

As Amended by House Committee

As Amended by Senate Committee

Session of 2024

SENATE BILL No. 406

By Committee on Financial Institutions and Insurance

1-29

1 AN ACT concerning financial institutions; enacting the Kansas money
2 transmission act; relating to the electronic transmission of money;
3 oversight thereof by the state bank commissioner; establishing powers,
4 duties and responsibilities of the state bank commissioner; licensing
5 and renewal processes; penalties; repealing K.S.A. 9-508, 9-509, 9-510,
6 9-510a, 9-511, 9-513, 9-513a, 9-513b, 9-513c, 9-513d, 9-513e and
7 K.S.A. 2023 Supp. 9-512.

8
9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. (a) Sections 1 through 42, and amendments thereto, shall
11 be known and may be cited as the Kansas money transmission act.

12 (b) As used in the Kansas money transmission act:

13 (1) "Act" means the Kansas money transmission act.

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

17 (3) "Authorized delegate" means a person designated by a licensee to
18 engage in money transmission on behalf of the licensee.

19 (4) "Average daily money transmission liability" means the amount of
20 the licensee's outstanding money transmission obligations in Kansas at the
21 end of each day in a given period of time added together and divided by
22 the total number of days in the given period of time. For any licensee
23 required to calculate "average daily money transmission liability" pursuant
24 to this act, the given period of time shall be the calendar quarters ending
25 March 31, June 30, September 30 and December 31.

26 (5) "Closed loop stored value" means stored value that is redeemable
27 by the issuer only for goods or services provided by the issuer or the
28 issuer's affiliates or franchisees of the issuer or the franchisees's affiliates,
29 except to the extent required by applicable law to be redeemable in cash
30 for its cash value.

31 (6) "Commissioner" means the state bank commissioner, or a person
32 designated by the state bank commissioner to enforce this act.

33 (7) "Control" means the power to:

34 (A) Vote directly or indirectly at least 25% of the outstanding voting

1 shares or voting interests of a licensee or person in control of a licensee;

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

5 (C) exercise, directly or indirectly, a controlling influence over the
6 management or policies of a licensee or person in control of a licensee.

7 (8) "Eligible rating" means a credit rating from any of the three
8 highest rating categories provided by an eligible rating service. Each rating
9 category may include rating category modifiers such as plus or minus for
10 Standard & Poor or the equivalent for any other eligible rating service.
11 "Eligible rating" shall be determined as follows:

12 (A) Long-term credit ratings shall be deemed eligible if the rating is
13 equal to A- or higher by Standard & Poor or the equivalent from any other
14 eligible rating service.

15 (B) Short-term credit ratings are deemed eligible if the rating is equal
16 to or higher than A-2 or SP-2 by Standard & Poor or the equivalent from
17 any other eligible rating service. If ratings differ among eligible rating
18 services, the highest rating shall apply when determining whether a
19 security bears an eligible rating.

20 (9) "Eligible rating service" means any nationally recognized
21 statistical rating organization that has been registered by the securities and
22 exchange commission or any organization designated by the commissioner
23 through order or rules and regulations as an eligible rating service.

24 (10) "Federally insured depository financial institution" means a
25 bank, credit union, savings and loan association, trust company, savings
26 association, savings bank, industrial bank or industrial loan company
27 organized under the laws of the United States or any state of the United
28 States, when such bank, credit union, savings and loan association, trust
29 company, savings association, savings bank, industrial bank or industrial
30 loan company has federally insured deposits.

31 (11) "In Kansas" means the:

32 (A) Physical location of a person who is requesting a transaction in
33 person in the state of Kansas; or

34 (B) person's residential address or the principal place of business for a
35 person requesting a transaction electronically or by telephone if such
36 residential address or principal place of business is in the state of Kansas.

37 (12) "Individual" means a natural person.

38 (13) "Key individual" means any individual ultimately responsible for
39 establishing or directing policies and procedures of the licensee, including,
40 but not limited to, an executive officer, manager, director or trustee.

41 (14) "Licensee" means a person licensed under this act.

42 (15) "Material litigation" means litigation, that according to United
43 States generally accepted accounting principles, is significant to a person's

1 financial health and would be a required disclosure in the person's annual
2 audited financial statements, report to shareholders or similar records.

3 (16) "Money" means a medium of exchange that is authorized or
4 adopted by the United States or a foreign government. "Money" includes a
5 monetary unit of account established by an intergovernmental organization
6 or by agreement between two or more governments.

7 (17) "Monetary value" means a medium of exchange, whether or not
8 redeemable in money.

9 (18) (A) "Money transmission" means any of the following:

10 (i) Selling or issuing payment instruments to a person located in
11 Kansas;

12 (ii) selling or issuing stored value to a person located in Kansas;

13 (iii) receiving money for transmission from a person located in
14 Kansas; or

15 (iv) payroll processing services.

16 (B) "Money transmission" does not include the provision of solely
17 online or telecommunications services or network access.

18 (19) "Money service business accredited state" means a state agency
19 that is accredited by the conference of state bank supervisors and money
20 transmitter regulators association for money transmission licensing and
21 supervision.

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

27 (21) "Nationwide multistate licensing system and registry" means a
28 licensing system developed by the conference of state bank supervisors
29 and the American association of residential mortgage regulators and
30 owned and operated by the state regulatory registry, limited liability
31 company or any successor or affiliated entity for the licensing and
32 registration of persons in financial services industries.

33 (22) (A) "Outstanding money transmission obligation" means:

34 (i) Any payment instrument or stored value issued or sold by the
35 licensee to a person located in the United States or reported as sold by an
36 authorized delegate of the licensee to a person that is located in the United
37 States that has not yet been paid or refunded by or for the licensee or
38 escheated in accordance with applicable abandoned property laws; or

39 (ii) any money received for transmission by the licensee or an
40 authorized delegate in the United States from a person located in the
41 United States that has not been received by the payee or refunded to the
42 sender or escheated in accordance with applicable abandoned property
43 laws.

1 (B) "In the United States" includes a person in any state, territory or
2 possession of the United States, the District of Columbia, the
3 commonwealth of Puerto Rico or a United States military installation that
4 is located in a foreign country.

5 (23) "Passive investor" means a person that:

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

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

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

14 (D) (i) Either attests to subparagraphs (A), (B) and (C) in a form and
15 in a manner prescribed by the commissioner; or

16 (ii) commits to the passivity characteristics of subparagraphs (A), (B)
17 and (C) in a written document.

18 (24) (A) "Payment instrument" means a written or electronic check,
19 draft, money order, traveler's check or other written or electronic
20 instrument for the transmission or payment of money or monetary value,
21 regardless of negotiability.

22 (B) "Payment instrument" does not include stored value or any
23 instrument that is:

24 (i) Redeemable by the issuer only for goods or services provided by
25 the issuer or the issuer's affiliate or franchisees of the issuer or the
26 franchisees' affiliate, except to the extent required by applicable law to be
27 redeemable in cash for its cash value; or

28 (ii) not sold to the public but issued and distributed as part of a
29 loyalty, rewards or promotional program.

30 (25) "Payroll processing services" means the receipt of money for
31 transmission pursuant to a contract with a person to deliver wages or
32 salaries, make payment of payroll taxes to state and federal agencies, make
33 payments relating to employee benefit plans or make distributions of other
34 authorized deductions from wages or salaries. "Payroll processing
35 services" does not include an employer performing payroll processing
36 services on the employer's own behalf or on behalf of an affiliate.

37 (26) "Person" means any individual, general partnership, limited
38 partnership, limited liability company, corporation, trust, association, joint
39 stock corporation or other corporate entity identified or recognized by the
40 commissioner.

41 (27) "Receiving money for transmission" or "money received for
42 transmission" means the receipt of money or monetary value in the United
43 States for transmission within or outside the United States by electronic or

1 other means.

2 (28) "Stored value" means monetary value representing a claim
3 against the issuer evidenced by an electronic or digital record and that is
4 intended and accepted for use as a means of redemption for money or
5 monetary value or payment for goods or services. "Stored value" includes,
6 but is not limited to, prepaid access as defined by 31 C.F.R. § 1010.100.
7 "Stored value" does not include a payment instrument or closed loop
8 stored value or stored value not sold to the public but issued and
9 distributed as part of a loyalty, rewards or promotional program.

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

13 Sec. 2. (a) This act does not apply to:

14 (1) An operator of a payment system to the extent that such operator
15 provides processing, clearing or settlement services between persons
16 exempted under this subsection or licensees in connection with wire
17 transfers, credit card transactions, debit card transactions, stored value
18 transactions, automated clearing house transfers or similar funds transfers.

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

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

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

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

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

35 (A) Is properly licensed or exempt from licensing requirements under
36 this act;

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

40 (C) bears sole responsibility to satisfy the outstanding money
41 transmission obligation to the sender, including the obligation to make the
42 sender whole in connection with any failure to transmit the funds to the
43 sender's designated recipient.

1 (4) The United States government and any agency, bureau,
2 department, office or instrumentality, corporate or otherwise, thereof,
3 including any official, employee or agent of any such entity.

4 (5) Money transmission by the United States postal service or by an
5 agent of the United States postal service.

6 (6) Any state office or officer, department, board, commission,
7 bureau, division, authority, agency or institution of this state, including any
8 political subdivision thereof, and any county, city or other municipality.

9 (7) A federally insured depository financial institution, bank holding
10 company, office of an international banking corporation, foreign bank that
11 establishes a federal branch pursuant to 12 U.S.C. § 3102, a corporation
12 organized pursuant to 12 U.S.C. §§ 1861 through 1867 or a corporation
13 organized under 12 U.S.C. §§ 611 through 633.

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

19 (9) A board of trade designated as a contract market under 7 U.S.C.
20 §§ 1 through 25 or a person that in the ordinary course of business
21 provides clearance and settlement services for a board of trade to the
22 extent of the board of trade's operation as or for such a board.

23 (10) A futures commission merchant registered under federal
24 commodities law to the extent of the registrant's operation as such a
25 futures commission merchant.

26 (11) A person registered as a securities broker-dealer under federal or
27 state securities law to the extent of such registrant's operation as such a
28 securities broker-dealer.

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

34 (13) A person expressly appointed as a third-party service provider to
35 or agent of an entity exempt under paragraph (a)(6) solely to the extent
36 that:

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

41 (B) the exempt entity assumes all risk of loss and all legal
42 responsibility for satisfying the outstanding money transmission
43 obligations owed to purchasers and holders of the outstanding money

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

3 (14) *A person engaging in the practice of law, bookkeeping,*
4 *accounting, real estate sales or brokerage.*

5 (15) **A person appointed as an agent of a payor for purposes of**
6 **providing payroll processing services for which such agent would**
7 **otherwise need to be licensed if:**

8 (A) **There is a written agreement between the payor and the agent**
9 **that directs the agent to provide payroll processing services on the**
10 **payor's behalf;**

11 (B) **the payor holds the agent out to employees and other payees**
12 **as providing payroll processing services on the payor's behalf; and**

13 (C) **the payor's obligation to a payee, including an employee or**
14 **any other party entitled to receive funds via the payroll processing**
15 **services provided by the agent, is not extinguished if such agent fails to**
16 **remit such funds to the payee.**

17 (16) A person exempt by any rules or regulations adopted or by an
18 order issued if the commissioner finds such exemption to be in the public
19 interest and that the regulation of such person is not necessary for the
20 purposes of this act.

21 (b) The commissioner may require that any person claiming to be
22 exempt from licensing pursuant to this section provide information and
23 documentation to the commissioner demonstrating that such person
24 qualifies for any claimed exemption.

25 Sec. 3. (a) To carry out the purposes of this act, the commissioner
26 may:

27 (1) Enter into agreements or relationships with other government
28 officials or federal and state regulatory agencies and regulatory
29 associations to improve efficiencies and reduce regulatory burden by
30 standardizing methods or procedures and sharing resources, records or
31 related information obtained under this act;

32 (2) use, hire, contract or employ analytical systems, methods or
33 software to examine or investigate any person subject to this act;

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

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

41 (b) The commissioner shall have the broad administrative authority to
42 administer, interpret and enforce this act, promulgate rules and regulations
43 necessary to implement this act and set proportionate and equitable fees

1 and costs associated with applications, examinations, investigations and
2 other actions required to provide sufficient funds to meet the budget
3 requirements of administering and enforcing the act for each fiscal year
4 and to achieve the purposes of this act.

5 Sec. 4. (a) (1) Except as otherwise provided in subsection (b), all
6 information or reports obtained by the commissioner from an applicant,
7 licensee or authorized delegate and all information contained in or related
8 to an examination, investigation, operating report or condition report
9 prepared by, on behalf of or for the use of the commissioner or financial
10 statements, balance sheets or authorized delegate information, are
11 confidential and are not subject to disclosure under the Kansas open
12 records act, K.S.A. 45-215 et seq., and amendments thereto.

13 (2) The provisions of this subsection providing for the confidentiality
14 of public records shall expire on July 1, 2030, unless the legislature
15 reviews and reenacts such provisions in accordance with K.S.A. 45-229,
16 and amendments thereto, prior to July 1, 2030.

17 (b) The commissioner may disclose information not otherwise subject
18 to disclosure under subsection (a) to representatives of state or federal
19 agencies who promise in a record that such representatives will maintain
20 the confidentiality of the information or where the commissioner finds that
21 the release is reasonably necessary for the protection and interest of the
22 public in accordance with the Kansas open records act.

23 (c) The following information contained in the records of the office
24 of the state bank commissioner that is not confidential and may be made
25 available to the public:

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

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

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

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

34 (5) copies of any orders of the office of the state bank commissioner
35 relating to any violation of this act or regulations implementing this act.

36 (d) This section shall not be construed to prohibit the commissioner
37 from disclosing to the public a list of all licensees or the aggregated
38 financial or transactional data concerning those licensees.

39 Sec. 5. (a) The commissioner may conduct an examination or
40 investigation of a licensee or authorized delegate or otherwise take
41 independent action authorized by this act or by any rules and regulations
42 adopted or an order issued under this act as reasonably necessary or
43 appropriate to administer and enforce this act, regulations implementing

1 this act and other applicable federal law. The commissioner may:

2 (1) Conduct an examination on-site or off-site as the commissioner
3 may reasonably require;

4 (2) conduct an examination in conjunction with an examination
5 conducted by representatives of other state agencies, agencies of another
6 state or the federal government;

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

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

15 (b) A licensee or authorized delegate shall provide the commissioner
16 with full and complete access to all records the commissioner may
17 reasonably require to conduct a complete examination. The records shall
18 be provided at the location and in the format specified by the
19 commissioner. The commissioner may utilize multistate record production
20 standards and examination procedures when such standards will
21 reasonably achieve the requirements of this section.

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

25 Sec. 6. (a) To administer and enforce the provisions of this act and
26 minimize the regulatory burden, the commissioner is hereby authorized to
27 participate in multistate supervisory processes established between states
28 and coordinated through the conference of state bank supervisors, money
29 transmitter regulators associations and affiliates and successors thereof for
30 all licensees that hold licenses in Kansas or other states. As a participant in
31 such established multistate supervisory processes, the commissioner may:

32 (1) Cooperate, coordinate and share information with other state and
33 federal regulators in accordance with section 5, and amendments thereto;

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

37 (3) cooperate, coordinate and share information with organizations,
38 the membership of which is made up of state or federal governmental
39 agencies, if the organizations agree in writing to maintain the
40 confidentiality and security of the shared information in accordance with
41 section 4, and amendments thereto.

42 (b) The commissioner shall not waive, and nothing in this section
43 shall constitute a waiver of, the commissioner's authority to conduct an

1 examination or investigation or otherwise take independent action
2 authorized by this act or rules and regulations adopted or an order issued
3 under this act to enforce compliance with applicable state or federal law.

4 (c) A joint examination or investigation or acceptance of an
5 examination or investigation report shall not be construed to waive an
6 examination assessment provided for in this act.

7 Sec. 7. (a) If the jurisdiction of state money transmission is
8 conditioned on federal law, any inconsistencies between a provision of
9 this act and such federal law governing money transmission shall be
10 governed by the applicable federal law to the extent of such inconsistency.

11 (b) If there are any inconsistencies between this act and any federal
12 law that governs pursuant to subsection (a), the commissioner may provide
13 interpretive guidance that identifies the:

14 (1) Inconsistency; and

15 (2) appropriate means of compliance with federal law.

16 Sec. 8. (a) A person may not engage in the business of money
17 transmission or advertise, solicit or hold itself out as providing money
18 transmission unless the person is licensed under this act.

19 (b) Subsection (a) shall not apply to a person that is:

20 (1) An authorized delegate of a person licensed under this act acting
21 within the scope of authority conferred by a written contract with the
22 licensee; or

23 (2) exempt pursuant to section 2, and amendments thereto, and does
24 not engage in money transmission outside the scope of such exemption.

25 (c) A license issued pursuant to section 13, and amendments thereto,
26 shall not be transferable or assignable.

27 Sec. 9. (a) To establish consistent licensing practices between Kansas
28 and other states, the commissioner is hereby authorized to:

29 (1) Implement all licensing provisions of this act in a manner
30 consistent with other states that have adopted this act or multistate
31 licensing processes; and

32 (2) participate in nationwide protocols for licensing cooperation and
33 coordination among state regulators, if such protocols are consistent with
34 this act.

35 (b) The commissioner is authorized to establish relationships or
36 contracts with the national multistate licensing system and registry or other
37 entities designated by the national multistate licensing system and registry
38 to:

39 (1) Collect and maintain records;

40 (2) coordinate multistate licensing processes and supervision
41 processes;

42 (3) process fees; and

43 (4) facilitate communication between the commissioner and licensees

1 or other persons subject to this act.

2 (c) The commissioner may utilize the nationwide multistate licensing
3 system and registry for all aspects of licensing in accordance with this act,
4 including, but not limited to, license applications, applications for
5 acquisitions of control, surety bonds, reporting, criminal history
6 background checks, credit checks, fee processing and examinations.

7 (d) The commissioner may utilize nationwide multistate licensing
8 system and registry forms, processes and functionalities in accordance
9 with this act. If the nationwide multistate licensing system and registry
10 does not provide functionality, forms or processes for the provision of this
11 act, the commissioner is authorized to implement the requirements in a
12 manner that facilitates uniformity regarding the licensing, supervision,
13 reporting and regulation of licensees that are licensed in multiple
14 jurisdictions.

15 (e) The commissioner may establish new requirements or waive or
16 modify, in whole or in part, any or all of the existing requirements as
17 reasonably necessary to participate in the nationwide multistate licensing
18 system and registry through the adoption of any rules and regulations
19 adopted or an order issued or the issuance of an order.

20 Sec. 10. (a) Applicants for a license shall submit a completed
21 application in a form and manner as prescribed by the commissioner. Each
22 such application shall contain content as set forth by rules and regulations,
23 instruction or procedure of the commissioner and may be changed or
24 updated by the commissioner in accordance with applicable law to carry
25 out the purposes of this act and maintain consistency with nationwide
26 multistate licensing system and registry licensing standards and practices.
27 The application shall state or contain, as applicable:

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

31 (2) a list of any criminal convictions of the applicant and any material
32 litigation in which the applicant was involved in the 10-year period
33 immediately preceding the submission of the application;

34 (3) a description of any money transmission services previously
35 provided by the applicant and the money transmission services the
36 applicant seeks to provide in Kansas;

37 (4) a list of the applicant's proposed authorized delegates and the
38 locations in Kansas where the applicant and the applicant's authorized
39 delegates propose to engage in money transmission;

40 (5) a list of all other states where the applicant is licensed to engage
41 in money transmission and any license revocations, suspensions or other
42 disciplinary action taken against the applicant in other states;

43 (6) information concerning any bankruptcy or receivership

1 proceedings affecting the licensee or a person in control of a licensee;

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

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

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

9 (10) any other information the commissioner or the nationwide
10 multistate licensing system and registry reasonably requires regarding the
11 applicant.

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

14 (1) The date of the applicant's incorporation or formation and state or
15 country of incorporation or formation;

16 (2) a certificate of good standing from the state or country where the
17 applicant is incorporated or formed, if applicable;

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

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

25 (5) for any person in control of the applicant, a list of any felony
26 convictions and for the 10-year period immediately preceding the
27 submission of the application, a list of any criminal misdemeanor
28 convictions of a crime of dishonesty, fraud or deceit and any material
29 litigation in which the person involved is in control of an applicant that is
30 not an individual;

31 (6) a copy of the applicant's audited financial statements for the most
32 recent fiscal year and for the two-year period immediately preceding the
33 most recent fiscal year or, if acceptable to the commissioner, certified
34 unaudited financial statements for the most recent fiscal year or other
35 period acceptable to the commissioner;

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

38 (8) if the applicant is a publicly traded corporation, a copy of the most
39 recent report filed with the securities and exchange commission pursuant
40 to 15 U.S.C. § 78m;

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

42 (A) A corporation publicly traded in the United States, a copy of the
43 parent corporation's audited financial statements for the most recent fiscal

1 year or a copy of the parent corporation's most recent financial report filed
2 with the securities and exchange commission pursuant to 15 U.S.C. § 78m;
3 or

4 (B) a corporation publicly traded outside the United States, a copy of
5 documentation similar to the requirements of paragraph (A) filed with the
6 regulator of the parent corporation's domicile outside the United States;

7 (10) the name and address of the applicant's registered agent in
8 Kansas; and

9 (11) any other information that the commissioner reasonably requires
10 regarding the applicant.

11 (c) The commissioner shall set a nonrefundable new application fee
12 each year pursuant to section 3(b), and amendments thereto.

13 (d) The commissioner may waive one or more requirements of
14 subsections (a) or (b) or permit an applicant to submit other information in
15 lieu of the required information.

16 Sec. 11. (a) As a part of any original application, any individual in
17 control of a licensee, any applicant in control of a licensee and each key
18 individual shall provide the commissioner with the following items
19 through the nationwide multistate licensing system and registry:

20 (1) (A) The office of the state bank commissioner may require an
21 individual to be fingerprinted and submit to a state and national criminal
22 history record check. The fingerprints shall be used to identify the
23 individual and to determine whether such individual has a record of
24 criminal history in this state or other jurisdictions. The office of the state
25 bank commissioner is authorized to submit the fingerprints to the Kansas
26 bureau of investigation and the federal bureau of investigation for a state
27 and national criminal history record check. The office of the state bank
28 commissioner may use the information obtained from fingerprinting and
29 the criminal history for purposes of verifying the identification of the
30 individual and in the official determination of the qualifications and fitness
31 of the individual to be issued or to maintain a license;

32 (B) Local and state law enforcement officers and agencies shall assist
33 the office of the state bank commissioner in taking and processing of
34 fingerprints of applicants for and holders of any license, registration,
35 permit or certificate;

36 (C) The Kansas bureau of investigation shall release all records of
37 adult convictions and nonconvictions in Kansas and adult convictions,
38 adjudications and nonconvictions of another state or country to the office
39 of the state bank commissioner. Disclosure or use of any information
40 received for any purpose other than provided in this section shall be a class
41 A misdemeanor and shall constitute grounds for removal from office or
42 termination of employment; and

43 (D) Any individual that currently resides and has continuously

1 resided outside of the United States for the past 10 years shall not be
2 required to comply with this subsection; and

3 (2) a description of the individual's personal history and experience
4 provided in a form and manner prescribed by the commissioner to obtain
5 the following:

6 (A) An independent credit report from a consumer reporting agency.
7 This requirement shall be waived if the individual does not have a social
8 security number;

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

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

15 (b) (1) If the individual has resided outside of the United States at any
16 time during the 10-year period immediately preceding the individual's
17 application, the individual shall also provide an investigative background
18 report prepared by an independent search firm.

19 (2) At a minimum, the search firm shall:

20 (A) Demonstrate that it has sufficient knowledge and resources and
21 that such firm employs accepted and reasonable methodologies to conduct
22 the research of the background report; and

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

25 (3) The investigative background report shall be provided in English
26 and, at a minimum, shall contain the following:

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

33 (B) criminal records information for the 10-year period immediately
34 preceding the individual's application, including, but not limited to,
35 felonies, misdemeanors or similar convictions for violations of law in the
36 countries, provinces, states, cities, towns and contiguous areas where the
37 individual resided and worked;

38 (C) employment history;

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

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

1 (c) Any information required by this section may be used by the
2 commissioner in making an official determination of the qualifications and
3 fitness of the person in control or who seeks to gain control of the licensee.

4 Sec. 12. (a) A person is presumed to exercise a controlling influence
5 when such person holds the power to vote, directly or indirectly, at least
6 10% of the outstanding voting shares or voting interests of a licensee or
7 person in control of a licensee.

8 (b) A person presumed to exercise a controlling influence pursuant to
9 this section may rebut the presumption of control if the person is a passive
10 investor.

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

17 Sec. 13. (a) (1) When an application for an original license under this
18 act appears to include all the items and addresses all of the matters that are
19 required, the application shall be deemed complete, and the commissioner
20 shall promptly notify the applicant of the date the application is deemed
21 complete. The commissioner shall approve or deny the application within
22 120 days after the completion date.

23 (2) If the application has not been approved or denied within 120
24 days after the completion date:

25 (A) The application shall be considered approved; and

26 (B) the license shall take effect as of the first business day after
27 expiration of the 120-day period.

28 (3) The commissioner may extend the application period for good
29 cause.

30 (b) A determination by the commissioner that an application is
31 complete and accepted for processing means that the application, on its
32 face, appears to include all of the items, including the criminal history
33 background check response from the Kansas bureau of investigation and
34 that such application addresses all of the matters that are required. A
35 determination of completion by the commissioner shall not be deemed to
36 be an assessment of the substance of the application or of the sufficiency
37 of the information provided.

38 (c) When an application is filed and considered complete under this
39 section, the commissioner shall investigate the applicant's financial
40 condition and responsibility, financial and business experience, character
41 and general fitness. The commissioner may conduct an on-site
42 investigation of the applicant at the applicant's expense. The commissioner
43 shall issue a license to an applicant under this section if the commissioner

1 finds that the following conditions have been fulfilled:

2 (1) The applicant has complied with sections 10 and 11, and
3 amendments thereto; and

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

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

11 (1) The commissioner is hereby authorized to accept the investigation
12 results of a lead investigative state to satisfy the requirements of
13 subsection (c) if such lead investigative state has sufficient staffing,
14 expertise and minimum standards; or

15 (2) if Kansas is the lead investigative state, the commissioner is
16 hereby authorized to investigate the applicant pursuant to subsection (c)
17 utilizing the timeframes established by agreement through the multistate
18 licensing process. No such timeframes shall be considered noncompliant
19 with the application period in subsection (a)(1).

20 (e) The commissioner shall issue a formal written notice of the denial
21 of a license application within 14 days of the decision to deny the
22 application. The commissioner shall state in the notice of denial the
23 specific reasons for the denial of the application. An applicant whose
24 application is denied by the commissioner under this subsection may
25 appeal within 14 days of receiving the notice and request a hearing in
26 accordance with the Kansas administrative procedure act, K.S.A. 77-501 et
27 seq., and amendments thereto.

28 (f) The initial license term shall begin on the day the application is
29 approved. The license shall expire on December 31 of the year in which
30 the license term began, unless the initial license date is between November
31 1 and December 31, in which case the initial license term shall run through
32 December 31 of the following year.

33 Sec. 14. (a) (1) A license issued under this act shall be renewed
34 annually.

35 (2) An annual renewal fee set by the commissioner shall be paid not
36 more than 60 days before the license expiration.

37 (3) The renewal term shall be for a period of one year and shall begin
38 on January 1 of each year after the initial license term and shall expire on
39 December 31 of the year the renewal term begins.

40 (b) A licensee shall submit a complete renewal report with the
41 renewal fee, in a form and manner determined by the commissioner. The
42 renewal report shall contain a description of each material change in
43 information submitted by the licensee in the licensee's original license

1 application that has not been reported to the commissioner.

2 (c) Renewal applications received within 30 days of the expiration of
3 the license and incomplete applications as of 30 days prior to the
4 expiration of the license shall be subject to a late fee set by the
5 commissioner.

6 (d) The commissioner may grant an extension of the renewal date for
7 good cause.

8 (e) The commissioner is hereby authorized to utilize the nationwide
9 multistate licensing system and registry to process license renewals, if
10 such utilization satisfies the requirements of this section.

11 (f) Renewal applications submitted between November 1, 2024 and
12 December 31, 2024, considered complete pursuant to K.S.A. 9-509, and
13 amendments thereto, shall be considered complete under this section.

14 Sec. 15. (a) If a licensee does not continue to meet the qualifications
15 or satisfy the requirements of an applicant for a new money transmission
16 license, the commissioner may suspend or revoke the licensee's license in
17 accordance with the procedures established by this act or other applicable
18 state law for such suspension or revocation.

19 (b) An applicant for a money transmission license shall demonstrate
20 that such applicant meets or will meet and a money transmission licensee
21 shall at all times meet, the requirements of sections 32, 33 and 34, and
22 amendments thereto.

23 Sec. 16. (a) The commissioner shall have the discretion to determine
24 the completeness of any application submitted pursuant to this act. In
25 making such a determination, the commissioner shall consider the
26 applicant's compliance with the requirements of the act and any other facts
27 and circumstances that the commissioner deems appropriate.

28 (b) If an applicant fails to complete the application for a new license
29 or for a change of control of a license within 60 days after the
30 commissioner provides written notice of the incomplete application, the
31 application will be deemed abandoned and the application fee shall be
32 nonrefundable. An applicant whose application is abandoned under this
33 section may reapply to obtain a new license.

34 Sec. 17. (a) When any person or group of persons acting in concert
35 are seeking to acquire control of a licensee, the licensee shall obtain the
36 written approval of the commissioner prior to the change of control. An
37 individual is not deemed to acquire control of a licensee and is not subject
38 to this section when that individual becomes a key individual in the
39 ordinary course of business.

40 (b) A person or group of persons acting in concert that seeks to
41 acquire control of a licensee in cooperation with such licensee shall submit
42 an application in the form and manner prescribed by the commissioner.
43 Such application shall be accompanied by a nonrefundable fee set by the

1 commissioner.

2 (c) Upon request, the commissioner may permit a licensee, the person
3 or group of persons acting in concert to submit some or all information
4 required by the commissioner pursuant to subsection (b) without using the
5 nationwide multistate licensing system and registry.

6 (d) The application required by subsection (b) shall include all
7 information required by section 11, and amendments thereto, for any new
8 key individuals who have not previously completed the requirements of
9 section 11, and amendments thereto, for a licensee.

10 (e) (1) When an application for acquisition of control under this
11 section appears to include all the items and addresses all of the matters that
12 are required, the application shall be deemed complete and the
13 commissioner shall promptly notify the applicant of the date on which the
14 application was so deemed, and the commissioner shall approve or deny
15 the application within 60 days after the completion date.

16 (2) If the application is not approved or denied within 60 days after
17 the completion date:

18 (A) The application shall be deemed approved; and

19 (B) the person or group of persons acting in concert shall not be
20 prohibited from acquiring control.

21 (3) The commissioner may extend the application period for good
22 cause.

23 (f) A determination by the commissioner that an application is
24 complete and is accepted for processing means only that the application,
25 on its face, appears to include all of the items and addresses all of the
26 matters that are required. A determination of completion by the
27 commissioner shall not be deemed to be an assessment of the substance of
28 the application or of the sufficiency of the information provided.

29 (g) When an application is filed and considered complete under
30 subsection (e), the commissioner shall investigate the financial condition
31 and responsibility, financial and business experience, character and general
32 fitness of the person or group of persons acting in concert who seek to
33 acquire control. The commissioner shall approve an acquisition of control
34 pursuant to this section if the commissioner finds that all of the following
35 conditions have been fulfilled:

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

38 (2) the financial condition and responsibility, financial and business
39 experience, competence, character and general fitness of the person or
40 group of persons acting in concert seeking to acquire control and the key
41 individuals and persons that would be in control of the licensee after the
42 acquisition of control indicate that it is in the interest of the public to
43 permit the person or group of persons acting in concert to control the

1 licensee.

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

4 (1) The commissioner shall be authorized to accept the investigation
5 results of a lead investigative state for the purposes of subsection (g) if the
6 lead investigative state has sufficient staffing, expertise and minimum
7 standards; or

8 (2) if Kansas is a lead investigative state, the commissioner shall be
9 authorized to investigate the applicant pursuant to subsection (g) and the
10 timeframes established by agreement through the multistate licensing
11 process.

12 (i) The commissioner shall issue a formal written notice of the denial
13 of an application to acquire control within 30 days of the decision to deny
14 the application. The commissioner shall state in the notice of denial the
15 specific reasons for the denial of the application. An applicant whose
16 application is denied by the commissioner under this subsection may
17 appeal within 14 days and request a hearing in accordance with the Kansas
18 administrative procedure act, K.S.A. 77-501 et seq., and amendments
19 thereto.

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

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

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

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

29 (4) a person that is exempt under subsection (l);

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

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

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

36 (k) Persons meeting the requirements of subsections (j)(2), (j)(3), (j)
37 (4), (j)(6) or (j)(7) in cooperation with the licensee shall notify the
38 commissioner within 15 days after the acquisition of control.

39 (l) (1) The requirements of subsections (a) and (b) shall not apply to a
40 person that has complied with and received approval to engage in money
41 transmission under this act or was identified as a person in control in a
42 prior application filed with and approved by the commissioner or by a
43 money service business-accredited state pursuant to a multistate licensing

1 process, if:

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

5 (B) the person is a licensee, such person is well managed and has
6 received at least a satisfactory rating for compliance at such person's most
7 recent examination by an money service business accredited state if such
8 rating was given;

9 (C) the licensee to be acquired is expected to meet the requirements
10 of sections 32, 33 and 34, and amendments thereto, after the acquisition of
11 control is completed. If the person acquiring control is a licensee, such
12 licensee shall also be expected to meet the requirements of sections 32, 33
13 and 34, and amendments thereto, after the acquisition of control is
14 completed;

15 (D) the licensee to be acquired shall not implement any material
16 changes to such licensee's business plan as a result of the acquisition of
17 control. If the person acquiring control is a licensee, such licensee shall not
18 implement any material changes to such licensee's business plan as a result
19 of the acquisition of control; and

20 (E) the person provides notice of the acquisition in cooperation with
21 the licensee and attests to the provisions of this subsection in a form and
22 manner prescribed by the commissioner.

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

26 (m) Before filing an application for approval to acquire control of a
27 licensee, a person may request in writing a determination from the
28 commissioner as to whether such person would be considered a person in
29 control of a licensee upon consummation of a proposed transaction. If the
30 commissioner determines that the person would not be a person in control
31 of a licensee, the person and the proposed transaction shall not be subject
32 to the requirements of subsections (a) and (b).

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

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

39 (2) if Kansas is a lead investigative state, the commissioner is hereby
40 authorized to investigate the applicant pursuant to subsection (m) and the
41 timeframes established by agreement through the multistate licensing
42 process.

43 Sec. 18. (a) A licensee adding or replacing a key individual shall

1 provide:

2 (1) Notice in the manner prescribed by the commissioner within 15
3 days after the effective date of the appointment of the new key individual;
4 and

5 (2) information as required by section 10, and amendments thereto,
6 within 45 days of the effective date of the appointment of the new key
7 individual.

8 (b) Within 90 days of the date on which the notice provided pursuant
9 to subsection (a) was determined to be complete, the commissioner may
10 issue a notice of disapproval of a key individual if the competence,
11 experience, character or integrity of the individual would not be in the best
12 interests of the public or the customers of the licensee to permit the
13 individual to be a key individual of such licensee.

14 (c) A notice of disapproval shall state the basis for disapproval and
15 shall be sent to the licensee and the disapproved individual. A licensee may
16 appeal a notice of disapproval pursuant to the Kansas administrative
17 procedure act, K.S.A. 77-501 et seq., and amendments thereto, within 14
18 days.

19 (d) If the notice provided pursuant to subsection (a) is not
20 disapproved within 90 days after the date when the notice was determined
21 to be complete, the key individual shall be deemed approved.

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

25 (1) The commissioner is hereby authorized to accept the
26 determination of another state if the investigating state has sufficient
27 staffing, expertise and minimum standards for the purpose of this section;
28 or

29 (2) if Kansas is a lead investigative state, the commissioner is
30 authorized to investigate the applicant pursuant to subsection (b) and the
31 timeframes established by agreement through the multistate licensing
32 process.

33 Sec. 19. (a) Every licensee shall submit a report of condition within
34 45 days of the end of the calendar quarter or within any extended time as
35 the commissioner may prescribe.

36 (b) The report of condition shall include:

37 (1) Financial information at the licensee level;

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

41 (3) the permissible investments report;

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

1 (5) any other information the commissioner reasonably requires
2 regarding the licensee.

3 (c) The commissioner may utilize the nationwide multistate licensing
4 system and registry for the submission of the report required by subsection
5 (a) and is authorized to change or update as necessary the requirements of
6 this section to carry out the purposes of this act and maintain consistency
7 with nationwide multistate licensing system and registry reporting.

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

11 Sec. 20. (a) Within 90 days after the end of each fiscal year or within
12 any extended time as the commissioner may prescribe through rules and
13 regulations, every licensee shall file with the commissioner:

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

17 (2) any other information as the commissioner may reasonably
18 require.

19 (b) The audited financial statements shall be prepared by an
20 independent certified public accountant or independent public accountant
21 who has been deemed satisfactory by the commissioner.

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

29 Sec. 21. (a) Each licensee shall submit a report of authorized
30 delegates within 45 days of the end of each calendar quarter. The
31 commissioner is authorized to utilize the nationwide multistate licensing
32 system and registry for the submission of the report required by this
33 subsection if such utilization is consistent with the requirements of this
34 section.

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

- 37 (1) Company legal name;
- 38 (2) taxpayer employer identification number;
- 39 (3) principal provider identifier;
- 40 (4) physical address;
- 41 (5) mailing address;
- 42 (6) any business conducted in other states;
- 43 (7) any fictitious or trade name;

- 1 (8) contact person's name, phone number and email;
- 2 (9) start date as the licensee's authorized delegate;
- 3 (10) end date acting as the licensee's authorized delegate, if
- 4 applicable; and
- 5 (11) any other information the commissioner reasonably requires
- 6 regarding the authorized delegate.

7 Sec. 22. (a) A licensee shall file a report with the commissioner

8 within one business day after the licensee has reason to know of the:

- 9 (1) Filing of a bankruptcy or reorganization petition by or against the
- 10 licensee;
- 11 (2) filing of a petition by or against the licensee for receivership, the
- 12 commencement of any other judicial or administrative proceeding for the
- 13 licensee's dissolution or reorganization or the making of a general
- 14 assignment for the benefit of the licensee's creditors; or
- 15 (3) commencement of a proceeding to revoke or suspend the
- 16 licensee's license in a state or country where the licensee engages in
- 17 business or is licensed.

18 (b) A licensee shall file a report with the commissioner within three

19 business days after the licensee has reason to know of a felony conviction

20 of:

- 21 (1) The licensee or a key individual or person in control of the
- 22 licensee; or
- 23 (2) an authorized delegate.

24 Sec. 23. A licensee and an authorized delegate shall file all reports

25 required by federal currency reporting, recordkeeping and suspicious

26 activity reporting requirements as set forth in federal and state laws

27 pertaining to money laundering. The timely filing of a complete and

28 accurate report required under this section with the appropriate federal

29 agency is deemed compliant with the requirements of this section.

30 Sec. 24. (a) Every licensee shall maintain the following records for at

31 least three years:

- 32 (1) A record of each outstanding money transmission obligation sold;
- 33 (2) a general ledger posted at least monthly containing all assets,
- 34 liability, capital, income and expense accounts;
- 35 (3) bank statements and bank reconciliation records;
- 36 (4) records of all outstanding money transmission obligations;
- 37 (5) records of each outstanding money transmission obligation paid
- 38 within the three-year period the records are maintained;
- 39 (6) a list of the last known names and addresses of all the licensee's
- 40 authorized delegates; and
- 41 (7) any other records the commissioner reasonably requires in rules
- 42 and regulations.

- 43 (b) Records specified in subsection (a) may be maintained:

1 (1) In any form of record; and
2 (2) outside this state, if such records are made accessible to the
3 commissioner on seven business days' notice.

4 (c) All records maintained by the licensee as required in this section
5 are open to inspection by the commissioner pursuant to section 5(a), and
6 amendments thereto.

7 Sec. 25. (a) As used in this section, "remit" means to make direct
8 payments of money to a licensee or the licensee's representative authorized
9 to receive money or to deposit money in a bank in an account specified by
10 the licensee.

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

14 (1) Adopt and update as necessary all written policies and procedures
15 reasonably designed to ensure that the licensee's authorized delegates
16 comply with applicable state and federal law;

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

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

21 (c) An authorized delegate shall comply with this act.

22 (d) The written contract required by subsection (b) shall be signed by
23 the licensee and the authorized delegate and, at a minimum, shall:

24 (1) Appoint the person signing the contract as the licensee's
25 authorized delegate with the authority to conduct money transmission on
26 behalf of the licensee;

27 (2) set forth the nature and scope of the relationship between the
28 licensee and the authorized delegate and the respective rights and
29 responsibilities of each party;

30 (3) require the authorized delegate to agree to fully comply with all
31 applicable state and federal laws and rules and regulations pertaining to
32 money transmission;

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

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

38 (6) require the authorized delegate to prepare and maintain records as
39 required by this act or rules and regulations adopted pursuant to this act or
40 as reasonably required by the commissioner;

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

43 (8) state that the licensee is subject to regulation by the commissioner

1 and, as part of such regulation, the commissioner may suspend or revoke
2 an authorized delegate designation or require the licensee to terminate an
3 authorized delegate designation; and

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

6 (e) Within five business days after the suspension, revocation,
7 surrender or expiration of a licensee's license, the licensee shall provide
8 documentation to the commissioner that the licensee has notified all
9 applicable authorized delegates of the licensee whose names are in a
10 record filed with the commissioner of the suspension, revocation,
11 surrender or expiration of a license. Upon suspension, revocation,
12 surrender or expiration of a license, all applicable authorized delegates
13 shall immediately cease to provide money transmission as an authorized
14 delegate of the licensee.

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

22 (g) No authorized delegate shall use a subdelegate to conduct money
23 transmission on behalf of a licensee.

24 Sec. 26. No person shall engage in the business of money
25 transmission on behalf of a person who is not licensed or exempt from
26 licensing under this act. If a person engages in such activity, such person
27 shall be deemed to have provided money transmission to the same extent
28 that such person were a licensee and shall be jointly and severally liable
29 with the unlicensed or nonexempt person.

30 Sec. 27. (a) Every licensee shall forward all moneys received for
31 transmission in accordance with the terms of the agreement between the
32 licensee and the sender unless the licensee reasonably believes or has a
33 reasonable basis to believe that the sender may be a victim of fraud or that
34 a crime or violation of law or any rules and regulations has occurred, is
35 occurring or may occur.

36 (b) If a licensee fails to forward money received for transmission in
37 accordance with this section, the licensee shall respond to inquiries by the
38 sender with the reason for the failure unless providing a response would
39 violate a state or federal law or rules and regulations.

40 Sec. 28. (a) This section does not apply to moneys received for
41 transmission:

- 42 (1) Subject to 12 C.F.R. §§ 1005.30 through 1005.36; or
- 43 (2) pursuant to a written agreement between the licensee and payee to

1 process payments for goods or services provided by the payee.

2 (b) Within 10 days of receipt of the sender's written request for a
3 refund of all money received for transmission, the licensee shall refund
4 such money to the sender, unless:

5 (1) The money has been forwarded within 10 days of the date when
6 the money was received for transmission;

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

10 (3) the agreement between the licensee and the sender instructs the
11 licensee to forward the money after 10 days of the date when the money
12 was received for transmission. If funds have not yet been forwarded in
13 accordance with the terms of the agreement between the licensee and the
14 sender, the licensee shall issue a refund in accordance with this section; or

15 (4) the refund is requested for a transaction that the licensee has not
16 completed based on a reasonable belief or a reasonable basis to believe
17 that a crime or violation of law, rules and regulations has occurred, is
18 occurring or may occur.

19 (c) The refund request shall not be construed to enable the licensee to
20 identify the:

21 (1) Sender's name and address or telephone number; or

22 (2) particular transaction to be refunded if the sender has multiple
23 outstanding transactions.

24 Sec. 29. (a) This section shall not apply to:

25 (1) Money received for transmission subject to 12 C.F.R. §§ 1005.30
26 through 1005.36;

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

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

32 (4) payroll processing services.

33 (b) As used in this section, "receipt" means a paper or electronic
34 receipt.

35 (c) (1) For a transaction conducted in person, the receipt may be
36 provided electronically if the sender requests or agrees to receive an
37 electronic receipt.

38 (2) For a transaction conducted electronically or by phone, a receipt
39 may be provided electronically. All electronic receipts shall be provided in
40 a retainable form.

41 (d) (1) Every licensee or the licensee's authorized delegate shall
42 provide the sender a receipt for money received for transmission.

43 (2) The receipt shall contain the:

- 1 (A) Name of the sender;
- 2 (B) name of the designated recipient;
- 3 (C) date of the transaction;
- 4 (D) unique transaction or identification number;
- 5 (E) name of the licensee, the licensee's nationwide multistate
- 6 licensing system and registry unique identification number, the licensee's
- 7 business address and the licensee's customer service telephone number;
- 8 (F) amount of the transaction in United States dollars;
- 9 (G) fee charged, if any, by the licensee to the sender for the
- 10 transaction; and
- 11 (H) taxes collected, if any, by the licensee from the sender for the
- 12 transaction.

13 (3) The receipt required by this section shall be written in English and
14 in the language principally used by the licensee or authorized delegate to
15 advertise, solicit or negotiate, either orally or in writing, for a transaction
16 conducted in person, electronically or by phone, if other than English.

17 Sec. 30. Every licensee or authorized delegate shall include on a
18 receipt or disclose on the licensee's website or mobile application the name
19 of the office of the state bank commissioner and a statement that the
20 licensee's Kansas customers can contact the office of the state bank
21 commissioner with questions or complaints about the licensee's money
22 transmission services.

23 Sec. 31. (a) A licensee that provides payroll processing services shall:

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

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

28 (b) This section shall not apply to a licensee providing payroll
29 processing services where the licensee's client designates the intended
30 recipients to the licensee and is responsible for providing the disclosures.

31 Sec. 32. (a) Every licensee shall maintain at all times a tangible net
32 worth of:

33 (1) The greater of \$100,000 or 3% of such licensee's total assets up to
34 \$100,000,000;

35 (2) 2% of such licensee's additional assets of \$100,000,000 to
36 \$1,000,000,000; and

37 (3) 0.5% of such licensee's additional assets of over \$1,000,000,000.

38 (b) The licensee's tangible net worth shall be demonstrated at initial
39 application by the applicant's most recent audited or unaudited financial
40 statements pursuant to section 10, and amendments thereto.

41 (c) Notwithstanding the provisions of this section, the commissioner
42 shall have the authority to exempt any applicant or licensee, in part or in
43 whole, from the requirements of this section.

1 Sec. 33. (a) An applicant for a money transmission license shall
2 provide and a licensee at all times shall maintain security consisting of a
3 surety bond in a form satisfactory to the commissioner or, with the
4 commissioner's approval, a deposit instead of a bond in accordance with
5 this section.

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

7 (1) The greater of \$200,000 or an amount equal to 100% of the
8 licensee's average daily money transmission liability in Kansas calculated
9 for the most recently completed three-month period, up to a maximum of
10 \$1,000,000; or

11 (2) \$200,000, if the licensee's tangible net worth exceeds 10% of total
12 assets.

13 (c) A licensee that maintains a bond in the maximum amount
14 provided for in subsection (b) shall not be required to calculate its average
15 daily money transmission liability in Kansas for purposes of this section.

16 (d) A licensee may exceed the maximum required bond amount
17 pursuant to section 35, and amendments thereto.

18 Sec. 34. (a) A licensee shall maintain permissible investments that
19 have a market value computed in accordance with United States generally
20 accepted accounting principles of not less than the aggregate amount of the
21 total of the licensee's outstanding money transmission obligations.

22 (b) Except for the permissible investments described in section 35,
23 and amendments thereto, the commissioner may by rules and regulations
24 or order limit the extent to which a specific investment maintained by a
25 licensee within a class of permissible investments may be considered a
26 permissible investment, if the specific investment represents undue risk to
27 customers not reflected in the market value of investments.

28 (c) Permissible investments, even if commingled with other assets of
29 the licensee, shall be held in trust for the benefit of the purchasers and
30 holders of the licensee's outstanding money transmission obligations in the
31 event of insolvency, the filing of a petition by or against the licensee under
32 11 U.S.C. §§ 101 through 110 for bankruptcy or reorganization, the filing
33 of a petition by or against the licensee for receivership, the commencement
34 of any other judicial or administrative proceeding for such licensee's
35 dissolution or reorganization or in the event of an action by a creditor
36 against the licensee who is not a beneficiary of this statutory trust. No
37 permissible investments impressed with a trust pursuant to this subsection
38 shall be subject to attachment, levy of execution or sequestration by order
39 of any court, except for a beneficiary of this statutory trust.

40 (d) Upon the establishment of a statutory trust in accordance with
41 subsection (c) or when any funds are drawn on a letter of credit pursuant to
42 section 35, and amendments thereto, the commissioner shall notify the
43 applicable regulator of each state where the licensee is licensed to engage

1 in money transmission, if any, of the establishment of the trust or the funds
2 drawn on the letter of credit, as applicable. Notice shall be deemed
3 satisfied if performed pursuant to a multistate agreement or through the
4 nationwide multistate licensing system and registry. Funds drawn on a
5 letter of credit and any other permissible investments held in trust for the
6 benefit of the purchasers and holders of the licensee's outstanding money
7 transmission obligations shall be deemed held in trust for the benefit of
8 such purchasers and holders on a pro rata and equitable basis in
9 accordance with statutes pursuant to which permissible investments are
10 required to be held in Kansas and other states, as applicable. Any statutory
11 trust established under this section shall be terminated upon
12 extinguishment of all of the licensee's outstanding money transmission
13 obligations.

14 (e) The commissioner by rules and regulations or by order may allow
15 other types of investments that the commissioner determines are of
16 sufficient liquidity and quality to be a permissible investment. The
17 commissioner is hereby authorized to participate in efforts with other state
18 regulators to determine which other types of investments are of sufficient
19 liquidity and quality to be a permissible investment.

20 Sec. 35. (a) The following investments are permissible under this
21 section:

22 (1) Cash, including demand deposits, savings deposits and funds in
23 accounts held for the benefit of the licensee's customers in a federally
24 insured depository financial institution and cash equivalents including
25 automated clearing house items in transit to the licensee and automated
26 clearing house items or international wires in transit to a payee, cash in
27 transit via armored car, cash in smart safes, cash in licensee-owned
28 locations, debit card or credit card-funded transmission receivables owed
29 by any bank or money market mutual funds rated AAA by Standard &
30 Poor or the equivalent from any eligible rating service;

31 (2) certificates of deposit or senior debt obligations of a federally
32 insured depository institution;

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

37 (4) (A) the full drawable amount of an irrevocable standby letter of
38 credit for which the stated beneficiary is the commissioner that stipulates
39 that the beneficiary need only draw a sight draft under the letter of credit
40 and present it to obtain funds up to the letter of credit amount within seven
41 days of presentation of the items required by subparagraph (D);

42 (B) the letter of credit shall:

43 (i) Be issued by a federally insured depository financial institution, a

1 foreign bank that is authorized under federal law to maintain a federal
2 agency or federal branch office in a state or states or a foreign bank that is
3 authorized under state law to maintain a branch in a state that:

4 (a) Bears an eligible rating or whose parent company bears an eligible
5 rating; and

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

9 (ii) be irrevocable, unconditional and indicate that such letter of credit
10 is not subject to any condition or qualifications outside of such letter of
11 credit;

12 (iii) contain no references to any other agreements, documents or
13 entities or otherwise provide for a security interest in the licensee; and

14 (iv) contain an issue date and expiration date and expressly provide
15 for automatic extension, without a written amendment, for an additional
16 period of one year from the present or each future expiration date unless
17 the issuer of the letter of credit notifies the commissioner in writing by
18 certified or registered mail or courier mail or other receipted means at least
19 60 days prior to any expiration date, that the irrevocable letter of credit
20 will not be extended;

21 (C) if any notice of expiration or non-extension of a letter of credit is
22 issued under clause (a)(4)(B)(iv), the licensee shall be required to
23 demonstrate to the satisfaction of the commissioner, 15 days prior to
24 expiration, that the licensee maintains and shall maintain permissible
25 investments in accordance with section 36(a), and amendments thereto,
26 upon the expiration of the letter of credit. If the licensee is not able to do
27 so, the commissioner may draw on the letter of credit in an amount up to
28 the amount necessary to meet the licensee's requirements to maintain
29 permissible investments in accordance with section 34(a), and
30 amendments thereto. Any such draw shall be offset against the licensee's
31 outstanding money transmission obligations. The drawn funds shall be
32 held in trust by the commissioner or the commissioner's designated agent,
33 to the extent authorized by law, as agent for the benefit of the purchasers
34 and holders of the licensee's outstanding money transmission obligations;

35 (D) the letter of credit shall provide that the issuer of such letter of
36 credit shall honor, at sight, a presentation made of the following
37 documents by the beneficiary to the issuer on or prior to the expiration
38 date of the letter of credit:

39 (i) The original letter of credit, including any amendments; and

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

42 (a) The filing of a bankruptcy or reorganization petition by or against
43 the licensee;

1 (b) the filing of a petition by or against the licensee for receivership
2 or the commencement of any other judicial or administrative proceeding
3 for such licensee's dissolution or reorganization;

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

8 (d) the beneficiary has received notice of expiration or non-extension
9 of a letter of credit and the licensee failed to demonstrate to the satisfaction
10 of the beneficiary that the licensee will maintain permissible investments
11 in accordance with section 36(a), and amendments thereto, upon the
12 expiration or non-extension of the letter of credit;

13 (E) the commissioner may designate an agent to serve on the
14 commissioner's behalf as beneficiary to a letter of credit if the agent and
15 letter of credit meet requirements established by the commissioner. The
16 commissioner's agent may serve as agent for multiple licensing authorities
17 for a single irrevocable letter of credit if the proceeds of the drawable
18 amount for the purposes of subsection (a)(4) are assigned to the
19 commissioner; and

20 (F) the commissioner is hereby authorized to participate in multistate
21 processes designed to facilitate the issuance and administration of letters
22 of credit, including, but not limited to, services provided by the nationwide
23 multistate licensing system and registry and state regulatory registry, LLC;
24 and

25 (5) 100% of the surety bond provided for under section 33, and
26 amendments thereto, that exceeds the average daily money transmission
27 liability in Kansas.

28 (b) (1) Unless permitted by the commissioner by rules and
29 regulations adopted or by order issued to exceed the limit as set forth
30 herein, the following investments are permissible under section 35, and
31 amendments thereto, to the extent specified:

32 (A) Receivables payable to a licensee from the licensee's authorized
33 delegates in the ordinary course of business that are less than seven days
34 old up to 50% of the aggregate value of the licensee's total permissible
35 investments; and

36 (B) of the receivables permissible under subparagraph (A),
37 receivables payable to a licensee from a single authorized delegate in the
38 ordinary course of business may not exceed 10% of the aggregate value of
39 the licensee's total permissible investments.

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

43 (A) A short-term investment of up to six months, bearing an eligible

1 rating;

2 (B) commercial paper bearing an eligible rating;

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

4 (D) United States tri-party repurchase agreements collateralized at
5 100% or more with United States government or agency securities,
6 municipal bonds or other securities bearing an eligible rating;

7 (E) money market mutual funds rated less than AAA and equal to or
8 higher than A- by Standard & Poor or the equivalent from any other
9 eligible rating service; and

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

13 (3) Cash, including demand deposits, savings deposits and funds in
14 such accounts held for the benefit of the licensee's customers, at foreign
15 depository institutions are permissible up to 10% of the aggregate value of
16 the licensee's total permissible investments if the licensee has received a
17 satisfactory rating in the licensee's most recent examination and the
18 foreign depository institution:

19 (A) Has an eligible rating;

20 (B) is registered under the foreign account tax compliance act;

21 (C) is not located in any country subject to sanctions from the office
22 of foreign asset control; and

23 (D) is not located in a high-risk or non-cooperative jurisdiction as
24 designated by the financial action task force.

25 Sec. 36. (a) The commissioner may, after notice and an opportunity
26 for a hearing conducted in accordance with the Kansas administrative
27 procedure act, K.S.A. 77-501 et seq., and amendments thereto, suspend or
28 revoke a license or order a licensee to revoke the designation of an
29 authorized delegate if:

30 (1) The licensee violates this act or any rules and regulations adopted
31 or an order issued under this act;

32 (2) the licensee does not cooperate with an examination or
33 investigation by the commissioner;

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

36 (4) an authorized delegate is convicted of a violation of a state or
37 federal anti-money laundering statute or violates any rules or regulations
38 adopted or an order issued under this act, as a result of the licensee's
39 willful misconduct or willful blindness;

40 (5) the competence, experience, character or general fitness of the
41 licensee, authorized delegate, person in control of a licensee, key
42 individual or responsible person of the authorized delegate indicates that it
43 is not in the public interest to permit the person to provide money

1 transmission;

2 (6) the licensee engages in an unsafe or unsound practice as
3 determined by the commissioner pursuant to subsection (b);

4 (7) the licensee is insolvent, suspends payment of the licensee's
5 obligations or makes a general assignment for the benefit of the licensee's
6 creditors;

7 (8) the licensee does not remove an authorized delegate after the
8 commissioner issues and serves upon the licensee a final order that
9 includes a finding that the authorized delegate has violated this act;

10 (9) a fact or condition exists that, if it had existed when the licensee
11 applied for a license, would have been grounds for denying the
12 application;

13 (10) the licensee's net worth becomes inadequate and the licensee,
14 after 10 days, fails to take steps to remedy the deficiency;

15 (11) the licensee demonstrated a pattern of failing to promptly pay
16 obligations;

17 (12) the licensee applied for adjudication, reorganization or other
18 relief under bankruptcy; or

19 (13) the licensee lied or made false or misleading statements to any
20 material fact or omitted any material fact.

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

25 Sec. 37. (a) The commissioner may issue an order suspending or
26 revoking the designation of an authorized delegate, if the commissioner
27 finds that the:

28 (1) Authorized delegate violated this act or any rules and regulations
29 adopted or an order issued under this act;

30 (2) authorized delegate did not cooperate with an examination or
31 investigation by the commissioner;

32 (3) authorized delegate engaged in fraud, intentional
33 misrepresentation or gross negligence;

34 (4) authorized delegate is convicted of a violation of a state or federal
35 anti-money laundering statute;

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

40 (6) the authorized delegate is engaging in an unsafe or unsound
41 practice as determined by the commissioner pursuant to subsection (b).

42 (b) In determining whether an authorized delegate is engaging in an
43 unsafe or unsound practice, the commissioner may consider the size and

1 condition of the authorized delegate's provision of money transmission, the
2 magnitude of the loss, the gravity of the violation of this act or any rules
3 and regulations adopted or an order issued under this act and the previous
4 conduct of the authorized delegate.

5 (c) An authorized delegate may apply for relief from a suspension or
6 revocation of designation as an authorized delegate according to
7 procedures prescribed by the commissioner in rules and regulations.

8 Sec. 38. (a) If the commissioner determines that a violation of this act
9 or of any rules and regulations adopted or an order issued under this act by
10 a licensee, a person required to be licensed or authorized delegate is likely
11 to cause immediate and irreparable harm to the licensee, the licensee's
12 customers or the public as a result of the violation or cause insolvency or
13 significant dissipation of assets of the licensee, the commissioner may
14 issue an order requiring the licensee or authorized delegate to cease and
15 desist from the violation. The order shall become effective upon service of
16 the order on the licensee or authorized delegate.

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

20 (c) An order to cease and desist shall remain effective and
21 enforceable pending the completion of an administrative proceeding
22 pursuant to the Kansas administrative procedure act, K.S.A. 77-501 et
23 seq., and amendments thereto.

24 (d) An order to cease and desist shall be considered a final order
25 unless the licensee or authorized delegate requests a hearing within 14
26 days after the cease and desist order is issued.

27 Sec. 39. The commissioner may enter into a consent order at any time
28 with a person to resolve a matter arising under this act or any rules and
29 regulations adopted or order issued under this act. A consent order shall be
30 signed by the person to whom such consent order is issued or by the
31 person's authorized representative and shall indicate agreement with the
32 terms contained in the order. A consent order may provide that such
33 consent order does not constitute an admission by a person that this act or
34 rules and regulations adopted or an order issued under this act has been
35 violated.

36 Sec. 40. (a) Any person that intentionally makes a false statement,
37 misrepresentation or false certification in a record filed or required to be
38 maintained under this act or that intentionally makes a false entry or omits
39 a material entry in such a record is guilty of a severity level 9, nonperson
40 felony.

41 (b) Any person that knowingly engages in an activity for which a
42 license is required under this act without being licensed under this act and
43 who receives more than \$500 in compensation within a 30-day period

1 from this activity is guilty of a severity level 9, nonperson felony.

2 (c) Any person that knowingly engages in an activity for which a
3 license is required under this act without being licensed under this act and
4 who receives not more than \$500 in compensation within a 30-day period
5 from this activity is guilty of a class A nonperson misdemeanor.

6 Sec. 41. (a) As part of any summary order or consent order, the
7 commissioner may:

8 (1) Assess a fine against any person who violates this act or any rules
9 and regulations adopted hereunder in an amount not to exceed \$5,000 per
10 violation. The commissioner may designate any fine collected pursuant to
11 this section be used for consumer education;

12 (2) assess the agency's operating costs and expenses for investigating
13 and enforcing this act;

14 (3) require the person to pay restitution for any loss arising from the
15 violation or requiring the person to reimburse any profits arising from the
16 violation;

17 (4) prohibit the person from future application for licensure pursuant
18 to the act; and

19 (5) require such affirmative action as determined by the
20 commissioner to carry out the purposes of this act.

21 (b) (1) The commissioner may enter into an informal agreement at
22 any time with a person to resolve a matter arising under this act, rules and
23 regulations adopted hereunder or an order issued pursuant to this act.

24 (2) Any informal agreement authorized by this subsection shall be
25 considered confidential examination material. The adoption of an informal
26 agreement authorized by this subsection shall not be:

27 (A) Subject to the provisions of K.S.A. 77-501 et seq., and
28 amendments thereto, or K.S.A. 77-601 et seq., and amendments thereto;

29 (B) considered an order or other agency action;

30 (C) subject to the Kansas open records act, K.S.A. 45-215 et seq., and
31 amendments thereto; or

32 (D) discovery or be admissible in evidence in any private civil action.

33 (3) The provisions of this subsection providing for the confidentiality
34 of public records shall expire on July 1, 2030, unless the legislature
35 reviews and reenacts such provisions in accordance with the Kansas open
36 records act, K.S.A. 45-229, and amendments thereto, prior to July 1, 2030.

37 (c) Through an examination finding, the commissioner may:

38 (1) Assess a fine against any licensee who violates this act or rules
39 and regulations adopted thereto, in an amount not to exceed \$5,000 per
40 violation. The commissioner may designate any fine collected pursuant to
41 this section be used for consumer education; or

42 (2) require the licensee to pay restitution for any loss arising from the
43 violation or require the person to reimburse any profits arising from the

1 violation.

2 Sec. 42. The provisions of this act are severable. If any portion of the
3 act is declared unconstitutional or invalid, or the application of any portion
4 of the act to any person or circumstance is held unconstitutional or invalid,
5 the invalidity shall not affect other portions of the act that can be given
6 effect without the invalid portion or application, and the applicability of
7 such other portions of the act to any person or circumstance shall remain
8 valid and enforceable.

9 Sec. 43. K.S.A. 9-508, 9-509, 9-510, 9-510a, 9-511, 9-513, 9-513a, 9-
10 513b, 9-513c, 9-513d, 9-513e and K.S.A. 2023 Supp. 9-512 are hereby
11 repealed.

12 Sec. 44. This act shall take effect and be in force from and after
13 January 1, 2025, and its publication in the statute book.