

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

ARTICLE I. Title & Purpose

Section 1-1. Short title. This Act may be cited as the Uniform Money Transmission Modernization Act.

Section 1-2. Purpose.

(a) This Act is designed to replace existing State money transmission laws currently codified under the Transmitters of Money Act. It is the intent of the General Assembly that the provisions of this Act accomplish the following:

(1) ensure states can coordinate in all areas of regulation, licensing, and supervision to eliminate unnecessary regulatory burden and more effectively use regulator resources;

(2) protect the public from financial crime;

(3) standardize the types of activities that are subject to licensing or otherwise exempt from licensing; and

(4) modernize safety and soundness requirements to ensure customer funds are protected in an environment that supports innovative and competitive business practices.

(b) The provisions of this Act shall be liberally construed to effectuate its purposes.

ARTICLE II. Definitions

Section 2-1. Definitions. As used in this Act:

"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.

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

"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 required to do so, the given period of time shall be the quarters ending March 31, June 30, September 30, and December 31.

"Bank Secrecy Act" means the Bank Secrecy Act, 31 U.S.C. 5311, et seq. and its implementing rules and regulations, as amended and recodified from time to time.

"Bill payment service" means the business of transmitting money on behalf of an Illinois person for the purposes of paying the person's bills.

"Closed loop stored value" means stored value that is redeemable by the issuer only for goods or services provided by the issuer or its affiliate or franchisees of the issuer or its affiliate, except to the extent required by applicable law to be redeemable in cash for its cash value.

"Control" means:

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

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

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

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

"Department" means the Department of Financial and Professional Regulation.

"Division" means the Division of Financial Institutions of the Department of Financial and Professional Regulation.

"Eligible rating" means a credit rating of any of the 3 highest rating categories provided by an eligible rating service, whereby each category may include rating category modifiers such as "plus" or "minus" for S&P, or the equivalent for any other eligible rating service. For purposes of this definition, long-term credit ratings are deemed eligible if the rating is equal to "A-" or higher by S&P, or the equivalent from any other eligible rating service; short-term credit ratings are deemed eligible if the rating is equal to or higher than "A-2" or "SP-2" by S&P, or the equivalent from any other eligible rating service; if ratings differ among eligible rating services, the highest rating shall apply when determining whether a security bears an eligible rating.

"Eligible rating service" means any nationally recognized statistical rating organization as defined by the U.S. Securities and Exchange Commission, and any other organization designated by the Secretary by rule or order.

"Federally insured depository financial institution" means a bank, credit union, savings and loan association, trust company, savings association, savings bank, industrial bank, or industrial loan company organized under the laws of the United States or any state of the United States, if the bank, credit union, savings and loan association, trust company, savings association, savings bank, industrial bank, or

industrial loan company has federally insured deposits.

"In this State" means at a physical location within this State for a transaction requested in person. For a transaction requested electronically or by phone, the provider of money transmission may determine if the person requesting the transaction is in this State by relying on other information provided by the person regarding the location of the individual's residential address or a business entity's principal place of business or other physical address location, and any records associated with the person that the provider of money transmission may have that indicate such location, including, but not limited to, an address associated with an account. Solely for purposes of payroll processing services, "in this State" for a transaction requested electronically or by phone, means the mailing address the person requesting the payroll processing services uses with the Internal Revenue Service is in Illinois.

"Individual" means a natural person.

"Key individual" means any individual ultimately responsible for establishing or directing policies and procedures of the licensee, such as an executive officer, manager, director, or trustee.

"Licensee" means a person licensed under this Act.

"Material litigation" means litigation, that according to United States generally accepted accounting principles, is significant to a person's financial health and would be

required to be disclosed in the person's annual audited financial statements, report to shareholders, or similar records.

"Money" means a medium of exchange that is authorized or adopted by the United States or a foreign government as part of its currency and that is customarily used and accepted as a medium of exchange in the country of issuance. "Money" includes a monetary unit of account established by an intergovernmental organization or by agreement between 2 or more governments.

"Monetary value" means a medium of exchange, whether or not redeemable in money unless excluded by rule by the Secretary.

"Money transmission" means any of the following:

(1) Selling or issuing payment instruments to a person located in this State.

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

(3) Receiving money for transmission from a person located in this State or transmitting money in this State.

"Money transmission" includes bill payment services and payroll processing services. "Money transmission" does not include the provision solely of online or telecommunications services or network access.

"MSB accredited state agency" means a state agency that is accredited by the Conference of State Bank Supervisors and

Money Transmitter Regulators Association for money transmission licensing and supervision.

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

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

"Outstanding money transmission obligations" means any of the following:

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

from a person located in the United States that has not been received by the payee, refunded to the sender, or escheated in accordance with applicable abandoned property laws.

For purposes of this definition, "in the United States" includes, to the extent applicable, a person in any state, territory, or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico; or a U.S. military installation that is located in a foreign country.

"Passive investor" means a person that:

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

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

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

(4) either:

(A) attests to items (1), (2), and (3), in a form and in a medium prescribed by the Secretary; or

(B) commits to the passivity characteristics of items (1), (2), and (3), in a written document.

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

"Payroll processing services" means receiving money for transmission pursuant to a contract with a person to deliver wages or salaries, make payment of payroll taxes to State and federal agencies, make payments relating to employee benefit plans, or make distributions of other authorized deductions from wages or salaries. "Payroll processing services" does not include an employer performing payroll processing services on its own behalf or on behalf of its affiliate.

"Person" means any individual, general partnership, limited partnership, limited liability company, corporation, trust, association, joint stock corporation, or other corporate entity identified by the Secretary.

"Receiving money for transmission" or "money received for transmission" means receiving money or monetary value in the United States for transmission within or outside the United

States by electronic or other means.

"Secretary" means the Secretary of Financial and Professional Regulation, the acting Secretary, or a person authorized by the Secretary.

"Stored value" means monetary value representing a claim against the issuer evidenced by an electronic or digital record, and that is intended and accepted for use as a means of redemption for money or monetary value, or payment for goods or services. "Stored value" includes, but is not limited to, "prepaid access" as defined by 31 CFR Section 1010.100, as amended or recodified from time to time. Notwithstanding the foregoing, "stored value" does not include a payment instrument or closed loop stored value, or stored value not sold to the public but issued and distributed as part of a loyalty, rewards, or promotional program.

"Tangible net worth" means the aggregate assets of a licensee excluding all intangible assets, less liabilities, as determined in accordance with United States generally accepted accounting principles.

ARTICLE III. Exemptions

Section 3-1. Exemptions. This Act does not apply to:

(1) An operator of a payment system to the extent that it provides processing, clearing, or settlement services, between or among persons exempted by this Section or licensees, in

connection with wire transfers, credit card transactions, debit card transactions, stored value transactions, automated clearinghouse transfers, or similar funds transfers.

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

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

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

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

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

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

(C) bears sole responsibility to satisfy the

outstanding money transmission obligation to the sender, including the obligation to make the sender whole in connection with any failure to transmit the funds to the sender's designated recipient.

(4) The United States or a department, agency, or instrumentality thereof, or its agent.

(5) Money transmission by the United States Postal Service or by an agent of the United States Postal Service.

(6) A State, county, city, or any other governmental agency or governmental subdivision or instrumentality of a State, or its agent.

(7) A federally insured depository financial institution, bank holding company, office of an international banking corporation, foreign bank that establishes a federal branch pursuant to the International Bank Act, 12 U.S.C. 3102, as amended or recodified from time to time, corporation organized pursuant to the Bank Service Corporation Act, 12 U.S.C. Sections 1861 through 1867, as amended or recodified from time to time, or corporation organized under the Edge Act, 12 U.S.C. Sections 611 through 633, as amended or recodified from time to time, under the laws of a state or the United States.

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

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

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

(11) A person registered as a securities broker-dealer under federal or State securities laws to the extent of its operation as such a broker-dealer.

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

(13) A person expressly appointed as a third-party service provider to or agent of an entity exempt under paragraph (7) or (16), solely to the extent that:

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

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

(14) Any other person, transaction, or class of persons or transactions exempted by rule or any other person or transaction exempted by the Secretary's order on a finding that the licensing of the person is not necessary to achieve the purposes of this Act.

(15) Currency exchanges licensed under the Currency Exchange Act to the extent of its operation as such a currency exchange.

(16) An insured depository credit union organized under the laws of the United States or any state of the United States with deposits insured by an insurer approved by the credit union's primary regulator.

Section 3-2. Authority to require demonstration of exemption. The Secretary may require that any person or entity claiming to be exempt from licensing pursuant to Section 3-1 provide information and documentation to the Secretary demonstrating that it qualifies for any claimed exemption. The burden of proving the applicability of an exemption is upon the person claiming the exclusion or exception.

ARTICLE IV. Implementation, Confidentiality, Supervision &
Relationship to Federal Law

Section 4-1. Implementation.

(a) In order to carry out the purposes of this Act, the Secretary may, subject to the provisions of subsections (a) and (b) of Section 4-2:

(1) enter into agreements or relationships with other government officials or federal and State regulatory agencies and regulatory associations in order to improve efficiencies and reduce regulatory burden by standardizing methods or procedures, and sharing resources, records or related information obtained under this Act;

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

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

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

(b) The Department shall have the broad administrative authority to administer, interpret and enforce this Act, and adopt rules or regulations implementing this Act and to recover the cost of administering and enforcing this Act by imposing and collecting proportionate and equitable fees and costs associated with applications, examinations, investigations, and other actions required to achieve the purpose of this Act. The Department's rulemaking authority shall include, but not be limited to:

(1) such rules and regulations in connection with the activities of licensees as may be necessary and appropriate for the protection of consumers in this State;

(2) such rules and regulations as may be necessary and appropriate to define improper or fraudulent business practices in connection with the activities of licensees;

(3) such rules and regulations as may define the terms used in this Act and as may be necessary and appropriate to interpret and implement the provisions of this Act;

(4) such rules and regulations as may be necessary for the implementation or enforcement of this Act; and

(5) such rules and regulations establishing fees the Secretary deems necessary to cover the cost of administration of this Act.

Section 4-2. Confidentiality.

(a) Except as otherwise provided in this Section, all

information or reports obtained by the Secretary from an applicant, licensee, or authorized delegate, and all information contained in or related to an examination, investigation, operating report, or condition report prepared by, on behalf of, or for the use of the Secretary, or financial statements, balance sheets, or authorized delegate information, are confidential and are not subject to disclosure under the Freedom of Information Act.

(b) The Secretary may disclose information not otherwise subject to disclosure under subsection (a) to representatives of State or federal agencies who promise in a record that they will maintain the confidentiality of the information or where the Secretary finds that the release is reasonably necessary for the protection and interest of the public.

(c) This Section does not prohibit the Secretary from disclosing to the public a list of all licensees or the aggregated financial or transactional data concerning those licensees.

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

- (1) the name, business address, telephone number, and unique identifier of a licensee;
- (2) the business address of a licensee's registered agent for service;

(3) the name, business address, and telephone number of all authorized delegates;

(4) the terms of or a copy of any bond filed by a licensee, if confidential information, including, but not limited to, prices and fees, for such bond is redacted;

(5) copies of any final orders of the Department relating to any violation of this Act or regulations implementing this Act; and

(e) Imposition of an administrative action under this Act is not confidential.

(f) The Secretary, in his or her sole discretion, may disclose otherwise confidential information when he or she determines disclosure is in the public interest.

Section 4-3. Supervision.

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

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

(2) conduct an examination in conjunction with an

examination conducted by representatives of other state agencies or agencies of another state or of the federal government;

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

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

(b) A licensee or authorized delegate shall provide, and the Secretary shall have full and complete access to, all records the Secretary may reasonably require to conduct a complete examination. The records must be provided at the location and in the format specified by the Secretary, however, the Secretary may use multistate record production standards and examination procedures when such standards will reasonably achieve the requirements of this subsection.

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

Section 4-4. Networked supervision.

(a) To efficiently and effectively administer and enforce this Act and to minimize regulatory burden, the Secretary is authorized and encouraged to participate in multistate supervisory processes established between states and coordinated through the Conference of State Bank Supervisors, Money Transmitter Regulators Association, and affiliates and successors thereof for all licensees that hold licenses in this State and other states. As a participant in multistate supervision, the Secretary may:

(1) cooperate, coordinate, and share information with other state and federal regulators in accordance with Section 4-2;

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

(3) cooperate, coordinate, and share information with organizations the membership of which is made up of state or federal governmental agencies, if the organizations agree in writing to maintain the confidentiality and security of the shared information in accordance with Section 4-2.

(b) The Secretary may not waive, and nothing in this Section constitutes a waiver of, the Secretary's authority to conduct an examination or investigation or otherwise take

independent action authorized by this Act or a rule adopted or order issued under this Act to enforce compliance with applicable state or federal law.

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

Section 4-5. Relationship to federal law.

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

(b) In the event of any inconsistencies between this Act and a federal law that governs pursuant to subsection (a), the Secretary may provide interpretive rule or guidance that:

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

ARTICLE V. Money Transmission Licenses

Section 5-1. License required.

(a) A person may not engage in the business of money transmission or advertise, solicit, or hold oneself out as providing money transmission unless the person is licensed

under this Act.

(b) Subsection (a) does not apply to:

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

(2) A person who is exempt pursuant to Section 3-1 and does not engage in money transmission outside the scope of such exemption.

(c) A license issued under Section 5-5 is not transferable or assignable.

Section 5-2. Consistent State licensing.

(a) To establish consistent licensing between this State and other states, the Secretary is authorized and encouraged to:

(1) implement all licensing provisions of this Act in a manner that is consistent with other states that have adopted this Act or multistate licensing processes; and

(2) participate in nationwide protocols for licensing cooperation and coordination among state regulators provided that such protocols are consistent with this Act.

(b) In order to fulfill the purposes of this Act, the Secretary is authorized and encouraged to establish relationships or contracts with NMLS or other entities designated by NMLS to enable the Secretary to:

- (1) collect and maintain records;
- (2) coordinate multistate licensing processes and supervision processes;
- (3) process fees; and
- (4) facilitate communication between this State and licensees or other persons subject to this Act.

(c) The Secretary is authorized and encouraged to use NMLS for all aspects of licensing in accordance with this Act, including, but not limited to, license applications, applications for acquisitions of control, surety bonds, reporting, criminal history background checks, credit checks, fee processing, and examinations.

(d) The Secretary is authorized and encouraged to use NMLS forms, processes, and functionalities in accordance with this Act. If NMLS does not provide functionality, forms, or processes for a provision of this Act, the Secretary is authorized and encouraged to strive to implement the requirements in a manner that facilitates uniformity with respect to licensing, supervision, reporting, and regulation of licensees which are licensed in multiple jurisdictions.

(e) For the purpose of participating in NMLS, the Secretary is authorized to waive or modify, in whole or in part, by rule, regulation or order, any or all of the requirements and to establish new requirements as reasonably necessary to participate in NMLS.

Section 5-3. Application for license.

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

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

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

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

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

(5) a list of other states in which the applicant is licensed to engage in money transmission and any license revocations, suspensions, or other disciplinary action

taken against the applicant in another state;

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

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

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

(9) the name and address of any federally insured depository financial institution through which the applicant plans to conduct money transmission; and

(10) any other information the Secretary or NMLS reasonably requires with respect to the applicant.

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

(1) the date of the applicant's incorporation or formation and State or country of incorporation or formation;

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

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

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

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

(6) a copy of audited financial statements of the applicant for the most recent fiscal year and for the 2-year period preceding the submission of the application or, if determined to be acceptable to the Secretary;

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

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

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

(A) a corporation publicly traded in the United States, a copy of audited financial statements for the parent corporation for the most recent fiscal year or a copy of the parent corporation's most recent report filed under Section 13 of the federal Securities

Exchange Act of 1934, 15 U.S.C. 78m, as amended or recodified from time to time; or

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

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

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

A nonrefundable application fee must accompany an application for a license under this Section in accordance with 38 Ill. Adm. Code 205.35, as amended or recodified from time to time.

(c) The Secretary may waive one or more requirements of subsections (a) and (b) or permit an applicant to submit other information instead of the required information.

Section 5-4. Information requirements for certain individuals.

(a) Any individual in control of a licensee or applicant, any individual that seeks to acquire control of a licensee, and each key individual shall furnish to the Secretary through NMLS the following items:

(1) The individual's fingerprints for submission to the Federal Bureau of Investigation and the Secretary for

purposes of a national criminal history background check unless the person currently resides outside of the United States and has resided outside of the United States for the last 10 years.

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

(A) an independent credit report from a consumer reporting agency unless the individual does not have a social security number, in which case, this requirement shall be waived;

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

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

(b) If the individual has resided outside of the United States at any time in the last 10 years, the individual shall also provide an investigative background report prepared by an independent search firm that meets the following requirements:

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

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

background report; and

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

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

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

(B) criminal records information for the past 10 years, including, but not limited to, felonies, misdemeanors, or similar convictions for violations of law in the countries, provinces, states, cities, towns, and contiguous areas where the individual resided and worked;

(C) employment history;

(D) media history, including an electronic search of national and local publications, wire services, and business applications; and

(E) financial services-related regulatory history, including, but not limited to, money transmission,

securities, banking, insurance, and mortgage related industries.

Section 5-5. Issuance of license.

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

(1) unless extended by the Secretary pursuant to the Secretary's discretion, the Secretary shall approve or deny the application within 120 days after the completion date; or

(2) if the application is not approved or denied within 120 days after the completion date or any extension thereof:

(A) the application is approved; and

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

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

sufficiency of the information provided.

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

(1) the applicant has complied with Sections 5-3 and 5-4; and

(2) the financial condition and responsibility, financial and business experience, competence, character, and general fitness of the applicant and the competence, experience, character, and general fitness of the key individuals and persons in control of the applicant indicate that it is in the interest of the public to permit the applicant to engage in money transmission.

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

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

(2) if Illinois is a lead investigative state, the Secretary is authorized and encouraged to investigate the applicant pursuant to subsection (c) and the timeframes established by agreement through the multistate licensing process, however, in no case shall such timeframe be noncompliant with the application period in paragraph (1) of subsection (a).

(e) The Secretary shall issue a formal written notice of the denial of a license application within 30 days after the decision to deny the application. The Secretary shall set forth the specific reasons for the denial of the application in the notice of denial and serve the applicant, either personally or by certified mail. Service by certified mail shall be deemed completed when the notice is deposited into the U.S. Mail. An applicant whose application is denied by the Secretary under this Section may submit a written request for a hearing that shall include the particular reasons why the applicant believes that the decision to deny the application was incorrect, within 10 days after service of the notice of the denial. If an applicant submits a timely request for a hearing, the Secretary shall schedule a hearing after the request for a hearing unless otherwise agreed to by the parties. The Secretary shall conduct hearings pursuant to this Section and in accordance with 38 Ill. Adm. Code 100, as amended or recodified from time to time.

(f) The initial license term shall begin on the day that

the application is approved. The license shall expire on December 31 of the year in which the license term began, unless the initial license date is between November 1 and December 31, in which instance the initial license term shall run through December 31 of the following year.

Section 5-6. Renewal of license.

(a) A license under this Act shall be renewed annually.

(b) An annual renewal fee in accordance with 38 Ill. Adm. Code 205.35 as amended or recodified from time to time shall be paid to the Department. The renewal term shall be for a period of one year and shall begin on January 1 of each year after the initial license term and shall expire on December 31 of the year the renewal term begins.

(c) A licensee shall submit a renewal report, in a form and in a medium prescribed by the Secretary by December 1 of each year. The form requires any information deemed necessary by the Secretary to review a renewal application. At a minimum, the renewal report must state or contain a description of each material change in information submitted by the licensee in its original license application which has not been reported to the Secretary and a statement of the dollar amount and number of money transmissions and payment instruments sold, issued, exchanged, or transmitted in this State by the licensee and its authorized delegates for the past 4 completed calendar quarters.

(d) The Secretary, in his or her discretion, may grant an extension of the renewal date.

(e) The Secretary is authorized and encouraged to use NMLS to process license renewals if such functionality is consistent with this Section.

(f) The Secretary shall issue a formal written notice of the denial of renewal within 30 days after the decision to deny the renewal. The Secretary shall set forth the specific reasons for denying the renewal in the notice of denial and serve the licensee, either personally or by certified mail. Service by certified mail shall be deemed completed when the notice is deposited into the U.S. Mail. A licensee whose renewal is denied by the Secretary under this Section may submit a written request for a hearing that shall include the particular reasons why the licensee believes that the decision to deny the renewal was incorrect within 10 days after service of the notice of the denial. If a licensee submits a timely request for a hearing, the Secretary shall schedule a hearing unless otherwise agreed to by the parties. The Secretary shall conduct hearings pursuant to this Section and in accordance with 38 Ill. Adm. Code 100, as amended or recodified from time to time. The expiring license shall be deemed to continue in force until 10 days after the service of the notice of denial or, if a timely hearing is requested during that period, until a final order is entered pursuant to a hearing.

Section 5-7. Maintenance of license.

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

(b) An applicant for a money transmission license must demonstrate that it meets or will meet, and a money transmission licensee must at all times meet, the requirements in Article X of this Act.

Section 5-8. Fees.

(a) The expenses of administering this Act, including investigations and examinations provided for in this Act, shall be borne by and assessed against entities regulated by this Act. The Department may establish fees by rule, including in the following categories:

- (1) investigation of licensees and license applicant fees;
- (2) examination fees;
- (3) contingent fees; and
- (4) such other categories as may be required to administer this Act.

(b) The Secretary shall charge and collect fees, which shall be nonrefundable unless otherwise indicated.

(c) All fees currently assessed in accordance with 38 Ill. Adm. Code 205.35, as amended or recodified from time to time, shall remain in effect. Except for money required to be deposited into the TOMA Consumer Protection Fund pursuant to this Act, all moneys received by the Department shall be deposited into the Financial Institution Fund. Failure to pay any required fee by the due date shall subject the licensee to a penalty fee of \$25 per day and disciplinary action.

Section 5-9. Liability of licensees. A licensee is liable for the payment of all moneys covered by payment instruments that it sells or issues in any form in this State through its authorized delegate and all moneys it receives itself or through its authorized delegate for transmission by any means whether or not any instrument is a negotiable instrument under the laws of this State.

ARTICLE VI. Acquisition of Control and Change of Key
Individual

Section 6-1. Acquisition of control.

(a) Any person, or group of persons acting in concert, seeking to acquire control of a licensee shall obtain the written approval of the Secretary before acquiring control. An individual is not deemed to acquire control of a licensee and is not subject to this Section when that individual becomes a

key individual in the ordinary course of business.

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

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

(2) submit a nonrefundable fee of \$1,000 with the request for approval.

(c) Upon request, the Secretary may permit a licensee or the person, or group of persons acting in concert, to submit some or all information required by the Secretary pursuant to subsection (b) without using NMLS.

(d) The application required by subsection (b) shall include information required by Section 5-4 for any new key individuals that have not previously completed the requirements of Section 5-4 for a licensee.

(e) When an application for acquisition of control under this Section appears to include all the items and address all of the matters that are required, the application shall be considered complete and:

(1) unless extended by the Secretary pursuant to the Secretary's discretion, the Secretary shall approve or deny the application within 60 days after the completion date; or

(2) if the application is not approved or denied within 60 days after the completion date or any extension

thereof:

(A) the application is approved; and

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

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

(g) When an application is filed and considered complete under subsection (e), the Secretary shall investigate the financial condition and responsibility, financial and business experience, character, and general fitness of the person, or group of persons acting in concert, seeking to acquire control. The Secretary shall approve an acquisition of control pursuant to this Section if the Secretary finds that all of the following conditions have been fulfilled:

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

(2) the financial condition and responsibility, financial and business experience, competence, character, and general fitness of the person, or group of persons acting in concert, seeking to acquire control; and the competence, experience, character, and general fitness of the key individuals and persons that would be in control

of the licensee after the acquisition of control indicate that it is in the interest of the public to permit the person, or group of persons acting in concert, to control the licensee.

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

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

(2) if the Department is a lead investigative state, the Secretary is authorized and encouraged to investigate the applicant pursuant to subsection (g) and the timeframes established by agreement through the multistate licensing process.

(i) The Secretary shall issue a formal written notice of the denial of an application to acquire control within 30 days after the decision to deny the application. The Secretary shall set forth the specific reasons for the denial of the application in the notice of denial and serve the applicant, either personally or by certified mail. Service by certified mail shall be deemed completed when the notice is deposited into the U.S. mail. An applicant whose application is denied by the Secretary under this subsection (i) may submit a written request for hearing which shall include the particular

reasons why the applicant believes that the decision to deny the application was incorrect, within 10 days after service of the notice of denial. If an applicant submits a timely request for a hearing, the Secretary shall schedule a hearing unless otherwise agreed to by the parties. The Secretary shall conduct hearings pursuant to this Section and in accordance with 38 Ill. Adm. Code 100, as amended or recodified from time to time.

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

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

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

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

(4) a person that is exempt under subsection (g) of Section 3-1;

(5) A person that the Secretary determines is not subject to subsection (a) based on the public interest;

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

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

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

(l) Streamlined acquisition of control.

(1) The requirements of subsections (a) and (b) do not apply to a person that has complied with and received approval to engage in money transmission under this Act or was identified as a person in control in a prior application filed with and approved by the Secretary or by an MSB accredited state agency pursuant to a multistate licensing process, if:

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

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

(C) the licensee to be acquired is projected to meet the requirements of Article X of this Act after the acquisition of control is completed, and if the

person acquiring control is a licensee, that licensee is also projected to meet the requirements of Article X of this Act after the acquisition of control is completed;

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

(E) the person provides notice of the acquisition in cooperation with the licensee and attests to this subsection in a form and in a medium prescribed by the Secretary.

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

(m) Before filing an application for approval to acquire control of a licensee a person may request in writing a determination from the Secretary as to whether the person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the Secretary determines that the person would not be a person in control of a licensee, the proposed person and transaction is not subject to the requirements of subsections (a) and (b).

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

(1) The Secretary is authorized and encouraged to accept the control determination of a lead investigative state with sufficient staffing, expertise, and minimum standards for the purpose of subsection (m); or

(2) If the Department is a lead investigative state, the Secretary is authorized and encouraged to investigate the applicant pursuant to subsection (m) and the timeframes established by agreement through the multistate licensing process.

Section 6-2. Notice and information requirements for a change of key individuals.

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

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

(2) provide information as required by Section 5-4 within 45 days after the effective date.

(b) The Secretary may issue a formal written notice of denial of key individual within 90 days after the date on which the notice provided pursuant to subsection (a) was determined

to be complete if the competence, experience, character, or integrity of the individual would not be in the best interests of the public or the customers of the licensee to permit the individual to be a key individual of such licensee.

(c) The Secretary shall set forth the specific reasons for the denial in the notice of denial and serve the licensee and the denied individual, either personally, or by certified mail. Service by certified mail shall be deemed completed when the notice is deposited into the U.S. Mail. A licensee who has been denied by the Secretary under this subsection (c) may submit a written request for hearing which shall include the particular reasons why the licensee believes that the decision to deny was incorrect, within 10 days after service of the notice of the denial. If a licensee submits a timely request for a hearing, the Secretary shall schedule a hearing after the request for a hearing unless otherwise agreed to by the parties. The Secretary shall conduct hearings pursuant to this Section and in accordance with 38 Ill. Adm. Code 100.

(d) If the notice provided pursuant to subsection (a) is not denied within 90 days after the date on which the notice was determined to be complete, or any extension thereof, the key individual is deemed approved.

(e) If a multistate licensing process includes a key individual notice review and denial process pursuant to this Section and the licensee avails itself or is otherwise subject to the multistate licensing process:

(1) the Secretary is authorized and encouraged to accept the determination of another state;

(2) if the investigating state has sufficient staffing, expertise, and minimum standards for the purpose of this Section; or

(3) if the Department is a lead investigative state, the Secretary is authorized and encouraged to investigate the applicant pursuant to subsection (b) and the timeframes established by agreement through the multistate licensing process.

ARTICLE VII. Reporting and Records

Section 7-1. Report of condition.

(a) Each licensee, under penalty of perjury, shall submit a report of condition within 45 days of the end of the calendar quarter, or within any extended time as the Secretary may prescribe.

(b) The report of condition shall include:

(1) financial information at the licensee level;

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

(3) permissible investments report;

(4) transaction destination country reporting for

money received for transmission, if applicable; and

(5) any other information the Secretary reasonably requires with respect to the licensee. The Secretary is authorized and encouraged to use NMLS for the submission of the report required by subsection (a) and is authorized to change or update as necessary the requirements of this Section to carry out the purposes of this Act and maintain consistency with NMLS reporting.

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

Section 7-2. Audited financials.

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

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

(2) any other information as the Secretary may reasonably require.

(b) The audited financial statements shall be prepared by an independent certified public accountant or independent public accountant who is satisfactory to the Secretary;

(c) The audited financial statements shall include or be

accompanied by a certificate of opinion of the independent certified public accountant or independent public accountant that is satisfactory in form and content to the Secretary. If the opinion or certificate is qualified, the licensee must make a separate report to the Secretary notifying them of the qualified opinion or certification. If the certificate or opinion is qualified, the Secretary may order the licensee to take any action as the Secretary may find necessary to enable the certified public accountant or independent public accountant to remove the qualification.

Section 7-3. Authorized delegate reporting.

(a) Each licensee shall submit a report of authorized delegates within 45 days of the end of the calendar quarter. The Secretary is authorized and encouraged to use NMLS for the submission of the report required by this Section provided that such functionality is consistent with the requirements of this Section.

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

- (1) company legal name;
- (2) taxpayer employer identification number;
- (3) principal provider identifier;
- (4) physical address;
- (5) mailing address;
- (6) any business conducted in other states;

- (7) any fictitious or trade name;
- (8) contact person name, phone number, and email;
- (9) start date as licensee's authorized delegate;
- (10) end date acting as licensee's authorized delegate, if applicable;
- (11) court orders pursuant to Section 8-3; and
- (12) Any other information the Secretary reasonably requires with respect to the authorized delegate.

Section 7-4. Reports of certain events.

(a) A licensee shall file a report with the Secretary within one business day after the licensee has reason to know of the occurrence of any of the following events:

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

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

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

(b) A licensee shall file a report with the Secretary

within 3 business days after the licensee has reason to know of the occurrence of any of the following events:

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

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

Section 7-5. Bank Secrecy Act reports. A licensee and an authorized delegate shall file all reports required by federal currency reporting, record keeping, and suspicious activity reporting requirements as set forth in the Bank Secrecy Act and other federal and State laws pertaining to money laundering. The timely filing of a complete and accurate report required under this Section with the appropriate federal agency is deemed compliant with the requirements of this Section.

Section 7-6. Records.

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

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

(2) a general ledger posted at least monthly containing all asset, liability, capital, income, and

expense accounts;

(3) bank statements and bank reconciliation records;

(4) records of outstanding money transmission obligations;

(5) records of each outstanding money transmission obligation paid within the 3-year period;

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

(7) any other records the Secretary reasonably requires by rule.

(b) The records specified in subsection (a) may be maintained in electronic or other retrievable form of record.

(c) The records specified in subsection (a) shall be maintained at the licensee's principal place of business or, with notice to the Secretary, at another location designated by the licensee. If the records are maintained outside this State, the licensee shall make them accessible to the Secretary on 7 business-days' notice.

(d) All records maintained by the licensee as required in subsections (a) through (c) are open to inspection by the Secretary pursuant to subsection (a) of Section 4-3.

(e) A licensee shall require and its authorized sellers must preserve for at least 3 years all documents relating to money transmission activities, unless the data embodied in those documents has been transmitted for recordation by the licensee.

ARTICLE VIII. Authorized Delegates

Section 8-1. Relationship Between licensee and authorized delegate.

(a) As used in this Section, "remit" means to make direct payments of money to a licensee or its representative authorized to receive money or to deposit money in a bank in an account specified by the licensee.

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

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

(2) enter into a written contract that complies with subsection (d); and

(3) conduct a reasonable risk-based background investigation sufficient for the licensee to determine whether the authorized delegate has complied and will likely comply with applicable state and federal law.

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

(d) The written contract required by subsection (b) must be signed by the licensee and the authorized delegate and, at a

minimum, must:

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

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

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

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

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

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

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

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

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

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

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

(g) An authorized delegate may not use a subdelegate to conduct money transmission on behalf of a licensee.

Section 8-2. Unauthorized activities. A person shall not engage in the business of money transmission on behalf of a person not licensed under this Act or not exempt pursuant to Article III of this Act. A person that engages in such activity provides money transmission to the same extent as if the person were a licensee, and shall be jointly and severally liable with the unlicensed or nonexempt person.

Section 8-3. Prohibited authorized delegates.

(a) The circuit court in an action brought by a licensee shall have jurisdiction to grant appropriate equitable or legal relief, including, without limitation, prohibiting the authorized delegate from directly or indirectly acting as an authorized delegate for any licensee in this State and the payment of restitution, damages or other monetary relief, if the circuit court finds that an authorized delegate failed to remit money in accordance with the written contract required by subsection (b) of Section 8-1 or as otherwise directed by the licensee or required by law.

(b) If the circuit court issues an order prohibiting a person from acting as an authorized delegate for any licensee pursuant to subsection (a), the licensee that brought the action shall report the order to the Secretary within 30 days

and shall report the order through NMLS within 90 days.

(c) An authorized delegate who holds money in trust for the benefit of a licensee and knowingly fails to remit more than \$1,000 of such money is guilty of a Class 3 felony.

(d) An authorized delegate who holds money in trust for the benefit of a licensee and knowingly fails to remit no more than \$999 of such money is guilty of a Class A misdemeanor.

ARTICLE IX. Timely Transmission, Refunds, and Disclosures

Section 9-1. Timely transmission.

(a) Every licensee shall forward all money received for transmission in accordance with the terms of the agreement between the licensee and the sender, which shall be no more than 3 business days after the receipt of the money to be transmitted, unless the licensee has a reasonable belief or a reasonable basis to believe that the sender may be a victim of fraud or that a crime or violation of law, rule, or regulation has occurred, is occurring, or may occur.

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

Section 9-2. Refunds.

(a) This Section does not apply to:

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

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

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

(1) the money has been forwarded within 10 days after the date on which the money was received for transmission;

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

(3) the agreement between the licensee and the sender instructs the licensee to forward the money at a time that is beyond 10 days after the date on which the money was received for transmission; if funds have not yet been forwarded in accordance with the terms of the agreement between the licensee and the sender, the licensee shall issue a refund in accordance with the other provisions of this Section; or

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

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

(A) identify the sender's name and address or telephone number; or

(B) identify the particular transaction to be refunded if the sender has multiple transactions outstanding.

Section 9-3. Receipts.

(a) As used in this Section, "receipt" means a paper receipt, electronic record, or other written confirmation. For a transaction conducted in person, the receipt may be provided electronically if the sender requests or agrees to receive an electronic receipt. For a transaction conducted electronically or by phone, a receipt may be provided electronically. All electronic receipts shall be provided in a retainable form.

(b) This Section does not apply to:

(1) Money received for transmission subject to the federal Remittance Rule, 12 CFR Part 1005, Subpart B, as amended or recodified from time to time;

(2) money received for transmission pursuant to a

written agreement between the licensee and payee to process payments for goods or services provided by the payee;

(3) payroll processing services; or

(4) as authorized in the Secretary's sole discretion.

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

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

(A) the name of the sender;

(B) the name of the designated recipient;

(C) the date of the transaction;

(D) the unique transaction or identification number;

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

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

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

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

(2) The receipt required by this Section shall be in English and in the language principally used by the

licensee or authorized delegate to advertise, solicit, or negotiate, either orally or in writing, for a transaction conducted in person, electronically or by phone, if other than English.

Section 9-4. Notice. Every licensee or authorized delegate shall include on a receipt or disclose on the licensee's website or mobile application the name and phone number of the Department and a statement that the licensee's customers can contact the Department with questions or complaints about the licensee's money transmission services.

Section 9-5. Disclosures for payroll processing services.

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

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

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

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

ARTICLE X. Prudential Standards

Section 10-1. Net worth.

(a) A licensee under this Act shall maintain at all times a tangible net worth of the greater of \$100,000 or 3% of total assets for the first \$100,000,000, 2% of additional assets for \$100,000,000 to \$1,000,000,000, and 0.5% of additional assets for over \$1,000,000,000.

(b) Tangible net worth must be demonstrated at initial application by the applicant's most recent audited or unaudited financial statements pursuant to paragraph (6) of subsection (b) of Section 5-3.

(c) Notwithstanding the provisions of this Section, the Secretary shall have discretionary authority to exempt, in part or in whole, from the requirements of this Section any applicant or licensee.

Section 10-2. Surety bond.

(a) An applicant for a money transmission license must provide, and a licensee at all times must maintain, security consisting of a surety bond in a form satisfactory to the Secretary. The bond shall run to the State of Illinois for the benefit of any claimant against the applicant or licensee with respect to the receipt, handling, transmission, and payment of money by the licensee or authorized delegate in connection with the licensed operations. A claimant damaged by a breach

of the conditions of a bond shall have a right to action upon the bond for damages suffered thereby and may bring suit directly on the bond, or the Secretary may bring suit on behalf of the claimant.

(b) The amount of the required security shall be the greater of \$100,000 or an amount equal to 100% of the licensee's average daily money transmission liability in this State calculated for the most recently completed quarter, up to a maximum of \$2,000,000;

(c) A licensee that maintains a bond in the maximum amount provided for in subsection (b) is not required to calculate its average daily money transmission liability in this State for purposes of this Section.

(d) A licensee may exceed the maximum required bond amount pursuant to paragraph (5) of subsection (a) of Section 10-4.

(e) After receiving a license, the licensee must maintain the required bond plus net worth until 3 years after it ceases to do business in this State unless all outstanding payment instruments are eliminated or the provisions under the Revised Uniform Unclaimed Property Act have become operative and are adhered to by the licensee. Notwithstanding this provision, however, the amount required to be maintained may be reduced to the extent that the amount of the licensee's payment instruments outstanding in this State are reduced.

(f) Instead of a paper surety bond, each licensee and applicant shall file and maintain an electronic surety bond in

NMLS or in a manner otherwise authorized by the Secretary.

Section 10-3. Maintenance of permissible investments.

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

(b) Except for permissible investments enumerated in subsection (a) of Section 10-4, the Secretary, with respect to any licensee, may by rule or order limit the extent to which a specific investment maintained by a licensee within a class of permissible investments may be considered a permissible investment, if the specific investment represents undue risk to customers, not reflected in the market value of investments.

(c) Permissible investments, even if commingled with other assets of the licensee, are held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations in the event of insolvency, the filing of a petition by or against the licensee under the United States Bankruptcy Code, 11 U.S.C. Sections 101 through 110, as amended or recodified from time to time, for bankruptcy or reorganization, the filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for its

dissolution or reorganization, or in the event of an action by a creditor against the licensee who is not a beneficiary of this statutory trust. No permissible investments impressed with a trust pursuant to this subsection shall be subject to attachment, levy of execution, or sequestration by order of any court, except for a beneficiary of this statutory trust.

(d) Upon the establishment of a statutory trust in accordance with subsection (c) or when any funds are drawn on a letter of credit pursuant to paragraph (4) of subsection (a) of Section 10-4, the Secretary shall notify the applicable regulator of each state in which the licensee is licensed to engage in money transmission, if any, of the establishment of the trust or the funds drawn on the letter of credit, as applicable. Notice shall be deemed satisfied if performed pursuant to a multistate agreement or through NMLS. Funds drawn on a letter of credit, and any other permissible investments held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations, are deemed held in trust for the benefit of such purchasers and holders on a pro rata and equitable basis in accordance with statutes pursuant to which permissible investments are required to be held in this State, and other states, as applicable. Any statutory trust established hereunder shall be terminated upon extinguishment of all of the licensee's outstanding money transmission obligations.

(e) The Secretary by rule or by order may allow other types

of investments that the Secretary determines are of sufficient liquidity and quality to be a permissible investment. The Secretary is authorized to participate in efforts with other state regulators to determine that other types of investments are of sufficient liquidity and quality to be a permissible investment.

Section 10-4. Types of permissible investments.

(a) The following investments are permissible under Section 10-3:

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

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

1781, as amended or recodified from time to time;

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

(4) the full drawable amount of an irrevocable standby letter of credit for which the stated beneficiary is the Secretary that stipulates that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds up to the letter of credit amount within 7 days of presentation of the items required by subparagraph (C) of this paragraph.

(A) The letter of credit must:

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

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

(iii) not contain reference to any other agreements, documents, or entities, or otherwise provide for any security interest in the licensee; and

(iv) contain an issue date and expiration date and expressly provide for automatic extension, without a written amendment, for an additional period of one year from the present or each future expiration date, unless the issuer of the letter of credit notifies the Secretary in writing by certified or registered mail or courier mail or other receipted means, at least 60 days before any expiration date, that the irrevocable letter of credit will not be extended.

(B) In the event of any notice of expiration or nonextension of a letter of credit issued under subdivision (iv) of subparagraph (A), the licensee shall be required to demonstrate to the satisfaction of the Secretary, 15 days before expiration, that the licensee maintains and will maintain permissible investments in accordance with subsection (a) of Section 10-3 upon the expiration of the letter of credit. If the licensee is not able to do so, the

Secretary may draw on the letter of credit in an amount up to the amount necessary to meet the licensee's requirements to maintain permissible investments in accordance with subsection (a) of Section 10-3. Any such draw shall be offset against the licensee's outstanding money transmission obligations. The drawn funds shall be held in trust by the Secretary or the Secretary's designated agent, to the extent authorized by law, as agent for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations.

(C) The letter of credit shall provide that the issuer of the letter of credit will honor, at sight, a presentation made by the beneficiary to the issuer of the following documents on or before the expiration date of the letter of credit:

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

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

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

(II) the filing of a petition by or against the licensee for receivership, or the commencement of any other judicial or administrative proceeding for its dissolution or reorganization;

(III) the seizure of assets of a licensee by a Secretary pursuant to an emergency order issued in accordance with applicable law, on the basis of an action, violation, or condition that has caused or is likely to cause the insolvency of the licensee; or

(IV) the beneficiary has received notice of expiration or nonextension of a letter of credit and the licensee failed to demonstrate to the satisfaction of the beneficiary that the licensee will maintain permissible investments in accordance with subsection (a) of Section 10-3 upon the expiration or nonextension of the letter of credit.

(D) The Secretary may designate an agent to serve on the Secretary's behalf as beneficiary to a letter of credit so long as the agent and letter of credit meet requirements established by the Secretary. The Secretary's agent may serve as agent for multiple

licensing authorities for a single irrevocable letter of credit if the proceeds of the drawable amount for the purposes of this Section are assigned to the Secretary.

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

(5) 100% of the surety bond or deposit provided for under Section 10-2 that exceeds the average daily money transmission liability in this State.

(b) Unless permitted by the Secretary by rule or by order to exceed the limit as set forth herein, the following investments are permissible under Section 10-3 to the extent specified:

(1) receivables that are payable to a licensee from its authorized delegates in the ordinary course of business that are less than 7 days old, up to 50% of the aggregate value of the licensee's total permissible investments;

(2) of the receivables permissible under paragraph (1) of this subsection (b), receivables that are payable to a licensee from a single authorized delegate in the ordinary course of business may not exceed 10% of the aggregate

value of the licensee's total permissible investments.

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

(A) a short-term, of up to 6 months, investment bearing an eligible rating;

(B) commercial paper bearing an eligible rating;

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

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

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

(F) a mutual fund or other investment fund composed solely and exclusively of one or more permissible investments listed in paragraphs (1) through (3) of subsection (a).

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

examination and the foreign depository institution:

(A) has an eligible rating;

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

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

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

ARTICLE XI. Enforcement

Section 11-1. Prohibited acts and practices for licensees. It is a violation of this Act for a licensee, or other person subject to this Act to:

(1) directly or indirectly employ any scheme, device, or artifice to defraud or mislead any person, including, but not limited to, engaging in bait and switch advertising or sales practices;

(2) directly or indirectly engage in any unfair or deceptive act or practice toward any person, including, but not limited to, any false or deceptive statement about fees or other terms of a money transmission or currency exchange;

(3) directly or indirectly obtain property by fraud or

misrepresentation;

(4) knowingly make, publish, or disseminate any false, deceptive, or misleading information in the provision of money services;

(5) knowingly receive or take possession for personal use of any property of any money services business, other than in payment for services rendered, and with intent to defraud, omit to make, or cause or direct to omit to make, a full and true entry thereof in the books and accounts of the business;

(6) make or concur in making any false entry, or omit or concur in omitting any material entry, in the books or accounts of the business;

(7) knowingly make or publish to the Director or the Director's designee, or concur in making or publishing to the Director or the Director's designee any written report, exhibit, or statement of its affairs or pecuniary condition containing any material statement which is false, or omit or concur in omitting any statement required by law to be contained therein;

(8) fail to make any report or statement lawfully required by the Director or other public official.

(9) demonstrate by course of conduct, negligence or incompetence in performing any act directly or indirectly relating to licensed activity;

(10) engage in unsafe and unsound practices directly

or indirectly relating to licensed activity; or

(11) fail to comply with the provisions of this Act or with any lawful order or agreement, rule, or regulations made or issued under the provisions of this Act.

Section 11-2. Suspension and revocation of licenses.

(a) The Secretary may issue an order to suspend or revoke a license of a licensee or order a licensee to revoke the designation of an authorized delegate if:

(1) the licensee has failed to comply with any provision of this Act, or any order, decision, finding, rule, regulation or direction of the Secretary lawfully made pursuant to the authority of this Act;

(2) the licensee does not cooperate with an examination or investigation by the Secretary;

(3) the licensee engages in fraud, intentional misrepresentation, or gross negligence;

(4) an authorized delegate is convicted of a violation of a State or federal anti-money laundering statute, or violates a rule adopted or an order issued under this Act, as a result of the licensee's willful misconduct or grossly negligent inattention to its legal obligations;

(5) the competence, experience, character, or general fitness of the licensee, authorized delegate, person in control of a licensee, key individual, or responsible person of the authorized delegate indicates that it is not

in the public interest to permit the person to provide money transmission;

(6) the licensee engages in an unsafe or unsound practice;

(7) the licensee is insolvent, suspends payment of its obligations, or makes a general assignment for the benefit of its creditors;

(8) the licensee does not remove an authorized delegate after the Secretary issues and serves upon the licensee a final order including a finding that the authorized delegate has violated this Act;

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

(10) the licensee knowingly fails to make a report required by this Act;

(11) the licensee fails to pay a judgment entered in favor of a claimant, plaintiff, or credit in an action arising out of the licensee's business regulated under this Act within 30 days after the judgment becomes final or within 30 days after the expiration or termination of a stay of execution;

(12) the licensee has been convicted under the laws of this State, another state, or the United States of a felony or of a crime involving breach of trust or

dishonesty; or

(13) the licensee violates the Illinois Uniform Revised Unclaimed Property Act.

(b) In determining whether a licensee is engaging in an unsafe or unsound practice, the Secretary may consider the size and condition of the licensee's money transmission, the magnitude of the loss, the gravity of the violation of this Act, and the previous conduct of the person involved.

(c) In every case in which a license is suspended or revoked, the Secretary shall issue a formal written notice of the suspension or revocation, setting forth the specific reasons for the suspension or revocation of the license and serve the licensee, either personally or by certified mail. Service by certified mail shall be deemed completed when the notice is deposited into U.S. Mail and the order of suspension or revocation of a license shall take effect upon service of the order.

(d) A licensee whose license has been suspended or revoked by the Secretary under this Section may request a hearing, in writing, within 10 days after the date of service. If a licensee submits a timely request for a hearing, the order shall be stayed until a final administrative order is entered and the Secretary shall schedule a hearing unless otherwise agreed to by the parties.

(e) The Secretary shall conduct hearings pursuant to this Section and in accordance with 38 Ill. Adm. Code 100, as

amended or recodified from time to time.

Section 11-3. Suspension and revocation of authorized delegates.

(a) The Secretary may issue an order to suspend or revoke the designation of an authorized delegate, if the Secretary finds that:

(1) the authorized delegate has failed to comply with any provision of this Act or any order, decision, finding, rule, regulation, or direction of the Secretary lawfully made pursuant to the authority of this Act;

(2) the authorized delegate does not cooperate with an examination or investigation by the Secretary;

(3) the authorized delegate engages in fraud, intentional misrepresentation, or gross negligence;

(4) the authorized delegate is convicted of a violation of a State or federal anti-money laundering statute;

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

(6) the authorized delegate engages in an unsafe or unsound practice.

(b) In determining whether an authorized delegate is

engaging in an unsafe or unsound practice, the Secretary may consider the size and condition of the authorized delegate's provision of money transmission, the magnitude of the loss, the gravity of the violation of this Act or a rule adopted or order issued under this Act, and the previous conduct of the authorized delegate.

(c) In every case in which the designation of an authorized delegate is suspended or revoked, the Secretary shall issue a formal written notice of the suspension or revocation, setting forth the specific reasons for the suspension or revocation of the designation and serve the authorized delegate, either personally or by certified mail. Service by certified mail shall be deemed completed when the notice is deposited into U.S. Mail and the order of suspension or revocation of a license shall take effect upon service of the order.

(d) An authorized delegate whose designation has been suspended or revoked by the Secretary under this Section may request a hearing, in writing, within 10 days after the date of service. If an authorized delegate submits a timely request for a hearing, the order shall be stayed until a final administrative order is entered and the Secretary shall schedule a hearing unless otherwise agreed to by the parties.

(e) The Secretary shall conduct hearings pursuant to this Section and in accordance with 38 Ill. Adm. Code 100, as amended or recodified from time to time.

Section 11-4. Orders to cease and desist and civil penalties.

(a) If the Secretary determines that a licensee, an authorized delegate, or any other person has engaged or is engaged in practices contrary to this Act, the rules adopted under this Act, or an order issued under this Act, the Secretary may issue an order requiring the licensee or authorized delegate to cease and desist from the violation. The order becomes effective upon service of it upon the licensee or authorized delegate.

(b) The Secretary may issue an order against a licensee to cease and desist from providing money transmission through an authorized delegate that is the subject of a separate order by the Secretary.

(c) The Secretary may, in addition to or without the issuance of a cease and desist order, assess a penalty up to \$1,000 against a licensee or other person for each violation of this Act, the rules adopted under this Act, or an order issued under this Act as set forth in Section 11-6. The issuance of an order under this Section shall not be a prerequisite to the taking of any action by the Secretary under this or any other Section of this Act.

(d) The Secretary shall issue a formal written notice of the cease and desist order, setting forth the specific reasons for the order and serve the licensee or the authorized

delegate, either personally or by certified mail. Service by certified mail shall be deemed completed when the notice is deposited in the U.S. Mail.

Section 11-5. Consent orders; settlements.

(a) The Secretary may enter into a consent order or settlement agreement at any time with a person to resolve a matter arising under this Act, the rules adopted under this Act, or order issued under this Act. A consent order or settlement agreement must be signed by the person to whom it is issued or by the person's authorized representative, and must indicate agreement with the terms contained in the order. A consent order or settlement agreement may provide that it does not constitute an admission by a person that this Act or a rule adopted or an order issued under this Act has been violated.

(b) Notwithstanding the issuance of a consent order or settlement agreement, the Secretary may seek civil or criminal penalties or compromise civil penalties concerning matter encompassed by the consent order unless the consent order by its terms expressly precludes the Secretary from doing so.

(c) The Secretary is authorized to compromise, settle, and collect civil penalties and administrative penalties, as set by rule, with any person for violations of this Act or of any rule or order issued or adopted under this Act.

Section 11-6. Criminal penalties. A person who engages in

conduct requiring a license under this Act and fails to obtain a license from the Secretary or knowingly makes a false statement, misrepresentation, or false certification in an application, financial statement, account record, report, or other document filed or required to be maintained or filed under this Act or who knowingly makes a false entry or omits a material entry in a document is guilty of a Class 3 felony.

Section 11-7. Civil penalties. The Secretary may assess a civil penalty against a person that violates this Act, a rule adopted or an order issued under this Act in an amount not to exceed \$1,000 per day for each day the violation is outstanding, plus this State's costs and expenses for the investigation and prosecution of the matter, including reasonable attorney's fees. Each transaction in violation of this Act or the rules adopted under this Act or issued under this Act, for each day that a violation continues shall be a separate offense.

Section 11-8. Unlicensed persons. Any person who, without the required license, engages in conduct requiring a license under this Act shall be liable to the Department in an amount equal to the greater of (1) \$5,000 or (2) an amount of money accepted for transmission plus an amount equal to 3 times the amount accepted for transmission. The Department shall cause any funds so recovered to be deposited into the TOMA Consumer

Protection Fund.

Section 11-9. Judicial review. All final administrative decisions of the Department under this Act are subject to judicial review under the Administrative Review Law and any rules adopted under the Administrative Review Law.

ARTICLE XII. Miscellaneous Provisions

Section 12-1. Uniformity of application and construction. In applying and construing this Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 12-2. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 12-3. Transition period.

(a) Licensees pursuant to the Transmitters of Money Act in good standing on the effective date of this Act shall be licensed under this Act upon the filing of and approval by the Department of a renewal application in accordance with Section 5-6 and may continue to operate lawfully as a licensee in this State unless and until their next renewal application after the effective date is denied by the Department. An authorized seller of licensee pursuant to the Transmitters of Money Act

in good standing as of the effective date shall become an authorized delegate of a licensee upon the filing of and approval by the Department of a renewal application by the licensee in accordance with Section 5-6 and may continue to operate lawfully in this State as an authorized delegate of a licensee unless and until the licensee's next renewal application after the effective date is denied by the Department.

(b) A person licensed in this State to engage in the business of money transmission and their authorized sellers shall not be subject to the provisions of this Act, to the extent that they conflict with the Transmitters of Money Act or establish new requirements not imposed under the Transmitters of Money Act, until the licensee renews its current license or for 6 months after the effective date of this Act, whichever is later, so long as they comply with the Transmitters of Money Act and its implementing rules.

(c) Notwithstanding subsection (a), a licensee shall only be required to amend its authorized delegate contracts for contracts entered into or amended after the effective date of this Act or the completion of any transition period contemplated under subsection (b). Nothing herein shall be construed as limiting an authorized delegate's obligations to operate in full compliance with this Act as required by subsection (c) of Section 8-1 after the time period set forth in subsection (b).

(d) A person not required to be licensed pursuant to the Transmitters of Money Act shall not be required to be licensed and comply with this Act until January 1, 2026, unless the Secretary extends the time by rule.

(e) A provider of payroll processing services that was not licensed pursuant to the Transmitters of Money Act on the effective date of this Act and transmitted no more than \$50,000,000 in this State in calendar year 2023 shall not be required to be licensed and comply with this Act until January 1, 2025. A provider of payroll processing services that was not licensed pursuant to the Transmitters of Money Act on the effective date of this Act and transmitted no more than \$50,000,000 in this State in calendar year 2023 shall not be penalized for providing such services before January 1, 2025 if the provider submits a completed application for licensure prior to January 1, 2025.

(f) Except as otherwise stated, this Act supersedes the Transmitters of Money Act.

Section 12-4. TOMA Consumer Protection Fund.

(a) The special income-earning fund in the State treasury is known as the TOMA Consumer Protection Fund.

(b) All moneys paid into the fund together with all accumulated undistributed income thereon shall be held as a special fund in the State treasury. The fund shall be used solely for the purpose of providing restitution to consumers

who have suffered monetary loss arising out of a transaction regulated by this Act.

(c) The fund shall be applied only to restitution when restitution has been ordered by the Secretary. Restitution shall not exceed the amount actually lost by the consumer. The fund shall not be used for the payment of any attorney or other fees.

(d) The fund shall be subrogated to the amount of the restitution, and the Secretary shall request the Attorney General to engage in all reasonable collection steps to collect restitution from the party responsible for the loss and reimburse the fund.

(e) Notwithstanding any other provisions of this Section, the payment of restitution from the fund shall be a matter of grace and not of right, and no consumer shall have any vested rights in the fund as a beneficiary or otherwise. Before seeking restitution from the fund, the consumer or beneficiary seeking payment of restitution shall apply for restitution on a form provided by the Secretary. The form shall include any information the Secretary may reasonably require in order to determine that restitution is appropriate.

(f) Notwithstanding any other provision of this Section, moneys in the TOMA Consumer Protection Fund may be transferred to the Professions Indirect Cost Fund, as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

Article 900. Amendatory provisions

Section 900-5. The Freedom of Information Act is amended by changing Section 7.5 as follows:

(5 ILCS 140/7.5)

(Text of Section before amendment by P.A. 103-472)

Sec. 7.5. Statutory exemptions. To the extent provided for by the statutes referenced below, the following shall be exempt from inspection and copying:

(a) All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act.

(b) Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act.

(c) Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.

(d) Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible

disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act.

(e) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act.

(f) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(g) Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act.

(h) Information the disclosure of which is exempted under the State Officials and Employees Ethics Act, and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.

(i) Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code.

(j) Information and data concerning the distribution of surcharge moneys collected and remitted by carriers under the Emergency Telephone System Act.

(k) Law enforcement officer identification information or driver identification information compiled by a law

enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code.

(l) Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act.

(m) Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act, except to the extent authorized under that Article.

(n) Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act (repealed). This subsection (n) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.

(o) Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act.

(p) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Department of Transportation under Sections 2705-300 and 2705-616 of the Department of Transportation Law of the Civil Administrative Code of Illinois, the Regional

Transportation Authority under Section 2.11 of the Regional Transportation Authority Act, or the St. Clair County Transit District under the Bi-State Transit Safety Act (repealed).

(q) Information prohibited from being disclosed by the Personnel Record Review Act.

(r) Information prohibited from being disclosed by the Illinois School Student Records Act.

(s) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act.

(t) (Blank).

(u) Records and information provided to an independent team of experts under the Developmental Disability and Mental Health Safety Act (also known as Brian's Law).

(v) Names and information of people who have applied for or received Firearm Owner's Identification Cards under the Firearm Owners Identification Card Act or applied for or received a concealed carry license under the Firearm Concealed Carry Act, unless otherwise authorized by the Firearm Concealed Carry Act; and databases under the Firearm Concealed Carry Act, records of the Concealed Carry Licensing Review Board under the Firearm Concealed Carry Act, and law enforcement agency objections under the Firearm Concealed Carry Act.

(v-5) Records of the Firearm Owner's Identification Card Review Board that are exempted from disclosure under

Section 10 of the Firearm Owners Identification Card Act.

(w) Personally identifiable information which is exempted from disclosure under subsection (g) of Section 19.1 of the Toll Highway Act.

(x) Information which is exempted from disclosure under Section 5-1014.3 of the Counties Code or Section 8-11-21 of the Illinois Municipal Code.

(y) Confidential information under the Adult Protective Services Act and its predecessor enabling statute, the Elder Abuse and Neglect Act, including information about the identity and administrative finding against any caregiver of a verified and substantiated decision of abuse, neglect, or financial exploitation of an eligible adult maintained in the Registry established under Section 7.5 of the Adult Protective Services Act.

(z) Records and information provided to a fatality review team or the Illinois Fatality Review Team Advisory Council under Section 15 of the Adult Protective Services Act.

(aa) Information which is exempted from disclosure under Section 2.37 of the Wildlife Code.

(bb) Information which is or was prohibited from disclosure by the Juvenile Court Act of 1987.

(cc) Recordings made under the Law Enforcement Officer-Worn Body Camera Act, except to the extent authorized under that Act.

(dd) Information that is prohibited from being disclosed under Section 45 of the Condominium and Common Interest Community Ombudsperson Act.

(ee) Information that is exempted from disclosure under Section 30.1 of the Pharmacy Practice Act.

(ff) Information that is exempted from disclosure under the Revised Uniform Unclaimed Property Act.

(gg) Information that is prohibited from being disclosed under Section 7-603.5 of the Illinois Vehicle Code.

(hh) Records that are exempt from disclosure under Section 1A-16.7 of the Election Code.

(ii) Information which is exempted from disclosure under Section 2505-800 of the Department of Revenue Law of the Civil Administrative Code of Illinois.

(jj) Information and reports that are required to be submitted to the Department of Labor by registering day and temporary labor service agencies but are exempt from disclosure under subsection (a-1) of Section 45 of the Day and Temporary Labor Services Act.

(kk) Information prohibited from disclosure under the Seizure and Forfeiture Reporting Act.

(ll) Information the disclosure of which is restricted and exempted under Section 5-30.8 of the Illinois Public Aid Code.

(mm) Records that are exempt from disclosure under

Section 4.2 of the Crime Victims Compensation Act.

(nn) Information that is exempt from disclosure under Section 70 of the Higher Education Student Assistance Act.

(oo) Communications, notes, records, and reports arising out of a peer support counseling session prohibited from disclosure under the First Responders Suicide Prevention Act.

(pp) Names and all identifying information relating to an employee of an emergency services provider or law enforcement agency under the First Responders Suicide Prevention Act.

(qq) Information and records held by the Department of Public Health and its authorized representatives collected under the Reproductive Health Act.

(rr) Information that is exempt from disclosure under the Cannabis Regulation and Tax Act.

(ss) Data reported by an employer to the Department of Human Rights pursuant to Section 2-108 of the Illinois Human Rights Act.

(tt) Recordings made under the Children's Advocacy Center Act, except to the extent authorized under that Act.

(uu) Information that is exempt from disclosure under Section 50 of the Sexual Assault Evidence Submission Act.

(vv) Information that is exempt from disclosure under subsections (f) and (j) of Section 5-36 of the Illinois

Public Aid Code.

(ww) Information that is exempt from disclosure under Section 16.8 of the State Treasurer Act.

(xx) Information that is exempt from disclosure or information that shall not be made public under the Illinois Insurance Code.

(yy) Information prohibited from being disclosed under the Illinois Educational Labor Relations Act.

(zz) Information prohibited from being disclosed under the Illinois Public Labor Relations Act.

(aaa) Information prohibited from being disclosed under Section 1-167 of the Illinois Pension Code.

(bbb) Information that is prohibited from disclosure by the Illinois Police Training Act and the Illinois State Police Act.

(ccc) Records exempt from disclosure under Section 2605-304 of the Illinois State Police Law of the Civil Administrative Code of Illinois.

(ddd) Information prohibited from being disclosed under Section 35 of the Address Confidentiality for Victims of Domestic Violence, Sexual Assault, Human Trafficking, or Stalking Act.

(eee) Information prohibited from being disclosed under subsection (b) of Section 75 of the Domestic Violence Fatality Review Act.

(fff) Images from cameras under the Expressway Camera

Act. This subsection (fff) is inoperative on and after July 1, 2025.

(ggg) Information prohibited from disclosure under paragraph (3) of subsection (a) of Section 14 of the Nurse Agency Licensing Act.

(hhh) Information submitted to the Illinois State Police in an affidavit or application for an assault weapon endorsement, assault weapon attachment endorsement, .50 caliber rifle endorsement, or .50 caliber cartridge endorsement under the Firearm Owners Identification Card Act.

(iii) Data exempt from disclosure under Section 50 of the School Safety Drill Act.

(jjj) ~~(hhh)~~ Information exempt from disclosure under Section 30 of the Insurance Data Security Law.

(kkk) ~~(iii)~~ Confidential business information prohibited from disclosure under Section 45 of the Paint Stewardship Act.

(mmm) Information prohibited from being disclosed under Section 4-2 of the Uniform Money Transmission Modernization Act.

(Source: P.A. 102-36, eff. 6-25-21; 102-237, eff. 1-1-22; 102-292, eff. 1-1-22; 102-520, eff. 8-20-21; 102-559, eff. 8-20-21; 102-813, eff. 5-13-22; 102-946, eff. 7-1-22; 102-1042, eff. 6-3-22; 102-1116, eff. 1-10-23; 103-8, eff. 6-7-23; 103-34, eff. 6-9-23; 103-142, eff. 1-1-24; 103-372,

eff. 1-1-24; 103-508, eff. 8-4-23; revised 9-5-23.)

(Text of Section after amendment by P.A. 103-472)

Sec. 7.5. Statutory exemptions. To the extent provided for by the statutes referenced below, the following shall be exempt from inspection and copying:

(a) All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act.

(b) Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act.

(c) Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.

(d) Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act.

(e) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act.

(f) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(g) Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act.

(h) Information the disclosure of which is exempted under the State Officials and Employees Ethics Act, and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.

(i) Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code.

(j) Information and data concerning the distribution of surcharge moneys collected and remitted by carriers under the Emergency Telephone System Act.

(k) Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code.

(l) Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse

Prevention Review Team Act.

(m) Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act, except to the extent authorized under that Article.

(n) Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act (repealed). This subsection (n) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.

(o) Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act.

(p) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Department of Transportation under Sections 2705-300 and 2705-616 of the Department of Transportation Law of the Civil Administrative Code of Illinois, the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act, or the St. Clair County Transit District under the Bi-State Transit Safety Act (repealed).

(q) Information prohibited from being disclosed by the

Personnel Record Review Act.

(r) Information prohibited from being disclosed by the Illinois School Student Records Act.

(s) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act.

(t) (Blank).

(u) Records and information provided to an independent team of experts under the Developmental Disability and Mental Health Safety Act (also known as Brian's Law).

(v) Names and information of people who have applied for or received Firearm Owner's Identification Cards under the Firearm Owners Identification Card Act or applied for or received a concealed carry license under the Firearm Concealed Carry Act, unless otherwise authorized by the Firearm Concealed Carry Act; and databases under the Firearm Concealed Carry Act, records of the Concealed Carry Licensing Review Board under the Firearm Concealed Carry Act, and law enforcement agency objections under the Firearm Concealed Carry Act.

(v-5) Records of the Firearm Owner's Identification Card Review Board that are exempted from disclosure under Section 10 of the Firearm Owners Identification Card Act.

(w) Personally identifiable information which is exempted from disclosure under subsection (g) of Section 19.1 of the Toll Highway Act.

(x) Information which is exempted from disclosure

under Section 5-1014.3 of the Counties Code or Section 8-11-21 of the Illinois Municipal Code.

(y) Confidential information under the Adult Protective Services Act and its predecessor enabling statute, the Elder Abuse and Neglect Act, including information about the identity and administrative finding against any caregiver of a verified and substantiated decision of abuse, neglect, or financial exploitation of an eligible adult maintained in the Registry established under Section 7.5 of the Adult Protective Services Act.

(z) Records and information provided to a fatality review team or the Illinois Fatality Review Team Advisory Council under Section 15 of the Adult Protective Services Act.

(aa) Information which is exempted from disclosure under Section 2.37 of the Wildlife Code.

(bb) Information which is or was prohibited from disclosure by the Juvenile Court Act of 1987.

(cc) Recordings made under the Law Enforcement Officer-Worn Body Camera Act, except to the extent authorized under that Act.

(dd) Information that is prohibited from being disclosed under Section 45 of the Condominium and Common Interest Community Ombudsperson Act.

(ee) Information that is exempted from disclosure under Section 30.1 of the Pharmacy Practice Act.

(ff) Information that is exempted from disclosure under the Revised Uniform Unclaimed Property Act.

(gg) Information that is prohibited from being disclosed under Section 7-603.5 of the Illinois Vehicle Code.

(hh) Records that are exempt from disclosure under Section 1A-16.7 of the Election Code.

(ii) Information which is exempted from disclosure under Section 2505-800 of the Department of Revenue Law of the Civil Administrative Code of Illinois.

(jj) Information and reports that are required to be submitted to the Department of Labor by registering day and temporary labor service agencies but are exempt from disclosure under subsection (a-1) of Section 45 of the Day and Temporary Labor Services Act.

(kk) Information prohibited from disclosure under the Seizure and Forfeiture Reporting Act.

(ll) Information the disclosure of which is restricted and exempted under Section 5-30.8 of the Illinois Public Aid Code.

(mm) Records that are exempt from disclosure under Section 4.2 of the Crime Victims Compensation Act.

(nn) Information that is exempt from disclosure under Section 70 of the Higher Education Student Assistance Act.

(oo) Communications, notes, records, and reports arising out of a peer support counseling session

prohibited from disclosure under the First Responders Suicide Prevention Act.

(pp) Names and all identifying information relating to an employee of an emergency services provider or law enforcement agency under the First Responders Suicide Prevention Act.

(qq) Information and records held by the Department of Public Health and its authorized representatives collected under the Reproductive Health Act.

(rr) Information that is exempt from disclosure under the Cannabis Regulation and Tax Act.

(ss) Data reported by an employer to the Department of Human Rights pursuant to Section 2-108 of the Illinois Human Rights Act.

(tt) Recordings made under the Children's Advocacy Center Act, except to the extent authorized under that Act.

(uu) Information that is exempt from disclosure under Section 50 of the Sexual Assault Evidence Submission Act.

(vv) Information that is exempt from disclosure under subsections (f) and (j) of Section 5-36 of the Illinois Public Aid Code.

(ww) Information that is exempt from disclosure under Section 16.8 of the State Treasurer Act.

(xx) Information that is exempt from disclosure or information that shall not be made public under the

Illinois Insurance Code.

(yy) Information prohibited from being disclosed under the Illinois Educational Labor Relations Act.

(zz) Information prohibited from being disclosed under the Illinois Public Labor Relations Act.

(aaa) Information prohibited from being disclosed under Section 1-167 of the Illinois Pension Code.

(bbb) Information that is prohibited from disclosure by the Illinois Police Training Act and the Illinois State Police Act.

(ccc) Records exempt from disclosure under Section 2605-304 of the Illinois State Police Law of the Civil Administrative Code of Illinois.

(ddd) Information prohibited from being disclosed under Section 35 of the Address Confidentiality for Victims of Domestic Violence, Sexual Assault, Human Trafficking, or Stalking Act.

(eee) Information prohibited from being disclosed under subsection (b) of Section 75 of the Domestic Violence Fatality Review Act.

(fff) Images from cameras under the Expressway Camera Act. This subsection (fff) is inoperative on and after July 1, 2025.

(ggg) Information prohibited from disclosure under paragraph (3) of subsection (a) of Section 14 of the Nurse Agency Licensing Act.

(hhh) Information submitted to the Illinois State Police in an affidavit or application for an assault weapon endorsement, assault weapon attachment endorsement, .50 caliber rifle endorsement, or .50 caliber cartridge endorsement under the Firearm Owners Identification Card Act.

(iii) Data exempt from disclosure under Section 50 of the School Safety Drill Act.

(jjj) ~~(hhh)~~ Information exempt from disclosure under Section 30 of the Insurance Data Security Law.

(kkk) ~~(iii)~~ Confidential business information prohibited from disclosure under Section 45 of the Paint Stewardship Act.

(lll) ~~(iii)~~ Data exempt from disclosure under Section 2-3.196 of the School Code.

(mmm) Information prohibited from being disclosed under Section 4-2 of the Uniform Money Transmission Modernization Act.

(Source: P.A. 102-36, eff. 6-25-21; 102-237, eff. 1-1-22; 102-292, eff. 1-1-22; 102-520, eff. 8-20-21; 102-559, eff. 8-20-21; 102-813, eff. 5-13-22; 102-946, eff. 7-1-22; 102-1042, eff. 6-3-22; 102-1116, eff. 1-10-23; 103-8, eff. 6-7-23; 103-34, eff. 6-9-23; 103-142, eff. 1-1-24; 103-372, eff. 1-1-24; 103-472, eff. 8-1-24; 103-508, eff. 8-4-23; revised 9-5-23.)

(205 ILCS 657/Act rep.)

Section 900-30. The Transmitters of Money Act is repealed.

Article 999.

Section 999-95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

Section 999-99. Effective date. This Act takes effect upon becoming law, except that the changes to the Transmitters of Money Act take effect January 1, 2026.