completed  
10 annual report and pay the annual license fee and any late fee due  
11 within the time prescribed by Subsection (d)(1), the license  
12 expires, and the license holder must cease and desist from engaging  
13 in the business of money transmission or currency exchange, as  
14 applicable, as of that date. The expiration of a license is not  
15 subject to appeal.

16           (f) On timely receipt of a license holder's complete annual  
17 report, annual license fee, and any late fee due, the department  
18 shall review the report and, if necessary, investigate the  
19 business and records of the license holder. On completion of the  
20 review and investigation, if any, the commissioner may:

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

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

25           (g) On written application and for good cause shown, the  
26 commissioner may extend the due date for filing the annual license  
27 fee and annual report required under this section.

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

8           Section 151.208 Surrender of License.

9           (a) A licensee may surrender the licensee's license by  
10 delivering the original license to the commissioner along with a  
11 written notice of surrender that includes the location at which the  
12 licensee's records will be stored and the name, address, telephone  
13 number, and other contact information for an individual who is  
14 authorized to provide access to the records.

15           (b) A licensee shall surrender the licensee's license if the  
16 licensee becomes ineligible for a license issued under this  
17 chapter.

18           (c) The surrender of a license does not reduce or eliminate  
19 a licensee's civil or criminal liability arising from any acts or  
20 omissions before the surrender of the license, including any  
21 administrative action undertaken by the commissioner to revoke or  
22 suspend a license, to assess an administrative penalty, to order  
23 the payment of restitution, or to exercise any other authority  
24 under this chapter. Further, the surrender of a license does not  
25 release the security required of the licensee under Section 151.702  
26 or 151.703.

27           Section 151.209 Refunds.

1 (a) A fee or cost paid under this chapter is not refundable.

2 SUBCHAPTER E. ACQUISITION OF CONTROL AND CHANGE OF KEY INDIVIDUAL

3 Section 151.301 Acquisition of Control.

4 (a) Any person, or group of persons acting in concert,  
5 seeking to acquire control of a licensee shall obtain the written  
6 approval of the Commissioner prior to acquiring control. An  
7 individual is not deemed to acquire control of a licensee and is not  
8 subject to these acquisition of control provisions when that  
9 individual becomes a key individual in the ordinary course of  
10 business.

11 (b) A person, or group of persons acting in concert, seeking  
12 to acquire control of a licensee shall, in cooperation with the  
13 licensee:

14 (1) Submit an application in a form and in a medium  
15 prescribed by the Commissioner; and

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

18 (c) Upon request, the Commissioner may permit a licensee or  
19 the person, or group of persons acting in concert, to submit some or  
20 all information required by the Commissioner pursuant to Subsection  
21 (b)(1) without using NMLS.

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

26 (e) When an application for acquisition of control under  
27 this section appears to include all the items and address all of the

1 matters that are required, the application shall be considered  
2 complete and the Commissioner shall promptly notify the applicant  
3 in a record of the date on which the application was determined to  
4 be complete and:

5 (1) The Commissioner shall approve or deny the  
6 application within 60 days after the completion date; or

7 (2) if the application is not approved or denied  
8 within 60 days after the completion date:

9 (A) the application is approved; and

10 (B) the person, or group of persons acting in  
11 concert, are not prohibited from acquiring control.

12 (3) The Commissioner may for good cause extend the  
13 application period.

14 (f) A determination by the Commissioner that an application  
15 is complete and is accepted for processing means only that the  
16 application, on its face, appears to include all of the items and  
17 address all of the matters that are required, and is not an  
18 assessment of the substance of the application or of the  
19 sufficiency of the information provided.

20 (g) When an application is filed and considered complete  
21 under Subsection (e), the Commissioner shall investigate the  
22 financial condition and responsibility, financial and business  
23 experience, character, and general fitness of the person, or group  
24 of persons acting in concert, seeking to acquire control. The  
25 Commissioner shall approve an acquisition of control pursuant to  
26 this section if the Commissioner finds that all of the following  
27 conditions have been fulfilled:

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

3           (2) the financial condition and responsibility,  
4 financial and business experience, competence, character, and  
5 general fitness of the person, or group of persons acting in  
6 concert, seeking to acquire control; and the competence,  
7 experience, character, and general fitness of the key individuals  
8 and persons that would be in control of the licensee after the  
9 acquisition of control indicate that it is in the interest of the  
10 public to permit the person, or group of persons acting in concert,  
11 to control the licensee.

12           (h) If an applicant avails itself or is otherwise subject to  
13 a multistate licensing process:

14           (1) the Commissioner may accept the investigation  
15 results of a lead investigative state for the purpose of Subsection  
16 (g) if the lead investigative state has sufficient staffing,  
17 expertise, and minimum standards; or

18           (2) if Texas is a lead investigative state, the  
19 Commissioner may investigate the applicant pursuant to Subsection  
20 (g) and the timeframes established by agreement through the  
21 multistate licensing process.

22           (i) If the commissioner determines that the proposed person  
23 in control fails to meet the qualifications, standards, and  
24 requirements of this chapter, the commissioner shall inform the  
25 license holder and the proposed person in control in writing that  
26 the application is denied and state the reasons for the denial. The  
27 license holder or the proposed person in control may appeal the

1 denial by filing a written request for a hearing with the  
2 commissioner not later than the 30th day after the date the notice  
3 is mailed. A hearing on the denial must be held not later than the  
4 45th day after the date the commissioner receives the written  
5 request unless the administrative law judge extends the period for  
6 good cause or the parties agree to a later hearing date. The  
7 hearing is considered a contested case hearing and is subject to  
8 Section 151.801.

9 (j) The requirements of Subsections (a) and (b) do not apply  
10 to any of the following:

11 (1) A person that acts as a proxy for the sole purpose  
12 of voting at a designated meeting of the shareholders or holders of  
13 voting shares or voting interests of a licensee or a person in  
14 control of a licensee;

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

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

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

22 (5) A person that the Commissioner determines is not  
23 subject to Subsection (a) based on the public interest;

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

26 (7) An internal reorganization of a person in control  
27 of the licensee where the ultimate person in control of the licensee

1 remains the same.

2 (k) Persons in Subsections (j)(2), (3), (4), (6), (7) in  
3 cooperation with the licensee shall notify the Commissioner within  
4 15 days after the acquisition of control.

5 (l) Streamlined Acquisition of Control

6 (1) The requirements of Subsections (a) and (b) do not  
7 apply to a person that has complied with and received approval to  
8 engage in money transmission under this Act or was identified as a  
9 person in control in a prior application filed with and approved by  
10 the Commissioner or by an MSB accredited state pursuant to a  
11 multistate licensing process, provided that:

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

16 (B) if the person is a licensee, the person is  
17 well managed and has received at least a satisfactory rating for  
18 compliance at its most recent examination by an MSB accredited  
19 state if such rating was given;

20 (C) the licensee to be acquired is projected to  
21 meet the requirements of Sections 151.701, 151.702, and 151.705 of  
22 this Act after the acquisition of control is completed, and if the  
23 person acquiring control is a licensee, that licensee is also  
24 projected to meet the requirements of Sections 151.701, 151.702,  
25 and 151.705 of this Act after the acquisition of control is  
26 completed;

27 (D) the licensee to be acquired will not

1 implement any material changes to its business plan as a result of  
2 the acquisition of control, and if the person acquiring control is a  
3 licensee, that licensee also will not implement any material  
4 changes to its business plan as a result of the acquisition of  
5 control; and

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

10 (2) If the notice is not disapproved within 30 days  
11 after the date on which the notice was determined to be complete,  
12 the notice is deemed approved.

13 (m) Before filing an application for approval to acquire  
14 control of a licensee a person may request in writing a  
15 determination from the Commissioner as to whether the person would  
16 be considered a person in control of a licensee upon consummation of  
17 a proposed transaction. If the Commissioner determines that the  
18 person would not be a person in control of a licensee, the proposed  
19 Person and transaction is not subject to the requirements of  
20 Subsections (a) and (b).

21 (n) If a multistate licensing process includes a  
22 determination pursuant to Subsection (m) and an applicant avails  
23 itself or is otherwise subject to the multistate licensing process:

24 (1) The Commissioner may accept the control  
25 determination of a lead investigative state with sufficient  
26 staffing, expertise, and minimum standards for the purpose of  
27 Subsection (m); or



1           (2) If state is a lead investigative state, the  
2 Commissioner may investigate the applicant pursuant to Subsection  
3 (m) and the timeframes established by agreement through the  
4 multistate licensing process,

5           Section [151.302](#) Notice and Information Requirements for a  
6 Change of Key Individuals.

7           (a) A licensee adding or replacing any key individual shall:

8                 (1) Provide notice in a manner prescribed by the  
9 Commissioner within 15 days after the effective date of the key  
10 individual's appointment; and

11                 (2) Provide information as required by Section [151.205](#)  
12 within 45 days of the effective date.

13           (b) Within 90 days of the date on which the notice provided  
14 pursuant to Subsection (a) was determined to be complete, the  
15 Commissioner may issue a notice of disapproval of a key individual  
16 if the competence, experience, character, or integrity of the  
17 individual would not be in the best interests of the public or the  
18 customers of the licensee to permit the individual to be a key  
19 individual of such licensee.

20           (c) A notice of disapproval shall contain a statement of the  
21 basis for disapproval and shall be sent to the licensee and the  
22 disapproved individual. A licensee may appeal a notice of  
23 disapproval by filing a written request for a hearing with the  
24 commissioner not later than the 30th day after the date the notice  
25 is mailed. A hearing on the denial must be held not later than the  
26 45th day after the date the commissioner receives the written  
27 request unless the administrative law judge extends the period for

1 good cause or the parties agree to a later hearing date. The  
2 hearing is considered a contested case hearing and is subject to  
3 Section 151.901.

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

7 (e) If a multistate licensing process includes a key  
8 individual notice review and disapproval process pursuant to this  
9 section and the licensee avails itself or is otherwise subject to  
10 the multistate licensing process:

11 (1) the Commissioner may accept the determination of  
12 another state if the investigating state has sufficient staffing,  
13 expertise, and minimum standards for the purpose of this section;  
14 or

15 (2) if Texas is a lead investigative state, the  
16 Commissioner may investigate the applicant pursuant to Subsection  
17 (b) and the timeframes established by agreement through the  
18 multistate licensing process.

19 SUBCHAPTER F. REPORTING AND RECORDS

20 Section 151.401 Report of Condition.

21 (a) Each money transmission licensee shall submit a report  
22 of condition within 45 days of the end of the calendar quarter, or  
23 within any extended time as the Commissioner may prescribe.

24 (b) The report of condition shall include:

25 (1) Financial information at the licensee level;

26 (2) Nationwide and state-specific money transmission  
27 transaction information in every jurisdiction in the United States

1 where the licensee is licensed to engage in money transmission;

2 (3) Permissible investments report;

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

5 (5) Any other information the Commissioner reasonably  
6 requires with respect to the licensee. The Commissioner may utilize  
7 NMLS for the submission of the report required by this section and  
8 is authorized to change or update as necessary the requirements of  
9 this section to carry out the purposes of this Act and maintain  
10 consistency with NMLS reporting.

11 (c) The information required by Subsection (b)(4) shall  
12 only be included in a report of condition submitted within 45 days  
13 of the end of the fourth calendar quarter.

14 Section 151.402 Currency Exchange Report

15 (a) Each currency exchange licensee shall submit a  
16 quarterly interim financial statement and transaction report that  
17 reflects the licensee's financial condition and currency exchange  
18 business as of the last day of the calendar quarter to which the  
19 statement and report relate and that are prepared not later than the  
20 45th day after the last day of the calendar quarter; and

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

24 (c) A licensee shall file the statements and reports  
25 required under this section with the commissioner as required by  
26 this chapter, by commission rule, or as requested by the  
27 commissioner.

1           (d) On written application and for good cause shown,  
2 the commissioner may extend the time for preparing or filing a  
3 statement or report required under this section.

4           Section 151.403 Financial Statements.

5           (a) Each licensee shall, within 90 days after the end  
6 of each fiscal year, or within any extended time as the Commissioner  
7 may prescribe, file with the Commissioner:

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

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

16                   (3) Any other information as the Commissioner may  
17 reasonably require.

18           (b) The audited unconsolidated financial statements  
19 shall be prepared by an independent certified public accountant or  
20 independent public accountant who is satisfactory to the  
21 Commissioner;

22           (c) The audited financial statements shall include or  
23 be accompanied by a certificate of opinion of the independent  
24 certified public accountant or independent public accountant that  
25 is satisfactory in form and content to the Commissioner. If the  
26 certificate or opinion is qualified, the Commissioner may order the  
27 licensee to take any action as the Commissioner may find necessary

1 to enable the independent or certified public accountant or  
2 independent public accountant to remove the qualification.

3 Section 151.404 Authorized Delegate Reporting.

4 (a) Each licensee shall submit a report of authorized  
5 delegates within 45 days of the end of the calendar quarter. The  
6 Commissioner may utilize NMLS for the submission of the report  
7 required by this section provided that such functionality is  
8 consistent with the requirements of this section.

9 (b) The authorized delegate report shall include, at a  
10 minimum, each authorized delegate's:

- 11 (1) Company legal name;
- 12 (2) Taxpayer employer identification number;
- 13 (3) Principal provider identifier;
- 14 (4) Physical address;
- 15 (5) Mailing address;
- 16 (6) Any business conducted in other states;
- 17 (7) Any fictitious or trade name;
- 18 (8) Contact person name, phone number, and email
- 19 (9) Start date as licensee's authorized  
20 delegate;
- 21 (10) End date acting as licensee's authorized  
22 delegate, if applicable; and
- 23 (11) Any other information the Commissioner  
24 reasonably requires with respect to the authorized delegate.

25 Section 151.405 Reports of Certain Events.

26 (a) A licensee shall file a report with the  
27 Commissioner within one business day after the licensee has reason

1 to know of the occurrence of any of the following events:

2 (1) the filing of a petition by or against the  
3 licensee under the United States Bankruptcy Code, 11 U.S.C. Section  
4 101-110, as amended or recodified from time to time, for bankruptcy  
5 or reorganization;

6 (2) the filing of a petition by or against the  
7 licensee for receivership, the commencement of any other judicial  
8 or administrative proceeding for its dissolution or  
9 reorganization, or the making of a general assignment for the  
10 benefit of its creditors; or

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

14 (b) A licensee shall file a report with the  
15 Commissioner within three business day after the licensee has  
16 reason to know of the occurrence of any of the following events:

17 (1) a charge or conviction of the licensee or of a  
18 key individual or person in control of the licensee for a felony; or

19 (2) a charge or conviction of an authorized  
20 delegate for a felony.

21 Section 151.406 Bank Secrecy Act Reports.

22 A licensee and an authorized delegate shall file all reports  
23 required by federal currency reporting, record keeping, and  
24 suspicious activity reporting requirements as set forth in the Bank  
25 Secrecy Act and other federal and state laws pertaining to money  
26 laundering. The timely filing of a complete and accurate report  
27 required under this section with the appropriate federal agency is

1 deemed compliant with the requirements of this section.

2 Section 151.407 Records.

3 (a) Licensee shall maintain the following records, for  
4 determining its compliance with this Act for at least five years:

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

7 (2) a record of each currency exchange  
8 transaction;

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

12 (4) bank statements and bank reconciliation  
13 records;

14 (5) records of outstanding money services  
15 obligations;

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

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

20 (8) any other records the Commissioner  
21 reasonably requires by rule.

22 (b) The items specified in Subsection (a)(1) may be  
23 maintained in any form of record.

24 (c) Records specified in Subsection (a) may be  
25 maintained outside this state if they are made accessible to the  
26 Commissioner on seven business-days' notice that is sent in a  
27 record.

1           (d) All records maintained by the licensee as required  
2 in Subsections (a)-(c) are open to inspection by the Commissioner  
3 pursuant to Section 151.106(a).

4                           SUBCHAPTER G. AUTHORIZED DELEGATES

5           Section 151.501 Liability of Licensee

6           A money transmission licensee is liable for the payment of  
7 all money or monetary value received for transmission directly or  
8 by an authorized delegate appointed in accordance with  
9 Section 151.502.

10           Section 151.502 Relationship Between Licensee and  
11 Authorized Delegate.

12           (a) In this section, "remit" means to make direct  
13 payments of money to a licensee or its representative authorized to  
14 receive money or to deposit money in a bank in an account specified  
15 by the licensee.

16           (b) Before a licensee is authorized to conduct  
17 business through an authorized delegate or allows a person to act as  
18 the licensee's authorized delegate, the licensee must:

19                           (1) adopt, and update as necessary, written  
20 policies and procedures reasonably designed to ensure that the  
21 licensee's authorized delegates comply with applicable state and  
22 federal law;

23                           (2) enter into a written contract that complies  
24 with Subsection (d); and

25                           (3) conduct a reasonable risk-based background  
26 investigation sufficient for the licensee to determine whether the  
27 authorized delegate has complied and will likely comply with



1 applicable state and federal law.

2 (c) An authorized delegate must operate in full  
3 compliance with this Act.

4 (d) The written contract required by Subsection (b)  
5 must be signed by the licensee and the authorized delegate and, at a  
6 minimum, must:

7 (1) appoint the person signing the contract as  
8 the licensee's authorized delegate with the authority to conduct  
9 money transmission on behalf of the licensee;

10 (2) set forth the nature and scope of the  
11 relationship between the licensee and the authorized delegate and  
12 the respective rights and responsibilities of the parties;

13 (3) require the authorized delegate to agree to  
14 fully comply with all applicable state and federal laws, rules, and  
15 regulations pertaining to money transmission, including this Act  
16 and regulations implementing this Act, relevant provisions of the  
17 Bank Secrecy Act and the USA PATRIOT ACT;

18 (4) require the authorized delegate to remit and  
19 handle money and monetary value in accordance with the terms of the  
20 contract between the licensee and the authorized delegate;

21 (5) impose a trust on money and monetary value  
22 net of fees received for money transmission for the benefit of the  
23 licensee;

24 (6) require the authorized delegate to prepare  
25 and maintain records as required by this Act or regulations  
26 implementing this Act, or as reasonably requested by the  
27 Commissioner;

1           (7) acknowledge that the authorized delegate  
2 consents to examination or investigation by the Commissioner;

3           (8) state that the licensee is subject to  
4 regulation by the Commissioner and that, as part of that  
5 regulation, the Commissioner may suspend or revoke an authorized  
6 delegate designation or require the licensee to terminate an  
7 authorized delegate designation; and

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

10           (e) If the licensee's license is suspended, revoked,  
11 surrendered, or expired, the licensee must, within five (5)  
12 business days, provide documentation to the Commissioner that the  
13 licensee has notified all applicable authorized delegates of the  
14 licensee whose names are in a record filed with the Commissioner of  
15 the suspension, revocation, surrender, or expiration of a license.  
16 Upon suspension, revocation, surrender, or expiration of a license,  
17 applicable authorized delegates shall immediately cease to provide  
18 money transmission as an authorized delegate of the licensee.

19           (f) An authorized delegate of a licensee holds in  
20 trust for the benefit of the licensee all money net of fees received  
21 from money transmission. If any authorized delegate commingles any  
22 funds received from money transmission with any other funds or  
23 property owned or controlled by the authorized delegate, all  
24 commingled funds and other property shall be considered held in  
25 trust in favor of the licensee in an amount equal to the amount of  
26 money net of fees received from money transmission.

27           (g) An authorized delegate may not use a subdelegate

1 to conduct money transmission on behalf of a licensee.

2 Section 151.503 Disclosure Requirements

3 (a) A licensee's name and mailing address or telephone  
4 number must be provided to the purchaser in connection with each  
5 money transmission transaction conducted by the licensee directly  
6 or through an authorized delegate.

7 (b) A licensee receiving currency or an instrument  
8 payable in currency for transmission must comply with Chapter 278.

9 Section 151.504 Unauthorized Activities

10 A person shall not engage in the business of money  
11 transmission on behalf of a person not licensed under this Act or  
12 not exempt pursuant to Section 151.003 of this Act. A person that  
13 engages in such activity provides money transmission to the same  
14 extent as if the person were a licensee, and shall be jointly and  
15 severally liable with the unlicensed or nonexempt person. Any  
16 business for which a license is required under this chapter that is  
17 conducted by an authorized delegate outside the scope of authority  
18 conferred in the contract between the authorized delegate and the  
19 licensee is unlicensed activity.

20 SUBCHAPTER H. TIMELY TRANSMISSION, REFUNDS, AND DISCLOSURES

21 Section 151.601 Timely Transmission.

22 (a) Every licensee shall forward all money received  
23 for transmission in accordance with the terms of the agreement  
24 between the licensee and the sender unless the licensee has a  
25 reasonable belief or a reasonable basis to believe that the sender  
26 may be a victim of fraud or that a crime or violation of law, rule,  
27 or regulation has occurred, is occurring, or may occur.

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

6           Section 151.602 Refunds.

7           (a) This section does not apply to:

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

11                   (2) money received for transmission pursuant to a  
12 written agreement between the licensee and payee to process  
13 payments for goods or services provided by the payee.

14           (b) Every licensee shall refund to the sender within  
15 10 days of receipt of the sender's written request for a refund of  
16 any and all money received for transmission unless any of the  
17 following occurs:

18                   (1) The money has been forwarded within 10 days  
19 of the date on which the money was received for transmission;

20                   (2) Instructions have been given committing an  
21 equivalent amount of money to the person designated by the sender  
22 within 10 days of the date on which the money was received for  
23 transmission;

24                   (3) The agreement between the licensee and the  
25 sender instructs the licensee to forward the money at a time that is  
26 beyond 10 days of the date on which the money was received for  
27 transmission. If funds have not yet been forwarded in accordance

1 with the terms of the agreement between the licensee and the sender,  
2 the licensee shall issue a refund in accordance with the other  
3 provisions of this section; or

4 (4) The refund is requested for a transaction  
5 that the licensee has not completed based on a reasonable belief or  
6 a reasonable basis to believe that a crime or violation of law,  
7 rule, or regulation has occurred, is occurring, or may occur.

8 (5) The refund request does not enable the  
9 licensee to:

10 (A) Identify the sender's name and address  
11 or telephone number; or,

12 (B) Identify the particular transaction to  
13 be refunded in the event the sender has multiple transactions  
14 outstanding.

15 Section 151.603 Receipts.

16 (a) This section does not apply to:

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

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

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

25 (4) payroll processing services.

26 (b) For purposes of this section "receipt" means a  
27 paper receipt, electronic record or other written confirmation. For

1 a transaction conducted in person, the receipt may be provided  
2 electronically if the sender requests or agrees to receive an  
3 electronic receipt. For a transaction conducted electronically or  
4 by phone, a receipt may be provided electronically. All electronic  
5 receipts shall be provided in a retainable form.

6 (c) Every licensee or its authorized delegate shall  
7 provide the sender a receipt for money received for transmission.

8 (1) The receipt shall contain the following  
9 information, as applicable:

- 10 (A) The name of the sender;  
11 (B) The name of the designated recipient;  
12 (C) The date of the transaction;  
13 (D) The unique transaction or  
14 identification number;  
15 (E) The name of the licensee, NMLS Unique  
16 ID, the licensee's business address, and the licensee's customer  
17 service telephone number;  
18 (F) The amount of the transaction in United  
19 States dollars;  
20 (G) Any fee charged by the licensee to the  
21 sender for the transaction; and  
22 (H) Any taxes collected by the licensee  
23 from the sender for the transaction.

24 (2) The receipt required by this section shall be  
25 in English and in the language principally used by the licensee or  
26 authorized delegate to advertise, solicit, or negotiate, either  
27 orally or in writing, for a transaction conducted in person,

1 electronically or by phone, if other than English.

2 Section 151.604 Disclosures for Payroll Processing  
3 Services.

4 (a) A licensee that provides payroll processing  
5 services shall:

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

9 (2) Make available worker paystubs or an  
10 equivalent statement to workers.

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

16 SUBCHAPTER I. PRUDENTIAL STANDARDS.

17 Section 151.701 Net Worth.

18 (a) A money transmission licensee under this Act shall  
19 maintain at all times a tangible net worth of the greater of  
20 \$100,000 or 3 percent of total assets for the first \$100 million, 2  
21 percent of additional assets for \$100 million to \$1 billion, and 0.5  
22 percent of additional assets for over \$1 billion.

23 (b) Tangible net worth must be demonstrated at initial  
24 application by the applicant's most recent audited or unaudited  
25 financial statements pursuant to Section 151.204(b)(6).

26 (c) Notwithstanding the foregoing provisions of this  
27 section, the Commissioner shall have the authority, for good cause

1 shown, to exempt, in-part or in whole, from the requirements of this  
2 section any applicant or licensee.

3 Section 151.702 Security for Money Transmission.

4 (a) An applicant for a money transmission license must  
5 provide, and a licensee at all times must maintain, security  
6 consisting of a surety bond in a form satisfactory to the  
7 Commissioner or, with the Commissioner's approval, a deposit  
8 instead of a bond in accordance with this section.

9 (b) The amount of the required security shall be:

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

15 (2) in the event that the licensee's tangible net  
16 worth exceeds 10% of total assets, the licensee shall maintain a  
17 surety bond of \$100,000.

18 (c) A licensee that maintains a bond in the maximum  
19 amount provided for in Subsections (b)(1) or (2), as applicable  
20 shall not be required to calculate its average daily money  
21 transmission liability in this state for purposes of this section.

22 (d) A licensee may exceed the maximum required bond  
23 amount pursuant to Section 151.705(a)(5).

24 Section 151.703 Security for Currency Exchange.

25 (a) An applicant for a currency exchange license must  
26 provide and a currency exchange licensee must maintain at all times  
27 security in the amount applicable to the applicant or licensee



1 under this section.

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

7 (c) Except as provided by Subsection (d), if  
8 Subsection (b) does not apply to:

9 (1) the applicant, the applicant must provide  
10 security in the amount that is the greater of:

11 (A) \$2,500; or

12 (B) an amount equal to one percent of the  
13 applicant's projected total dollar volume of currency exchange  
14 business in this state for the first year of licensure; or

15 (2) the licensee, the licensee must maintain  
16 security in the amount that is the greater of:

17 (A) \$2,500; or

18 (B) an amount equal to one percent of the  
19 licensee's total dollar volume of currency exchange business in  
20 this state for the preceding year.

21 (d) The maximum amount of security that may be  
22 required under Subsection (c) is \$1 million.

23 Section 151.704 Additional Requirements for Security.

24 (a) Subsections (b)-(i) of this section define  
25 additional requirements applicable to the security provided  
26 pursuant to Sections 151.702 and 151.703.

27 (b) The security must:

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

3           (2) be payable to any claimant or to the  
4 commissioner, on behalf of a claimant or this state, for any  
5 liability arising out of the license holder's money transmission  
6 business in this state, incurred under, subject to, or by virtue of  
7 this chapter; and

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

13           (c) A claimant may bring suit directly on the  
14 security, or the commissioner may bring suit on behalf of the  
15 claimant or the state, either in one action or in successive  
16 actions.

17           (d) The commissioner may collect from the security or  
18 proceeds of the security any delinquent fee, assessment, cost,  
19 penalty, or other amount imposed on and owed by a license holder.  
20 If the security is a surety bond, the commissioner shall give the  
21 surety reasonable prior notice of a hearing to impose an  
22 administrative penalty against the license holder, provided that a  
23 surety may not be considered an interested, aggrieved, or affected  
24 person for purposes of an administrative proceeding under Section  
25 151.901 or Chapter 2001, Government Code.

26           (e) The security remains in effect until canceled,  
27 which may occur only after providing 30 days' written notice to the

1 commissioner. Cancellation does not affect any liability incurred  
2 or accrued during the period covered by the security.

3 (f) The security shall cover claims for at least five  
4 years after the license holder surrenders its license or otherwise  
5 ceases to engage in activities for which a license is required under  
6 this subchapter. However, the commissioner may permit the amount  
7 of the security to be reduced or eliminated before that time to the  
8 extent that the amount of the license holder's obligations to the  
9 department and to purchasers in this state is reduced. The  
10 commissioner may permit a license holder to substitute another form  
11 of security when the license holder ceases to provide money  
12 transmission in this state.

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

18 (h) Instead of providing all or part of the amount of  
19 the security required by this section, an applicant or license  
20 holder may deposit, with a financial institution possessing trust  
21 powers that is authorized to conduct a trust business in this state  
22 and is acceptable to the commissioner, an aggregate amount of  
23 United States currency, certificates of deposit, or other cash  
24 equivalents that equals the total amount of the required security  
25 or the remaining part of the security. The deposit:

26 (1) must be held in trust in the name of and be  
27 pledged to the commissioner;

1                   (2) must secure the same obligations as the  
2 security; and

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

5           (i) The security is considered by operation of law to be  
6 held in trust for the benefit of this state and any individual to  
7 whom an obligation arising under this chapter is owed, and may not  
8 be considered an asset or property of the license holder in the  
9 event of bankruptcy, receivership, or a claim against the license  
10 holder unrelated to the license holder's obligations under this  
11 chapter.

12           Section 151.705 Maintenance of Permissible Investments.

13           (a) A money transmission licensee shall maintain at  
14 all times permissible investments that have a market value computed  
15 in accordance with United States generally accepted accounting  
16 principles of not less than the aggregate amount of all of its  
17 outstanding money transmission obligations.

18           (b) Except for permissible investments enumerated in  
19 Section 151.706(a), the Commissioner, with respect to any licensee,  
20 may limit the extent to which a specific investment maintained by a  
21 licensee within a class of permissible investments may be  
22 considered a permissible investment, if the specific investment  
23 represents undue risk to customers, not reflected in the market  
24 value of investments.

25           (c) Permissible investments are held in trust for the  
26 benefit of the purchasers and holders of the licensee's outstanding  
27 money transmission obligations in the event of insolvency, the

1 filing of a petition by or against the licensee under the United  
2 States Bankruptcy Code, 11 U.S.C. Section 101-110, as amended or  
3 recodified from time to time, for bankruptcy or reorganization, the  
4 filing of a petition by or against the licensee for receivership,  
5 the commencement of any other judicial or administrative proceeding  
6 for its dissolution or reorganization, or in the event of an action  
7 by a creditor against the licensee who is not a beneficiary of this  
8 statutory trust. No permissible investments impressed with a trust  
9 pursuant to this section shall be subject to attachment, levy of  
10 execution, or sequestration by order of any court, except for a  
11 beneficiary of this statutory trust.

12 (d) Upon the establishment of a statutory trust in  
13 accordance with Subsection (c) or when any funds are drawn on a  
14 letter of credit pursuant to Section 151.705(a)(4), the  
15 Commissioner shall notify the applicable regulator of each state in  
16 which the licensee is licensed to engage in money transmission, if  
17 any, of the establishment of the trust or the funds drawn on the  
18 letter of credit, as applicable. Notice shall be deemed satisfied  
19 if performed pursuant to a multistate agreement or through NMLS.  
20 Funds drawn on a letter of credit, and any other permissible  
21 investments held in trust for the benefit of the purchasers and  
22 holders of the licensee's outstanding money transmission  
23 obligations, are deemed held in trust for the benefit of such  
24 purchasers and holders on a pro rata and equitable basis in  
25 accordance with statutes pursuant to which permissible investments  
26 are required to be held in this state, and other states, as  
27 applicable. Any statutory trust established hereunder shall be

1 terminated upon extinguishment of all of the licensee's outstanding  
2 money transmission obligations.

3 (e) The Commissioner may allow other types of  
4 investments that the Commissioner determines are of sufficient  
5 liquidity and quality to be a permissible investment. The  
6 Commissioner is authorized to participate in efforts with other  
7 state regulators to determine that other types of investments are  
8 of sufficient liquidity and quality to be a permissible investment.

9 Section 151.706 Types of Permissible Investments.

10 (a) The following investments are permissible under Section  
11 151.705:

12 (1) cash (including demand deposits, savings  
13 deposits, and funds in such accounts held for the benefit of the  
14 licensee's customers in a federally insured depository financial  
15 institution) and cash equivalents including ACH items in transit to  
16 the licensee and ACH items or international wires in transit to a  
17 payee, cash in transit via armored car, cash in smart safes, cash in  
18 licensee-owned locations, debit card or credit card-funded  
19 transmission receivables owed by any bank, or money market mutual  
20 funds rated "AAA" by S&P, or the equivalent from any eligible rating  
21 service;

22 (2) certificates of deposit or senior debt obligations  
23 of an insured depository institution, as defined in Section 3 of the  
24 Federal Deposit Insurance Act, 12 U.S.C. Section 1813, as amended  
25 or recodified from time to time, or as defined under the federal  
26 Credit Union Act, 12 U.S.C. Section 1781, as amended or recodified  
27 from time to time;

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

6           (4) the full drawable amount of an irrevocable standby  
7 letter of credit for which the stated beneficiary is the  
8 Commissioner that stipulates that the beneficiary need only draw a  
9 sight draft under the letter of credit and present it to obtain  
10 funds up to the letter of credit amount upon presentation of the  
11 items required by Subsection (a)(4)(C).

12                   (A) The letter of credit must:

13                           (i) Be issued by a federally insured  
14 depository financial institution, a foreign bank that is authorized  
15 under federal law to maintain a federal agency or federal branch  
16 office in a state or states, or a foreign bank that is authorized  
17 under state law to maintain a branch in a state that (1) bears an  
18 eligible rating or whose parent company bears an eligible rating;  
19 (2) is regulated, supervised, and examined by United States federal  
20 or state authorities having regulatory authority over banks, credit  
21 unions, and trust companies; and (3) is approved by the  
22 Commissioner.

23                           (ii) Be irrevocable, unconditional and  
24 indicate that it is not subject to any condition or qualifications  
25 outside of the letter of credit;

26                           (iii) Not contain reference to any other  
27 agreements, documents or entities, or otherwise provide for any

1 security interest in the licensee; and

2 (iv) Contain an issue date and expiration  
3 date, and expressly provide for automatic extension, without a  
4 written amendment, for an additional period of one year from the  
5 present or each future expiration date, unless the issuer of the  
6 letter of credit notifies the Commissioner in writing by certified  
7 or registered mail or courier mail or other receipted means, at  
8 least sixty (60) days prior to any expiration date, that the  
9 irrevocable letter of credit will not be extended.

10 (B) In the event of any notice of expiration or  
11 non-extension of a letter of credit issued under Subsection  
12 (a)(4)(A)(iv), the licensee shall be required to demonstrate to the  
13 satisfaction of the Commissioner, 15 days prior to expiration, that  
14 the licensee maintains and will maintain permissible investments in  
15 accordance with Section 151.705(a) upon the expiration of the  
16 letter of credit. If the licensee is not able to do so, the  
17 Commissioner may draw on the letter of credit in an amount up to the  
18 amount necessary to meet the licensee's requirements to maintain  
19 permissible investments in accordance with Section 151.705(a). Any  
20 such draw shall be offset against the licensee's outstanding money  
21 transmission obligations. The drawn funds shall be held in trust by  
22 the Commissioner or the Commissioner's designated agent, to the  
23 extent authorized by law, as agent for the benefit of the purchasers  
24 and holders of the licensee's outstanding money transmission  
25 obligations.

26 (C) The letter of credit shall provide that the  
27 issuer of the letter of credit will honor, at sight, a presentation



1 made by the beneficiary to the issuer of the following documents on  
2 or prior to the expiration date of the letter of credit:

3 (i) The original letter of credit  
4 (including any amendments); and

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

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

11 2. the filing of a petition by or  
12 against the licensee for receivership, or the commencement of any  
13 other judicial or administrative proceeding for its dissolution or  
14 reorganization;

15 3. the seizure of assets of a licensee  
16 by a Commissioner pursuant to an emergency order issued in  
17 accordance with applicable law, on the basis of an action,  
18 violation, or condition that has caused or is likely to cause the  
19 insolvency of the licensee; or

20 4. The beneficiary has received  
21 notice of expiration or non-extension of a letter of credit and the  
22 licensee failed to demonstrate to the satisfaction of the  
23 beneficiary that the licensee will maintain permissible  
24 investments in accordance with Section 151.705(a) upon the  
25 expiration or non-extension of the letter of credit.

26 (D) The Commissioner may designate an agent to  
27 serve on the Commissioner's behalf as beneficiary to a letter of

1 credit so long as the agent and letter of credit meet requirements  
2 established by the Commissioner. The Commissioner's agent may  
3 serve as agent for multiple licensing authorities for a single  
4 irrevocable letter of credit if the proceeds of the drawable amount  
5 for the purposes of Subsection (a)(4) are assigned to the  
6 Commissioner.

7 (E) The Commissioner may participate in  
8 multistate processes designed to facilitate the issuance and  
9 administration of letters of credit, including but not limited to  
10 services provided by the NMLS and State Regulatory Registry, LLC.

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

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

17 (b) Unless permitted by the Commissioner to exceed the limit  
18 as set forth herein, the following investments are permissible  
19 under Section 151.705 to the extent specified:

20 (1) receivables that are payable to a licensee from  
21 its authorized delegates in the ordinary course of business that  
22 are less than seven days old, up to 50% of the aggregate value of the  
23 licensee's total permissible investments;

24 (2) of the receivables permissible under Subsection  
25 (b)(1), receivables that are payable to a licensee from a single  
26 authorized delegate in the ordinary course of business may not  
27 exceed 10% of the aggregate value of the licensee's total

1 permissible investments.

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

5 (A) A short-term (up to six months) investment  
6 bearing an eligible rating;

7 (B) Commercial paper bearing an eligible rating;

8 (C) A bill, note, bond, or debenture bearing an  
9 eligible rating;

10 (D) U.S. tri-party repurchase agreements  
11 collateralized at 100% or more with U.S. government or agency  
12 securities, municipal bonds, or other securities bearing an  
13 eligible rating;

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

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

20 (4) cash (including demand deposits, savings  
21 deposits, and funds in such accounts held for the benefit of the  
22 licensee's customers) at foreign depository institutions are  
23 permissible up to 10% of the aggregate value of the licensee's total  
24 permissible investments if the licensee has received a satisfactory  
25 rating in its most recent examination and the foreign depository  
26 institution:

27 (A) has an eligible rating;

1 (B) is registered under the Foreign Account Tax  
2 Compliance Act;

3 (C) is not located in any country subject to  
4 sanctions from the Office of Foreign Asset Control; and

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

8 SUBCHAPTER J. Enforcement

9 Section 151.801 Injunctive Relief.

10 (a) Whenever it appears that a person has violated, or that  
11 reasonable cause exists to believe that a person is likely to  
12 violate, this chapter or a rule adopted under this chapter, the  
13 following persons may bring an action for injunctive relief to  
14 enjoin the violation or enforce compliance with the provision:

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

20 (b) In addition to the authority granted to the commissioner  
21 under Subsection (a), the commissioner, through the attorney  
22 general, may bring an action for injunctive relief if the  
23 commissioner has reason to believe that a person has violated or is  
24 likely to violate an order of the commissioner issued under this  
25 chapter.

26 (c) An action for injunctive relief brought by the  
27 commissioner, the attorney general, or the district attorney of

1 Travis County under Subsection (a), or brought by the commissioner  
2 under Subsection (b), must be brought in a district court in Travis  
3 County. An action brought by a prosecuting attorney under  
4 Subsection (a)(4) must be brought in a district court in the county  
5 in which all or part of the violation is alleged to have occurred.

6 (d) On a proper showing, the court may issue a restraining  
7 order, an order freezing assets, a preliminary or permanent  
8 injunction, or a writ of mandate, or may appoint a receiver for the  
9 defendant or the defendant's assets.

10 (e) A receiver appointed by the court under Subsection (d)  
11 may, with approval of the court, exercise all of the powers of the  
12 defendant's directors, officers, partners, trustees, or persons  
13 who exercise similar powers and perform similar duties.

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

20 Section 151.802 Cease and Desist Orders for Unlicensed  
21 Persons.

22 (a) If the commissioner has reason to believe that an  
23 unlicensed person has engaged or is likely to engage in an activity  
24 for which a license is required under this chapter, the  
25 commissioner may order the person to cease and desist from the  
26 violation until the person is issued a license under this chapter.  
27 The commissioner's order is subject to Section [151.709](#), unless the

1 order is issued as an emergency order. The commissioner may issue  
2 an emergency cease and desist order in accordance with Section  
3 151.710 if the commissioner finds that the person's violation or  
4 likely violation threatens immediate and irreparable harm to the  
5 public.

6 (b) A cease and desist order under this section may require  
7 the unlicensed person to take affirmative action to correct any  
8 condition resulting from or contributing to the activity or  
9 violation, including the payment of restitution to each resident of  
10 this state damaged by the violation.

11 Section 151.803 Suspension and Revocation of License.

12 (a) The commissioner must revoke a license if the  
13 commissioner finds that:

14 (1) the net worth of the licensee is less than the  
15 amount required under this chapter; or

16 (2) the licensee does not provide the security  
17 required under this chapter.

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

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

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

1 chapter;

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

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

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

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

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

25 (8) the licensee has failed to terminate the authority  
26 of an authorized delegate after the commissioner has issued and  
27 served on the licensee a final order finding that the authorized

1 delegate has violated this chapter;

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

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

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

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

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

19 (c) In determining whether a licensee has engaged in an  
20 unsafe or unsound act or practice or has conducted business in an  
21 unsafe or unsound manner, the commissioner may consider factors  
22 that include:

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

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

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



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

3           (5) the previous conduct of the licensee.

4           (d) The commissioner's order suspending or revoking a  
5 license or directing a licensee to revoke the designation of an  
6 authorized delegate is subject to Section 151.709, unless the order  
7 is issued as an emergency order. The commissioner may issue an  
8 emergency order suspending a license or directing a licensee to  
9 revoke the designation of an authorized delegate in accordance with  
10 Section 151.810 if the commissioner finds that the factors  
11 identified in Section 151.810(b) exist.

12           Section 151.804 Suspension and Revocation of Authorized  
13 Delegate Designation.

14           (a) The commissioner may suspend or revoke the designation  
15 of an authorized delegate if the commissioner has reason to believe  
16 that:

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

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

25           (3) the authorized delegate has engaged in fraud,  
26 knowing misrepresentation, deceit, gross negligence, or an unfair  
27 or deceptive act or practice in connection with the operation of the

1 delegate's business on behalf of the licensee or any transaction  
2 subject to this chapter;

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

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

11 (6) the authorized delegate, or a principal or  
12 responsible person of the authorized delegate, is listed on the  
13 specifically designated nationals and blocked persons list  
14 prepared by the United States Department of the Treasury as a  
15 potential threat to commit terrorist acts or to fund terrorist  
16 acts; or

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

21 (b) In determining whether an authorized delegate has  
22 engaged in an unsafe or unsound act or practice or conducted  
23 business in an unsafe or unsound manner, the commissioner may  
24 consider factors that include:

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

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

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

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

5           (5) the previous conduct of the authorized delegate.

6           (c) The commissioner's order suspending or revoking the  
7 designation of an authorized delegate is subject to Section  
8 151.709, unless the order is issued as an emergency order. The  
9 commissioner may issue an emergency order suspending the  
10 designation of an authorized delegate in accordance with Section  
11 151.710 if the commissioner finds that the factors identified in  
12 Section 151.710(b) exist.

13           Section 151.805 Cease and Desist Orders for Licensees or  
14 Authorized Delegates.

15           (a) The commissioner may issue an order to cease and desist  
16 if the commissioner finds that:

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

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

23           (b) A cease and desist order may require a licensee or  
24 authorized delegate to cease and desist from the action or  
25 violation or to take affirmative action to correct any condition  
26 resulting from or contributing to the action or violation, and the  
27 requirements of the order may apply to a principal or responsible

1 person of the licensee or authorized delegate.

2 (c) The cease and desist order is subject to Section  
3 151.809, unless the order is issued as an emergency order. The  
4 commissioner may issue an emergency cease and desist order in  
5 accordance with Section 151.810 if the commissioner finds that the  
6 factors identified in Section 151.810(b) exist.

7 Section 151.806 Consent Orders.

8 (a) The commissioner may enter into a consent order at any  
9 time with a person to resolve a matter arising under this chapter or  
10 a rule adopted or order issued under this chapter.

11 (b) A consent order must be signed by the person to whom the  
12 order is issued or by the person's authorized representative and  
13 must indicate agreement with the terms contained in the order.  
14 However, a consent order may provide that the order does not  
15 constitute an admission by a person that this chapter or a rule  
16 adopted or order issued under this chapter has been violated.

17 (c) A consent order is a final order and may not be appealed.

18 Section 151.807 Administrative Penalty.

19 (a) After notice and hearing, the commissioner may assess an  
20 administrative penalty against a person that:

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

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

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

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

4           (b) A violation corrected after a person receives written  
5 notice from the department of the violation may be considered for  
6 purposes of determining whether a person has engaged in a pattern of  
7 violations under Subsection (a)(3) or demonstrated wilful  
8 disregard under Subsection (a)(4).

9           (c) The amount of the penalty may not exceed \$5,000 for each  
10 violation or, in the case of a continuing violation, \$5,000 for each  
11 day that the violation continues. Each transaction in violation of  
12 this chapter and each day that a violation continues is a separate  
13 violation.

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

22           (e) A hearing to assess an administrative penalty is  
23 considered a contested case hearing and is subject to Section  
24 [151.801](#).

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

1 (g) The commissioner may collect an administrative penalty  
2 assessed under this section:

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

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

8 Section 151.808 Criminal Penalty.

9 (a) A person commits an offense if the person:

10 (1) intentionally makes a false statement,  
11 misrepresentation, or certification in a record or application  
12 filed with the department or required to be maintained under this  
13 chapter or a rule adopted or order issued under this chapter, or  
14 intentionally makes a false entry or omits a material entry in the  
15 record or application; or

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

19 (b) An offense under this section is a felony of the third  
20 degree.

21 (c) An offense under this section may be prosecuted in  
22 Travis County or in the county in which the offense is alleged to  
23 have been committed.

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

27 Section 151.809 Notice, Hearing, and Other Procedures for

1 Nonemergency Orders.

2 (a) This section applies to an order issued by the  
3 commissioner under this subchapter that is not an emergency order.

4 (b) An order to which this section applies becomes effective  
5 only after notice and an opportunity for hearing. The order must:

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

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

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

15 (4) state the effective date of the order, which may  
16 not be before the 21st day after the date the order is delivered or  
17 mailed; and

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

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

26 (d) A hearing on the order must be held not later than the  
27 45th day after the date the commissioner receives the written

1 request for the hearing unless the administrative law judge extends  
2 the period for good cause or the parties agree to a later hearing  
3 date.

4 (e) An order that has been affirmed or modified after a  
5 hearing becomes effective and is final for purposes of enforcement  
6 and appeal immediately on issuance. The order may be appealed to  
7 the district court of Travis County as provided by Section  
8 151.901(b).

9 Section 151.810 Requirements and Notice and Hearing  
10 Procedures for Emergency Orders.

11 (a) This section applies to an emergency order issued by the  
12 commissioner under this subchapter.

13 (b) The commissioner may issue an emergency order, without  
14 prior notice and an opportunity for hearing, if the commissioner  
15 finds that:

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

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

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

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

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

27 (2) immediate action is necessary to protect the



1 interests of the licensee, a purchaser of the licensee's money  
2 services, or the public.

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

7 (d) An emergency order must:

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

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

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

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

23 (e) An emergency order takes effect as soon as the person  
24 against whom the order is directed has actual or constructive  
25 knowledge of the issuance of the order.

26 (f) A licensee or authorized delegate against whom an  
27 emergency order is directed must submit a written certification to

1 the commissioner, signed by the licensee or authorized delegate,  
2 and their principals and responsible individuals, as applicable,  
3 and each person named in the order, stating that each person has  
4 received a copy of and has read and understands the order.

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

10 (h) A request for a hearing does not stay an emergency  
11 order.

12 (i) A hearing on an emergency order takes precedence over  
13 any other matter pending before the commissioner, and must be held  
14 not later than the 10th day after the date the commissioner receives  
15 the written request for hearing unless the administrative law judge  
16 extends the period for good cause or the parties agree to a later  
17 hearing date.

18 (j) An emergency order that has been affirmed or modified  
19 after a hearing is final for purposes of enforcement and appeal.  
20 The order may be appealed to the district court of Travis County as  
21 provided in Section 151.901(b).

22 SUBCHAPTER K. MISCELLANEOUS PROVISIONS

23 Section 151.901 Administrative Procedures.

24 (a) All administrative proceedings under this chapter must  
25 be conducted in accordance with Chapter 2001, Government Code, and  
26 Title 7, Chapter 9, Texas Administrative Code.

27 (b) A person affected by a final order of the commissioner

1 issued under this chapter after a hearing may appeal the order by  
2 filing a petition for judicial review in a district court of Travis  
3 County. A petition for judicial review filed in the district court  
4 under this subsection does not stay or vacate the appealed order  
5 unless the court, after notice and hearing, specifically stays or  
6 vacates the order.

7 Section 151.902 Uniformity of Application and  
8 Construction.

9 In applying and construing this Act, consideration must be  
10 given to the need to promote uniformity of the law with respect to  
11 its subject matter among states that enact it.

12 Section 151.903 Severability Clause.

13 If any provision of this Act or its application to any person  
14 or circumstance is held invalid, the invalidity does not affect  
15 other provisions or applications of this Act which can be given  
16 effect without the invalid provision or application, and to this  
17 end the provisions of this Act are severable.

18 SECTION 2. (a) A license issued under Chapter 151, Finance  
19 Code, that is in effect on September 1, 2023, remains in force as a  
20 license under Chapter 151, Finance Code. By September 1, 2024, a  
21 licensee must satisfy the minimum requirements to maintain a  
22 license established in Chapter 151, Finance Code, as added by this  
23 Act.

24 (b) A contract between a licensee and an authorized delegate  
25 that is in effect on September 1, 2023, remains in effect until the  
26 earlier of the date the contract is renewed or December 31, 2024. A  
27 new or renewal contract entered into between a licensee and an

1 authorized delegate after the effective date of this Act must  
2 satisfy the contract requirements established in Chapter 151,  
3 Finance Code, as added by this Act.

4 (e) The Finance Commission of Texas may adopt rules to  
5 further provide for the orderly transition to licensing and  
6 regulation under this Act.

7 SECTION 3. Chapter 151, Finance Code, is repealed.

8 SECTION 4. Section 278.001(1), Finance Code, is amended to  
9 read as follows:

10 (1) "Currency" means the coin and paper money issued  
11 by the United States or another country that is designated as legal  
12 tender and circulates and is customarily used and accepted as a  
13 medium of exchange in the country of issuance.

14 SECTION 5. This Act takes effect September 1, 2023