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MEMORANDUM

To: House Committee on Financial Institutions and Pensions

From: Office of Revisor of Statutes

Date: March 18, 2024

Subject: **SB 406-Enacting the Kansas money transmission act.**

SB 406 repeals the current Kansas money transmitter act (K.S.A. 9-508 et seq.) consisting of 12 statutes and would enact the Kansas Money Transmission Act in its stead, consisting of 42 provisions of law. The Kansas Money Transmission Act is largely based on the Conference of State Bank Supervisors (CSBS) Model Money Transmission Modernization Act.

The Kansas Money Transmission Act can be largely grouped into 10 different topics. These are:

1. Definitions
2. Exemptions
3. Implementation, confidentiality, supervision and relationship to Federal Law
4. Licenses
5. Acquisition of control
6. Reporting and records
7. Authorized delegates
8. Disclosures
9. Fiscal standards
10. Enforcement

The act also contains a severability clause stating that if any of the provisions is found invalid or unconstitutional, or the application of any portion of the act to any person is held unconstitutional or invalid, then that invalidity will not affect the provisions of the rest of the act that can be given effect without the invalid portion or application and the applicability of the rest of the act that remain valid and enforceable.

Attached is a table with a brief summary of the bill sections belonging under each topic and a very brief description of each section.

The Senate Committee on Financial Institutions and Insurance amended SB 406 to exempt a person engaging in the practice of law, bookkeeping, accounting, real estate sales or brokerage from the provisions of the act (Sec. 2. p. 7, lines 1-3). The Senate passed SB 406 by a vote of 40-0 on February 22, 2024.

Summary of Provisions Kansas Money Transmission Act

<u>Topic</u>	<u>Sections</u>	<u>Key Provisions</u>
Definitions	§1	Provides the entire definitions section of the act.
Exemptions	§2	Provides the exhaustive list of entities to whom the act does not apply; however, 2(b) states that the commissioner may require any entity claiming exemption from the act demonstrate that the entity does actually qualify.
Implementation, confidentiality, supervisions, relationship to federal law	§§ 3 - 7	Sec. 3: authorizes the commissioner to enter into agreements or relationships with other government officials (state and federal) to improve efficiency and reduce regulatory burden; Sec 4 provides for confidentiality of information or reports obtained by the commissioner from investigations and examinations; Sec.5 grants the commissioner authority to conduct an examination or investigation, access to records; licensees pay costs of examination; Sec. 6 authorizes the commissioner to participate in multi-state supervisory processes, share information, etc. Sec. 7 federal law controls in the event of inconsistencies between state and federal law.
Licenses and licensing	§§ 8 - 16, except 12	Sec.8 - requires license to engage in money transmission; Sec. 9: authorizes the commissioner to engage in certain activities to establish consistent licensing practices; Sec. 10: provides for application requirements; Sec. 11: describes the information required of any licensee, applicant in control of a license and each key individuals; Sec. 13: describes the issuance of a license; Sec. 14: describes the process of renewal of a license; Sec. 15: provides for the suspension or revocation of a license when the licensee does not continue to meet or satisfy licensure requirements; Sec. 16: grants the commissioner the authority to determine when an application is complete and establish when it is considered abandoned.
Acquisition of control	§§ 12, 17, 18	Sec.12: describes when a person is presumed to exercise a controlling interest; Sec. 17: describes the process for a person or group thereof to apply to gain control of a licensee; Sec. 18: Describes the process for a licensee to add or replace a key individual.
Reporting and records	§§ 19 - 24	Sec. 19: requires every licensee to submit a report of ondition within 45 days of the end of each calendar quarter; Sec. 20: requires every licensee to file an audited financial report within 90 days of the end of the fiscal year; Sec. 21: requires each licensee to submit a report of authorized delegates within 45 days of each calendar quarter; Sec. 22: requires a licenss to file a report with the commissioner within one business day after the licensee has reason to know of the filing of a bankruptcy or reorganization against the licensee, filing of a petition by or against the licensee for receivership; commencement of proceeding to revoke or suspend the licensee's license. Sec. 23: requires a licensee and an authorized delegate to file reports required by federal currency reporting, recordkeeping and suspicious activity reporting requirements; Sec.24: Describes record retention requirements for licensees.

Summary of Provisions
Kansas Money Transmission Act

Authorized delegates	§§ 25-26	Sec. 25: describes the requirements that must be fulfilled before a licensee is authorized to conduct business through an authorized delegate; Sec. 26: prohibits a person from engaging in the business of money transmission on behalf of a person who is not licensed or exempt from licensing under the act.
Disclosures	§§ 27-31	Sec. 27: requires that a licensee forward all moneys received for transmission in accordance with the terms of the agreement btw the licensee and the sender. Sec. 28: requires that a licensee refund moneys within 10 days of the sender's written request for refund. Sec. 29: requires that the licensee provide the sender with a receipt for money received for transmission. Sec. 30: provides contact information for the state bank commissioner so that a KS licensee's customers may contact the commissioner with questions or complaints. Sec. 31: requires that a licensee that provides payroll processing services issue reports to clients detailing client payroll obligations before payroll funds are deducted from an account and make worker paystubs available.
Prudential standards	§§ 32-35	Sec. 32: requires a licensee to maintain a tangible net worth based on the licensee's total assets; Sec. 33: requires that a licensee maintain a surety bond of the greater amount between \$200,000 or 100% of the licensee's average daily money transmission liability calculated for the most recent 3 month period; Sec. 34: describes the permissible investments that must be maintained by a licensee and the guidelines for holding such investments in trust; Sec. 35: lists the types of permissible investments that a licensee may hold.
Enforcement	§§ 36 - 41	Sec. 36: pertains to the process by which the commissioner may suspend or revoke a licensee's license; Sec. 37: describes the reasons why the commissioner may revoke the designation of a licensee's authorized delegate; Sec. 38: describes how and why the commissioner may issue a cease and desist order; Sec. 39 authorizes the commissioner to enter into consent orders; Sec. 40: Lists criminal penalties; Sec. 41: Lists civil penalties