Uniform Money Services Act

SECTION 1. Chapter 11, Title 35 of the S.C. Code is amended to read:

CHAPTER 11
South Carolina Uniform Money Services Act
Article 1
General Provisions

Section 35-11-100. This chapter may be cited as the "South Carolina Uniform Money Services Act".

Section 35-11-105. As used in this chapter:

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

(2) "Applicant" means a person that files an application for a license pursuant to this act.

(3) "Authorized delegate" means a person a licensee designates to provide money services on behalf of the licensee.

(4) "Average daily money transmission liability" means the amount of the licensee's outstanding money transmission obligations in this State at the end of each day in a given period of time, added together, and divided by the total number of days in the given period of time. For purposes of calculating average daily money transmission liability under this chapter for any licensee required to do so, the given period of time must be the quarters ending March thirty-first, June thirtieth, September thirtieth, and December thirty-first.

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

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

(7) "Commissioner" means the South Carolina Attorney General.

(8)(a) "Control" means:

(i) the power to vote, directly or indirectly, at least twenty-five percent of the outstanding voting shares or voting interests of a licensee or person in control of a licensee;

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

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

(b)(i) A person is presumed to exercise a controlling influence when the person holds the power to vote, directly or indirectly, at least ten percent of the outstanding voting shares or voting interests of a licensee or person in control of a licensee.

(ii) A person presumed to exercise a controlling influence as defined by this subitem can rebut the presumption of control if the person is a passive investor.

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

(9) "Currency exchange" means receipt of revenues from the exchange of money of one government for money of another government.

(10) "Eligible rating" means a credit rating of any of the three highest rating categories provided by an eligible rating service, whereby each category may include rating modifiers such as "plus" or "minus" for S&P, or the equivalent for any other eligible rating service. Long-term credit ratings are considered to be eligible if the rating is equal to A- or higher by S&P, or the equivalent from any other eligible rating service. Short-term credit ratings are deemed eligible if the rating is equal to or higher than A-2 or SP-2 by S&P, or the equivalent from any other eligible rating service. In the event that ratings differ among eligible rating services, the highest rating shall apply when determining whether a security bears an eligible rating.

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

(12) "Executive officer" means a president, chairperson of the executive committee, chief financial officer, responsible individual, or other individual who performs similar functions.

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

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

(15) "Individual" means a natural person.

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

(17) "Licensee" means a person licensed pursuant to this act.

(18) "Material litigation" means litigation, that according to United States Generally Accepted Accounting Principles, is significant to a person's financial health and would be required to be disclosed in the person's annual audited financial statements, report to shareholders, or similar records.

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

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

(21) "Money services" means money transmission or currency exchange.

(22)(a) "Money transmission" means any of the following:

(i) selling or issuing payment instruments to a person located in this State;

(ii) selling or issuing stored value to a person located in this State; or

(iii) receiving money for transmission in this State.

(b) The term does not include the provision solely of delivery, online or telecommunications services, or network access.

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

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

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

(26) "Outstanding money transmission obligation" is established and extinguished in accordance with applicable state law and means:

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

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

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

(27) "Passive investor" means a person that:

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

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

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

(d) either:

(i) attests to subitems (a), (b), and (c), in a form and in a medium prescribed by the Commissioner; or

(ii) commits to the passivity characteristics of subitems (a), (b), and (c), in a written document.

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

(29) "Payroll processing services" means delivering wages or salaries on behalf of employers to employees or facilitating the payment of payroll taxes to state and federal agencies, making payments relating to employee benefit plans, making distributions of other authorized deductions from wages or salaries, transmitting other funds on behalf of an employer in connection with transactions related to employees, an employer performing payroll processing services on its own behalf or on behalf of its affiliate, or a professional employment organization subject to regulation under other applicable state law.

(30) "Person" means an individual, corporation, trust, general partnership, limited partnership, limited-liability company, association, joint stock corporation, or other corporate entity identified by the Commissioner.

(31) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(32) "Receiving money for transmission" or "money received for transmission" means receiving money or monetary value in the United States for transmission within or outside the United States by electronic or other means.

(33) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

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

(35) "Tangible net worth" means the aggregate assets of a licensee excluding all intangible assets, less liabilities, as determined in accordance with United States Generally Accepted Accounting Principles.

(36) "Unsafe or unsound practice" means a practice or conduct by a person licensed to engage in money transmission or an authorized delegate of such a person, which creates the likelihood of material loss, insolvency, or dissipation of the licensee's assets, or otherwise materially prejudices the interests of its customers.

Section 35-11-110. (A) This chapter does not apply to:

(1) the United States or a department, agency, or instrumentality thereof, or its agent;

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

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

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

(5) electronic funds transfer of governmental benefits for a federal, state, county, or governmental agency by a contractor on behalf of the United States or a department, agency, or instrumentality thereof, or on behalf of a state or governmental subdivision, agency, or instrumentality thereof;

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

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

(8) an operator of a payment system to the extent that it provides processing, clearing, or settlement services, between or among persons exempted by this section, in connection with wire transfers, credit card transactions, debit card transactions, stored-value transactions, automated clearing house transfers, or similar funds transfers;

(9) a person registered as a securities broker-dealer under federal or state securities laws to the extent of his operation as a securities broker-dealer;

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

(11) a person expressly appointed as a third-party service provider to, or agent of, an entity exempt under Section 35-11-110(A)(4), solely to the extent that:

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

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

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

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

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

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

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

(a) is properly licensed or exempt from licensing requirements under this chapter;

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

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

(14) a person exempt by regulation or order if the Commissioner finds such exemption to be in the public interest and that the regulation of such person is not necessary for the purposes of this chapter; or

(15) payroll processing services.

(B) The Commissioner may require that a person claiming to be exempt from licensing pursuant to this section provide information and documentation to the Commissioner demonstrating that it qualifies for any claimed exemption.

Article 2
Money Transmission Licenses

Section 35-11-200. (A) A person may not engage in the business of money transmission or advertise, solicit, or hold himself out as providing money transmission unless the person is:

(1) licensed under this article;

(2) an authorized delegate of a person licensed pursuant to this article; or

(3) exempted under Section 35-11-110.

(B) A license issued pursuant to this chapter is not transferable or assignable.

Section 35-11-205. (A) A person applying for a license pursuant to this article shall do so in a form and in a medium prescribed by the Commissioner. Each form must contain content as set forth by regulation, order, instruction, or procedure of the Commissioner and may be changed or updated by the Commissioner in accordance with applicable law in order to carry out the purposes of this chapter and maintain consistency with NMLS licensing standards and practices. The application must state or contain:

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

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

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

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

(5) a list of other states in which the applicant is licensed to engage in money transmission or provide other money services and any license revocations, suspensions, or other disciplinary action taken against the applicant in another state;

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

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

(8) a sample form of payment instrument, if applicable;

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

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

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

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

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

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

(4) the legal name, a fictitious or trade name, all business and residential addresses, and the employment, in the ten-year period next preceding the submission of the application of each executive officer, manager, director, or person who has control of the applicant;

(5) a list of criminal convictions and material litigation in which an executive officer, a manager, director, or person in control of, the applicant has been involved in the ten-year period next preceding the submission of the application;

(6) a copy of the applicant's audited financial statements for the most recent fiscal year and, if available, for the two-year period next preceding the submission of the application or, if determined to be acceptable to the Commissioner, certified unaudited financial statements for the most recent fiscal year or other period acceptable to the Commissioner;

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

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

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

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

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

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

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

(C) A nonrefundable application fee of one thousand five hundred dollars and a license fee of one thousand six hundred dollars must accompany an application for a license pursuant to this article. The license fee must be refunded if the application is denied.

(D) The Commissioner may waive one or more requirements of subsections (A) and (B) or permit an applicant to submit other information in lieu of the required information.

Section 35-11-210. (A) Any individual in control of a licensee or applicant, any individual that seeks to acquire control of a licensee, and each key individual shall furnish to the Commissioner through NMLS the following items:

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

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

(a) an independent credit report from a consumer reporting agency unless the individual does not have a Social Security number, in which case, this requirement must be waived;

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

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

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

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

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

(b) not be affiliated with or have an interest with the individual it is researching;

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

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

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

(c) employment history;

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

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

Section 35-11-215. (A) An applicant for a money transmission license must provide, and a licensee at all times must maintain, security consisting of a surety bond, letter of credit, or other similar security in a form acceptable to the Commissioner.

(B) The amount of the required security must be:

(1) the greater of one hundred thousand dollars or an amount equal to one hundred percent of the licensee's average daily money transmission liability in this State calculated for the most recently completed three-month period, up to a maximum of five hundred thousand dollars; or

(2) in the event that the licensee's tangible net worth exceeds ten percent of total assets, the licensee shall maintain a surety bond of one hundred thousand dollars.

(C) A licensee that maintains a bond in the maximum amount provided for in Section 35-11-215(B)(1) or (2) may not be required to calculate its average daily money transmission liability for purposes of this section.

(D) A licensee may exceed the maximum required bond amount pursuant to Section 35-11-605(A)(5).

Section 35-11-220. (A) When an application for an original license is filed and considered complete pursuant to this article, the Commissioner shall investigate the applicant's financial condition and responsibility, financial and business experience, character, and general fitness. The Commissioner may conduct an on-site investigation of the applicant, the reasonable cost of which the applicant must pay. The Commissioner shall issue a license to an applicant pursuant to this article if the Commissioner finds that all of the following conditions have been fulfilled:

(1) the applicant has complied with Sections 35-11-205, 35-11-215, and 35-11-230; and

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

(B) When an application for an original license pursuant to this article is complete, the Commissioner promptly shall notify the applicant in a record of the date on which the application was determined to be complete and:

(1) the Commissioner shall approve or deny the application within one hundred twenty days after that date; or

(2) if the application is not approved or denied within one hundred twenty days after that date the:

(a) application is considered approved; and

(b) Commissioner shall issue the license pursuant to this article, to take effect as of the first business day after expiration of the one hundred twenty-day period.

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

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

(E) The Commissioner shall issue a formal written notice of the denial of a license application. The Commissioner shall set forth in the notice of denial the specific reasons for the denial of the application. An applicant whose application is denied by the Commissioner pursuant to this section may request a hearing, within thirty days after receipt of the written notice of the denial pursuant to Section 35-11-710.

(F) The initial license term begins on the day the application is approved. The license expires on December thirty-first of the year in which the license term began, unless the initial license date is between November first and December thirty-first, in which instance the initial license term runs through December thirty-first of the following year.

Section 35-11-225. (A) A license issued under this chapter must be renewed annually.

(1) An annual renewal fee of one thousand six hundred dollars must be paid no more than sixty days before the license expiration.

(2) The renewal term must be for a period of one year and begins on January first of each year after the initial license term and expires on December thirty-first of the year the renewal term begins.

(B) A licensee under this article shall submit a renewal report with the renewal fee, in a form and in a medium prescribed by the Commissioner. The renewal report must state or contain a description of each material change in information submitted by the licensee in its original license application which has not been reported to the Commissioner on a required report.

(C) The Commissioner for good cause may grant an extension of the renewal date.

(D) The Commissioner is authorized and encouraged to utilize NMLS to process license renewals provided that such functionality is consistent with this section.

Section 35-11-230. (A) A licensee under this chapter shall maintain at all times a tangible net worth of the greater of one hundred thousand dollars or three percent of total assets for the first one hundred million dollars, two percent of additional assets for one hundred million dollars to one billion dollars, and one-half of one percent of additional assets for over one billion dollars.

(B) Tangible net worth must be demonstrated at initial application by the applicant's most recent audited or unaudited financial statements pursuant to Section 35-11-205(B)(6).

(C) Notwithstanding the foregoing provisions of this section, the Commissioner shall have the authority, for good cause shown, to exempt, in whole or in part, from the requirements of this section any applicant or licensee.

Section 35-11-235. (A) If a licensee does not continue to meet the qualifications or satisfy the requirements that apply to an applicant for a new money transmission license, the Commissioner may suspend or revoke the licensee's license pursuant to Section 35-11-700 or 35-11-710 or other applicable state law for such suspension or revocation.

(B) An applicant for a money transmission license must demonstrate that it meets or will meet, and a money transmission licensee must at all times meet, the requirements in Sections 35-11-215, 35-11-230, and 35-11-600 of this chapter.

Article 3
Currency Exchange Licenses

Section 35-11-300. (A) A person may not engage in currency exchange or advertise, solicit, or hold himself out as providing currency exchange for which the person receives revenues equal or greater than five percent of total revenues unless the person is:

(1) licensed pursuant to this article;

(2) licensed for money transmission pursuant to Article 2; or

(3) an authorized delegate of a person licensed pursuant to Article 2.

(B) A license issued pursuant to this chapter is not transferable or assignable.

Section 35-11-305. (A) A person applying for a license pursuant to this article shall do so in a form and in a medium prescribed by the Commissioner. The application shall state or contain:

(1) the legal name and residential and business addresses of the applicant, if the applicant is an individual or, if the applicant is not an individual, the name of each partner, executive officer, manager, and director;

(2) the location of the principal office of the applicant;

(3) complete addresses of other locations in this State where the applicant proposes to engage in currency exchange, including all limited stations and mobile locations; and

(4) other information the Commissioner reasonably requires with respect to the applicant, but not more than the Commissioner may require pursuant to Article 2.

(B) A nonrefundable application fee of one thousand five hundred dollars and a license fee of one thousand six hundred dollars must accompany an application for a license pursuant to this article. The license fee must be refunded if the application is denied.

(C) The Commissioner may waive one or more requirements of subsection (A) or permit an applicant to submit other information in lieu of the required information.

Section 35-11-310. (A) When a person applies for a license pursuant to this article, the Commissioner shall investigate the applicant's financial condition and responsibility, financial and business experience, character, and general fitness. The Commissioner may conduct an on-site investigation of the applicant, the reasonable cost of which the applicant must pay. The Commissioner shall issue a license to an

applicant pursuant to this article if the Commissioner finds that all of the following conditions have been fulfilled:

(1) the applicant has complied with Section 35-11-305; and

(2) the financial condition and responsibility, financial and business experience, competence, character, and general fitness of the applicant; and the competence, experience, character, and general fitness of the executive officers, managers, directors, and persons in control of the applicant indicate that it is in the interest of the public to permit the applicant to engage in currency exchange.

(B) When an application for an original license pursuant to this article is complete, the Commissioner promptly shall notify the applicant in a record of the date on which the application was determined to be complete and:

(1) the Commissioner shall approve or deny the application within one hundred twenty days after that date; or

(2) if the application is not approved or denied within one hundred twenty days after that date the:

(a) application is considered approved; and

(b) Commissioner shall issue the license pursuant to this article, to take effect as of the first business day after expiration of the period.

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

(D) The Commissioner shall issue a formal written notice of the denial of a license. The Commissioner shall set forth in the notice of denial the specific reasons for the denial of the application. An applicant whose application is denied a license by the Commissioner pursuant to this article may request a hearing, within thirty days after receipt of the written notice of the denial pursuant to Section 35-11-710.

Section 35-11-315. (A) All licenses issued pursuant to this article expire on December thirty-first of each year. A person licensed pursuant to this article shall pay a renewal fee of one thousand six hundred dollars on or before December first of each year.

(B) A person licensed pursuant to this article shall submit a renewal report with the renewal fee, in a form and in a medium prescribed by the Commissioner. The renewal report must state or contain a:

(1) description of each material change in information submitted by the licensee in its original license application which has not been reported to the Commissioner on a required report; and

(2) list of the locations in this State where the licensee or an authorized delegate of the licensee engages in currency exchange, including limited stations and mobile locations.

(C) The Commissioner for good cause may grant an extension of the renewal date.

Article 4
Authorized Delegates

Section 35-11-400. (A) In this section, "remit" means to make direct payments of money to a licensee or its representative authorized to receive money or to deposit money in a bank in an account specified by the licensee.

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

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

(2) enter into a written contract that complies with Section 35-11-400(D); and

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

(C) An authorized delegate must operate in full compliance with this chapter.

(D) The written contract required by Section 35-11-400(B) must be signed by the licensee and the authorized delegate and, at a minimum, must:

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

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

(3) require the authorized delegate to agree to fully comply with all applicable state and federal laws, rules, and regulations pertaining to money transmission, including

this chapter and regulations implementing this chapter, relevant provisions of the Bank Secrecy Act and the USA Patriot Act;

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

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

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

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

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

(9) acknowledge receipt of the written policies and procedures required under Section 35-11-400(B)(1).

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

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

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

Section 35-11-405. A person may not provide money services on behalf of a person not licensed pursuant to this chapter or not exempt pursuant to Section 35-11-110. A person that engages in that activity provides money services to the same extent as if the person were a licensee and is jointly and severally liable with the unlicensed or nonexempt person.

Article 5
Examinations, Reports, and Records

Section 35-11-500. (A) The Commissioner may conduct an examination or investigation of a licensee or of any of the licensee's authorized delegates or otherwise take independent action authorized by this chapter or by a rule or order issued under this chapter as reasonably necessary or appropriate to administer and enforce this chapter, regulations implementing this chapter, and other applicable law, including the Bank Secrecy Act and the USA Patriot Act. The Commissioner may:

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

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

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

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

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

(C) If the Commissioner concludes that an examination is necessary pursuant to subsection (A), the licensee shall pay the reasonable cost of the examination.

(D) Information obtained during an examination pursuant to this chapter may be disclosed only as provided in Section 35-11-530.

Section 35-11-505. (A) To efficiently and effectively administer and enforce this chapter and to minimize regulatory burden, the Commissioner is authorized and encouraged to participate in multistate supervisory processes established between states and coordinated through the Conference of State Bank Supervisors, Money Transmitter Regulators Association, and affiliates and successors thereof for all licensees that hold licenses in this State and other states. As a participant in multistate supervision, the Commissioner shall:

(1) cooperate, coordinate, and share information with other state and federal regulators in accordance with Section 35-11-530;

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

(3) cooperate, coordinate, and share information with organizations the membership of which is made up of state or federal governmental agencies, provided that the organizations agree in writing to maintain the confidentiality and security of the shared information in accordance with Section 35-11-530.

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

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

Section 35-11-510. (A) A licensee shall file with the Commissioner within fifteen business days any material changes in information provided in a licensee's application as prescribed by the Commissioner.

(B) Each licensee shall submit a report of authorized delegates within forty-five days of the end of the calendar quarter. The Commissioner is authorized and encouraged to utilize NMLS for the submission of the report required by this subsection provided that such functionality is consistent with the requirements of this subsection. The authorized delegate report must include, at a minimum, each authorized delegate's:

(1) company legal name;

(2) taxpayer employer identification number;

(3) principal provider identifier;

(4) physical address;

(5) mailing address;

(6) any business conducted in other states;

(7) any fictitious or trade name;

(8) contact person's name, phone number, and email;

(9) start date as licensee's authorized delegate;

(10) end date acting as licensee's authorized delegate, if applicable; and

(11) any other information the Commissioner reasonably requires with respect to the authorized delegate.

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

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

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

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

(D) A licensee shall file a report with the Commissioner within three business days after the licensee has reason to know of the occurrence of any of the following events:

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

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

(E) Each licensee shall submit a report of condition within forty-five days of the end of the calendar quarter, or within any extended time as the Commissioner may prescribe. The report of condition must include:

(1) financial information at the licensee level;

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

(3) permissible investments report;

(4) transaction destination country reporting for money received for transmission, if applicable, which shall only be included in a report of condition submitted within forty-five days of the end of the fourth calendar quarter; and

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

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

(1) an audited financial statement of the licensee for the fiscal year prepared in accordance with United States Generally Accepted Accounting Principles, prepared by an independent certified public accountant or independent public accountant who is satisfactory to the Commissioner, which must include or be accompanied by a certificate of opinion of the independent certified public accountant or independent public accountant that is satisfactory in form and content to the Commissioner. If the certificate or opinion is qualified, the Commissioner may order the licensee to take any action as the Commissioner may find necessary to enable the independent or certified public accountant or independent public accountant to remove the qualification; and

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

Section 35-11-515. (A) Any person, or group of persons acting in concert, seeking to acquire control of a licensee shall obtain the written approval of the Commissioner

prior to acquiring control. An individual is not deemed to acquire control of a licensee and is not subject to these acquisition of control provisions when that individual becomes a key individual in the ordinary course of business.

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

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

(2) submit a nonrefundable fee of one thousand dollars with the request for approval.

(C) Upon request, the Commissioner may permit a licensee or the person, or group of persons acting in concert, to submit some or all information required by the Commissioner pursuant to Section 35-11-515(B)(1) without using NMLS.

(D) The application required by Section 35-11-515(B)(1) must include information required by Section 35-11-210 for any new key individuals that have not previously completed the requirements of Section 35-11-210 for a licensee.

(E) When an application for acquisition of control under this section appears to include all the items and addresses all of the matters that are required, the application must be considered complete and the Commissioner shall promptly notify the applicant in a record of the date on which the application was determined to be complete and:

(1) the Commissioner shall approve or deny the application within sixty days after the completion date; or

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

(a) the application is approved;

(b) the person, or group of persons acting in concert, are not prohibited from acquiring control; and

(c) the Commissioner may for good cause extend the application period.

(F) A determination by the Commissioner that an application is complete and is accepted for processing means only that the application, on its face, appears to include all of the items and address all of the matters that are required, and is not an

assessment of the substance of the application or of the sufficiency of the information provided.

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

(1) the requirements of subsections (B) and (D) have been met, as applicable; and

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

(H) The Commissioner shall issue a formal written notice of the denial of an application to acquire control within thirty days of the decision to deny the application. The Commissioner shall set forth in the notice of denial the specific reasons for the denial of the application. An applicant whose application is denied by the Commissioner under this section may request a hearing within thirty days after receipt of the written notice of the denial pursuant to Section 35-11-710.

(I) The requirements of subsections (A) and (B) do not apply to any of the following:

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

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

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

(4) a person that is exempt under Section 35-11-110(A)(4);

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

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

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

(J) Persons in subsection (I)(2), (3), (4), (6), and (7), in cooperation with the licensee, shall notify the Commissioner within fifteen days after the acquisition of control.

(K)(1) The requirements of subsections (A) and (B) do not apply to a person that has complied with and received approval to engage in money transmission under this chapter or was identified as a person in control in a prior application filed with and approved by the Commissioner or by an MSB-accredited state pursuant to a multistate licensing process, provided that:

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

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

(c) the licensee to be acquired is projected to meet the requirements of Sections 35-11-215, 35-11-230, and 35-11-600 after the acquisition of control is completed, and if the person acquiring control is a licensee, that licensee is also projected to meet the requirements of Sections 35-11-215, 35-11-230, and 35-11-600 after the acquisition of control is completed;

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

(e) the person provides notice of the acquisition in cooperation with the licensee and attests to subsection (K)(1)(a), (b), (c), and (d) in a form and in a medium prescribed by the Commissioner.

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

(L) Before filing an application for approval to acquire control of a licensee a person may request in writing a determination from the Commissioner as to whether the

person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the Commissioner determines that the person would not be a person in control of a licensee, the proposed person and transaction is not subject to the requirements of subsections (A) and (B).

(M)(1) A licensee adding or replacing any key individual shall:

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

(b) provide information as required by Section 35-11-210 within forty-five days of the effective date.

(2) Within ninety days of the date on which the notice provided pursuant to item (1) was determined to be complete, the Commissioner may issue a notice of disapproval of a key individual if the competence, experience, character, or integrity of the individual would not be in the best interest of the public or the customers of the licensee to permit the individual to be a key individual of such licensee.

(3) A notice of disapproval must contain a statement of the basis for disapproval and must be sent to the licensee and the disapproved individual. A licensee may request a hearing regarding a notice of disapproval, within thirty days after receipt of such notice of disapproval pursuant to Section 35-11-710.

(4) If the notice provided pursuant to item (1) is not disapproved within ninety days after the date on which the notice was determined to be complete, the key individual is deemed approved.

Section 35-11-520. (A) A licensee shall maintain the following records for determining its compliance with this chapter for at least three years:

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

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

(3) bank statements and bank reconciliation records;

(4) records of outstanding money transmission obligations;

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

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

(7) other records the Commissioner reasonably requires by rule.

(B) The items specified in subsection (A) may be maintained in any form of record.

(C) Records may be maintained outside this State if they are made accessible to the Commissioner on a seven business-day notice that is sent in a record.

(D) All records maintained by the licensee as required in subsections (A) through (C) are open to inspection by the Commissioner pursuant to Section 35-11-500.

Section 35-11-525. (A) A licensee and an authorized delegate shall file with the Commissioner all reports required by federal currency reporting, recordkeeping, and suspicious transaction reporting requirements as set forth in the Bank Secrecy Act and other federal and state laws pertaining to money laundering.

(B) The timely filing of a complete and accurate report required pursuant to subsection (A) with the appropriate federal agency is in compliance with the requirements of subsection (A), unless the Commissioner notifies the licensee that reports of this type are not being regularly and comprehensively transmitted by the federal agency to the Commissioner.

Section 35-11-530. (A) Except as otherwise provided in subsection (B), all information or reports obtained by the Commissioner from an applicant, licensee, or authorized delegate, and all information contained in or related to an examination, investigation, operating report, or condition report prepared by, on behalf of, or for the use of the Commissioner, or financial statements, balance sheets, or authorized delegate information, are confidential and are not subject to disclosure under Section 30-4-10, et seq.

(B) The Commissioner may disclose information not otherwise subject to disclosure under subsection (A) to representatives of state or federal agencies who promise in a record that they will maintain the confidentiality of the information or where the Commissioner finds that the release is reasonably necessary for the protection and interest of the public in accordance with Section 30-4-10, et seq.

(C) This section does not prohibit the commissioner from disclosing to the public a list of persons licensed under this chapter or the aggregated financial data concerning those licensees.

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

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

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

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

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

(5) copies of any nonconfidential final orders of the Commissioner relating to any violation of this chapter or regulations implementing this chapter; and

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

Section 35-11-535. (A) Every licensee shall forward all money received for transmission in accordance with the terms of the agreement between the licensee and the sender unless the licensee has a reasonable belief or a reasonable basis to believe that the sender may be a victim of fraud or that a crime or violation of law, rule, or regulation has occurred, is occurring, or may occur.

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

Section 35-11-540. (A) This section does not apply to:

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

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

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

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

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

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

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

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

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

(b) identify the particular transaction to be refunded in the event the sender has multiple transactions outstanding.

Section 35-11-545. (A) This section does not apply to:

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

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

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

(4) payroll processing services.

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

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

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

(a) the name of the sender;

(b) the name of the designated recipient;

(c) the date of the transaction;

(d) the unique transaction or identification number;

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

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

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

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

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

Section 35-11-550. Every licensee or authorized delegate shall include on a receipt or disclose on the licensee's website or mobile application the name and phone number of the South Carolina Office of Attorney General and a statement that the licensee's customers can contact the Commissioner with complaints about the licensee's money transmission services.

Article 6
Permissible Investments

Section 35-11-600. (A) A licensee shall maintain at all times permissible investments that have a market value computed in accordance with generally accepted accounting principles of not less than the aggregate amount of all of its outstanding money transmission obligation.

(B) Except for permissible investments enumerated in Section 35-11-605(A), the Commissioner, with respect to any licensee, may, by rule or order, limit the extent to

which a specific investment maintained by a licensee within a class of permissible investments may be considered a permissible investment, if the specific investment represents undue risk to customers, not reflected in the market value of the investments.

(C) Permissible investments, even if commingled with other assets of the licensee, are held in trust for the benefit of the purchasers and holders of the licensee's money transmission obligations in the event of insolvency, the filing of a petition by or against the licensee under the United States Bankruptcy Code, 11 U.S.C. Section 101-110, as amended or recodified from time to time, for bankruptcy or reorganization, the filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or in the event of an action by a creditor against the licensee who is not a beneficiary of this statutory trust. No permissible investments impressed with a trust pursuant to this section may be subject to attachment, levy of execution, or sequestration by order of any court, except for a beneficiary of this statutory trust.

(D) Upon the establishment of a statutory trust in accordance with subsection (C) or when any funds are drawn on a letter of credit pursuant to Section 35-11-605(A)(4), the Commissioner shall notify the applicable regulator of each state in which the licensee is licensed to engage in money transmission, if any, of the establishment of the trust or the funds drawn on the letter of credit, as applicable. Notice is deemed satisfied if performed pursuant to a multistate agreement or through NMLS. Funds drawn on a letter of credit, and any other permissible investments held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations, are deemed held in trust for the benefit of such purchasers and holders on a pro rata and equitable basis in accordance with statutes pursuant to which permissible investments are required to be held in this State, and other states, as applicable. Any statutory trust established hereunder must be terminated upon extinguishment of all of the licensee's outstanding money transmission obligations.

(E) The Commissioner, by regulation or by order, may allow other types of investments that the Commissioner determines are of sufficient liquidity and quality to be a permissible investment. The Commissioner is authorized to participate in efforts with other state regulators to determine that other types of investments are of sufficient liquidity and quality to be a permissible investment.

Section 35-11-605. (A) The following investments are permissible pursuant to Section 35-11-600:

(1) cash, including demand deposits, savings deposits, and funds in such accounts held for the benefit of the licensee's customers in a federally insured depository

financial institution, and cash equivalents including ACH items in transit to the licensee and ACH items or international wires in transit to a payee, cash in transit via armored car, cash in smart safes, cash in licensee-owned locations, debit card or credit card-funded transmission receivables owed by any bank, or money market mutual funds rated "AAA" by S&P, or the equivalent from any eligible rating service;

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

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

(4) the full drawable amount of an irrevocable standby letter of credit for which the stated beneficiary is the Commissioner that stipulates that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds up to the letter of credit amount within seven days of presentation of the items required by subsection (A)(4)(c).

(a) The letter of credit must:

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

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

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

(iv) contain an issue date and expiration date, and expressly provide for automatic extension, without a written amendment, for an additional period of one year from the present or each future expiration date, unless the issuer of the letter of credit notifies

the Commissioner in writing by certified or registered mail or courier mail or other receipted means, at least sixty days prior to any expiration date, that the irrevocable letter of credit will not be extended.

(b) In the event of any notice of expiration or nonextension of a letter of credit issued under subsection (A)(4)(a)(iv), the licensee is required to demonstrate to the satisfaction of the Commissioner, fifteen days prior to expiration, that the licensee maintains and will maintain permissible investments in accordance with Section 35-11-600(A) upon the expiration of the letter of credit. If the licensee is not able to do so, the Commissioner may draw on the letter of credit in an amount up to the amount necessary to meet the licensee's requirements to maintain permissible investments in accordance with Section 35-11-600(A). Any such draw must be offset against the licensee's outstanding money transmission obligations. The drawn funds must be held in trust by the Commissioner or the Commissioner's designated agent, to the extent authorized by law, as agent for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations.

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

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

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

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

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

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

(D) the beneficiary has received notice of expiration or nonextension of a letter of credit and the licensee failed to demonstrate to the satisfaction of the beneficiary that the licensee will maintain permissible investments in accordance with Section 35-11-600(A) upon the expiration or nonextension of the letter of credit.

(d) The Commissioner may designate an agent to serve on the Commissioner's behalf as beneficiary to a letter of credit so long as the agent and letter of credit meet requirements established by the Commissioner. The Commissioner's agent may serve as agent for multiple licensing authorities for a single irrevocable letter of credit if the proceeds of the drawable amount for the purposes of this section are assigned to the Commissioner.

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

(5) one hundred percent of the surety bond or deposit provided for under Section 35-11-215 that exceeds the average daily money transmission liability in this State.

(B) Unless permitted by the Commissioner by regulation or order to exceed the limit as set forth herein, the following investments are permissible pursuant to Section 35-11-600, but only to the extent specified:

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

(2) of the receivables permissible under item (1), receivables that are payable to a licensee from a single authorized delegate in the ordinary course of business may not exceed ten percent of the aggregate value of the licensee's total permissible investments;

(3) the following investments are permissible up to twenty percent for each category and combined up to fifty percent of the aggregate value of the licensee's total permissible investments:

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

(b) commercial paper bearing an eligible rating;

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

(d) U.S. tri-party repurchase agreements collateralized at one hundred percent or more with U.S. government or agency securities, municipal bonds, or other securities bearing an eligible rating;

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

(f) a mutual fund or other investment fund composed solely and exclusively of one or more permissible investments listed in subsection (A)(1) through (3); and

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

(a) has an eligible rating;

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

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

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

Article 7
Enforcement

Section 35-11-700. (A) The Commissioner may suspend or revoke a license or order a licensee to revoke the designation of an authorized delegate if:

(1) the licensee violates this chapter or a regulation or an order issued pursuant to this chapter;

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

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

(4) an authorized delegate is convicted of a violation of a state or federal anti-money laundering statute, or violates a regulation or an order issued pursuant to this chapter, as a result of the licensee's wilful misconduct or wilful blindness;

(5) the competence, experience, character, or general fitness of the licensee, authorized delegate, person in control of a licensee, or key individual of the licensee

or authorized delegate indicates that it is not in the public interest to permit the person to provide money services;

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

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

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

(9) the licensee is the subject of a final order, including a denial, suspension, or revocation, by this or any other state or federal financial services regulator, including a state or federal money services regulator, that was entered against the licensee within the past five years.

(B) In determining whether a licensee is engaging in an unsafe or unsound practice, the Commissioner may consider the size and condition of the licensee's money transmission, the magnitude of the loss, the gravity of the violation of this chapter or a regulation or order issued pursuant to this chapter, and the previous conduct of the person involved.

(C) In determining whether to suspend or revoke a license under subsection (A)(9), the Commissioner may consider if the licensee subject to the final order is currently licensed to conduct business in the jurisdiction where the order was entered.

(D) The Commissioner shall issue a formal written notice of the suspension or revocation. The Commissioner shall set forth in the order the specific reasons for the suspension or revocation. A licensee may request a hearing within thirty days after receipt of the written notice of suspension or revocation pursuant to Section 35-11-710.

Section 35-11-705. (A) The Commissioner may issue an order suspending or revoking the designation of an authorized delegate, if the Commissioner finds that the:

(1) authorized delegate violated this chapter or a regulation or an order issued pursuant to this chapter;

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

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

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

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

(6) authorized delegate is engaging in an unsafe or unsound practice.

(B) In determining whether an authorized delegate is engaging in an unsafe or unsound practice, the Commissioner may consider the size and condition of the authorized delegate's provision of money services, the magnitude of the loss, the gravity of the violation of this chapter or a regulation or order issued pursuant to this chapter, and the previous conduct of the authorized delegate.

(C) The Commissioner shall issue a formal written notice of the suspension or revocation. The Commissioner shall set forth in the order the specific reasons for the suspension or revocation. An authorized delegate may request a hearing within thirty days after receipt of the written notice of suspension or revocation pursuant to Section 35-11-710.

Section 35-11-710. (A) If the Commissioner determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this chapter or a regulation or order issued under this chapter, the Commissioner may:

(1) issue an order directing the person to cease and desist from engaging in the act, practice, or course of business or to take other action necessary or appropriate to comply with this chapter;

(2) issue an order against a licensee to cease and desist from providing money services through an authorized delegate that is the subject of a separate order by the Commissioner; or

(3) issue an order under Sections 35-11-220(E), 35-11-235(A), 35-11-310(D), 35-11-515(H), 35-11-515(M), 35-11-700, and 35-11-705.

(B) An order under subsection (A) is effective on the date of issuance. Upon issuance of the order, the Commissioner shall promptly serve each person subject to the order

with a copy of the order and a notice that the order has been entered. The order must include a statement of any civil penalty or costs of investigation the Commissioner will seek, a statement of the reasons for the order, and notice that, within fifteen days after receipt of a request in a record from the person, the matter will be scheduled for a hearing. If a person subject to the order does not request a hearing and none is ordered by the Commissioner within thirty days after the date of service of the order, the order, which may include a civil penalty or costs of the investigation if a civil penalty or costs were sought, becomes final as to that person by operation of law. If a hearing is requested or ordered, the Commissioner, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend it until final determination.

(C) If a hearing is requested or ordered pursuant to subsection (B), a hearing must be held. A final order may not be issued unless the Commissioner makes findings of fact and conclusions of law in a record. The final order may make final, vacate, or modify the order issued under subsection (A).

(D) In a final order under subsection (C), the Commissioner may impose a civil penalty against a person that violates this chapter or a regulation or order issued pursuant to this chapter in an amount not to exceed one thousand dollars per day for each day the violation is outstanding, plus this state's costs and expenses for the investigation and prosecution of the matter, including reasonable attorney's fees.

(E) If a petition for judicial review of a final order is not filed in accordance with Section 35-11-830, the Commissioner may file a certified copy of the final order with the clerk of court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

(F) If a person does not comply with an order under this section, the Commissioner may petition a court of competent jurisdiction to enforce the order. The court may not require the Commissioner to post a bond in an action or proceeding under this section. If the court finds, after service and opportunity for hearing, that the person was not in compliance with the order, the court may adjudge the person in civil contempt of the order. The court may impose a further civil penalty against the person for contempt in an amount not less than five hundred dollars but not greater than five thousand dollars for each violation and may grant any other relief the court determines is just and proper in the circumstances.

(G) A hearing in an administrative proceeding under this chapter must be conducted in public unless the Commissioner, for good cause consistent with this chapter, determines that the hearing will not be so conducted.

Section 35-11-715. The Commissioner may enter into a consent order at any time with a person to resolve a matter arising pursuant to this chapter or a regulation or order issued pursuant to this chapter. A consent order must be signed by the person to whom it is issued or by the person's authorized representative, and must indicate agreement with the terms contained in the order. A consent order may provide that it does not constitute an admission by a person that this chapter or a regulation or an order issued pursuant to this chapter has been violated.

Section 35-11-720. Reserved.

Section 35-11-725. (A) A person who intentionally makes a false statement, misrepresentation, or false certification in a record filed or required to be maintained pursuant to this chapter, who intentionally makes a false entry or omits a material entry in that record, or violates a rule promulgated or order issued pursuant to this chapter is guilty of a Class B felony.

(B) A person who knowingly engages in an activity for which a license is required pursuant to this chapter without being licensed pursuant to this chapter and who receives more than five hundred dollars in compensation within a thirty-day period from this activity is guilty of a Class B felony.

(C) A person who knowingly engages in an activity for which a license is required pursuant to this chapter without being licensed pursuant to this chapter and who receives no more than five hundred dollars in compensation within a thirty-day period from this activity is guilty of a Class A misdemeanor.

Section 35-11-730. (A) If the Commissioner has reason to believe that a person engaged or is about to engage in an act or practice constituting a violation of this chapter or a regulation or order issued pursuant to this chapter, the Commissioner may summarily issue an order to cease and desist pursuant to Section 35-11-710.

(B) The Commissioner may apply to the Richland County Court of Common Pleas to:

(1) temporarily or permanently enjoin an act or practice that violates this chapter or a regulation or order issued pursuant to this chapter; or

(2) enforce compliance with this chapter or a regulation or order issued or pursuant to this chapter.

(C) A person that is served with an order to cease and desist for violating Section 35-11-200 or 35-11-300 may petition the Richland County Court of Common Pleas for a judicial order setting aside, limiting, or suspending the enforcement, operation, or

effectiveness of the order pending the completion of an administrative proceeding pursuant to Section 35-11-710.

Section 35-11-735. (A) Whenever a licensee has refused or is unable to pay its obligations generally as they become due or whenever it appears to the Commissioner that a licensee is in an unsafe or unsound condition, the Commissioner may apply to the Richland County Court of Common Pleas or to the circuit court of any county in which the licensee is located for the appointment of a receiver for the licensee. The court may require the receiver to post a bond in an amount that appears necessary to protect claimants of the licensee.

(B) The receiver, subject to the approval of the court, shall take possession of the books, records, and assets of the licensee and shall take an action with respect to employees, agents, or representatives of the licensee or other action that may be necessary to conserve the assets of the licensee or ensure payment of instruments issued by the licensee pending further disposition of its business as provided by law. The receiver shall sue and defend, compromise, and settle all claims involving the licensee and exercise the powers and duties that are necessary and consistent with the laws of this State applicable to the appointment of receivers.

(C) The receiver, from time to time, but in no event less frequently than once each calendar quarter, shall report to the court with respect to all acts and proceedings in connection with the receivership.

Section 35-11-740. (A)(1) A person who, knowing that the property involved in a financial transaction represents the proceeds of, or is derived directly or indirectly from the proceeds of unlawful activity, conducts or attempts to conduct such a financial transaction that in fact involves the proceeds:

(a) with the intent to promote the carrying on of unlawful activity; or

(b) knowing that the transaction is designed in whole or in part to conceal or disguise the nature, location, sources, ownership, or control of the proceeds of unlawful activity is guilty of a felony and, upon conviction, must be punished as follows:

(i) for a Class F felony if the transactions exceed three hundred dollars but are less than twenty thousand dollars in a twelve-month period;

(ii) for a Class E felony for transactions that total or exceed twenty thousand dollars but are less than one hundred thousand dollars in a twelve-month period; or

(iii) for a Class C felony for transactions that total or exceed one hundred thousand dollars in a twelve-month period.

In addition to penalties, a person who is found guilty of or who pleads guilty or nolo contendere to having violated this section may be sentenced to pay a fine not to exceed two hundred fifty thousand dollars, or twice the value of the financial transactions, whichever is greater; however, for a second or subsequent violation of this section, the fine may be up to five hundred thousand dollars, or quintuple the value of the financial transactions, whichever is greater.

(2) A person who transports, transmits, or transfers, or attempts to transport, transmit, or transfer a monetary instrument or funds from a place in South Carolina to or through a place outside the United States or to a place in South Carolina from or through a place outside the United States:

(a) with the intent to promote the carrying on of unlawful activity; or

(b) knowing that the monetary instrument or funds involved in the transportation represent the proceeds of unlawful activity and knowing that the transportation is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of the proceeds of unlawful activity is guilty of a felony and, upon conviction, must be punished as follows:

(i) for a Class F felony if the transactions exceed three hundred dollars but are less than twenty thousand dollars in a twelve-month period;

(ii) for a Class E felony for transactions that total or exceed twenty thousand dollars but are less than one hundred thousand dollars in a twelve-month period; or

(iii) for a Class C felony for transactions that total or exceed one hundred thousand dollars in a twelve-month period.

In addition to penalties, a person who is found guilty of or who pleads guilty or nolo contendere to having violated this section may be sentenced to pay a fine not to exceed two hundred fifty thousand dollars or twice the value of the financial transactions, whichever is greater; however, for a second or subsequent violation of this section, the fine may be up to five hundred thousand dollars, or quintuple the value of the financial transactions, whichever is greater.

(3) A person with the intent:

(a) to promote the carrying on of unlawful activity; or

(b) to conceal or disguise the nature, location, source, ownership, or control of property believed to be the proceeds of unlawful activity, conducts or attempts to conduct a financial transaction involving property represented by a law enforcement officer to be the proceeds of unlawful activity, or property used to conduct or facilitate unlawful activity is guilty of a felony and, upon conviction, must be punished as follows:

(i) for a Class F felony if the transactions exceed three hundred dollars but are less than twenty thousand dollars in a twelve-month period;

(ii) for a Class E felony for transactions that total or exceed twenty thousand dollars but are less than one hundred thousand dollars in a twelve-month period; or

(iii) for a Class C felony for transactions that total or exceed one hundred thousand dollars in a twelve-month period.

In addition to penalties, a person who is found guilty of or who pleads guilty or nolo contendere to having violated this section may be sentenced to pay a fine not to exceed two hundred fifty thousand dollars or twice the value of the financial transactions, whichever is greater; however, for a second or subsequent violation of this section, the fine may be up to five hundred thousand dollars or quintuple the value of the financial transactions, whichever is greater.

For purposes of this subitem, the term "represented" means a representation made by a law enforcement officer or by another person at the direction of, or with the approval of, a state official authorized to investigate or prosecute violations of this section.

(B) A person who conducts or attempts to conduct a transaction described in subsection (A)(1), or transportation described in subsection (A)(2), is liable to the State for a civil penalty of not more than the greater of:

(1) the value of the property, funds, or monetary instruments involved in the transaction; or

(2) ten thousand dollars.

A court may issue a pretrial restraining order or take another action necessary to ensure that a bank account or other property held by the defendant in the United States is available to satisfy a civil penalty under this section.

(C) As used in this section:

(1) the term "conducts" includes initiating, concluding, or participating in initiating or concluding a transaction;

(2) the term "transaction" includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition and, with respect to a financial institution, includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of a stock, bond, certificate of deposit, or other monetary instrument, or another payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected;

(3) the term "financial transaction" means a transaction involving the movement of funds by wire or other means or involving one or more monetary instruments;

(4) the term "monetary instruments" means coin or currency of the United States or of another country, travelers' checks, personal checks, bank checks, money orders, investment securities in bearer form or otherwise in that form that title to it passes upon delivery, and negotiable instruments in bearer form or otherwise in that form that title to it passes upon delivery;

(5) the term "financial institution" has the definition given that term in Section 5312(a)(2), Title 31, United States Code, and the regulations promulgated thereunder.

(D) Nothing in this section supersedes a provision of law imposing criminal penalties or affording civil remedies in addition to those provided for in this section, and nothing in this section precludes reliance in the appropriate case upon the provisions set forth in Section 44-53-475.

Section 35-11-745. (A) The Commissioner may:

(1) conduct public or private investigations within or outside of this State which the Commissioner considers necessary or appropriate to determine whether a person has violated, is violating, or is about to violate this chapter or a regulation or order issued pursuant to this chapter, or to aid in the enforcement of this chapter or in the adoption of rules and forms under this chapter;

(2) require or permit a person to testify, file a statement, or produce a record, under oath or otherwise as the Commissioner determines, as to all the facts and circumstances concerning a matter to be investigated or about which an action or proceeding is to be instituted; and

(3) publish a record concerning an action, proceeding, or an investigation under, or a violation of, this chapter or a regulation or order issued pursuant to this chapter if the Commissioner determines it is necessary or appropriate in the public interest.

(B) For the purpose of an investigation under this chapter, the Commissioner or its designated officer may administer oaths and affirmations, subpoena witnesses, seek compulsion of attendance, take evidence, require the filing of statements, and require the production of any records that the Commissioner considers relevant or material to the investigation.

(C) If a person does not appear or refuses to testify, file a statement, produce records, or otherwise does not obey a subpoena as required by the Commissioner under this chapter, the Commissioner may apply to the Richland County Court of Common Pleas or a court of another state to enforce compliance. The court may:

(1) hold the person in contempt;

(2) order the person to appear before the Commissioner;

(3) order the person to testify about the matter under investigation or in question;

(4) order the production of records;

(5) grant injunctive relief;

(6) impose a civil penalty of not less than five hundred dollars and not greater than five thousand dollars for each violation; and

(7) grant any other necessary or appropriate relief.

(D) This section does not preclude a person from applying to the Richland County Court of Common Pleas for relief from a request to appear, testify, file a statement, produce records, or obey a subpoena.

Article 8
Administrative Procedures

Section 35-11-800. In order to carry out the purposes of this chapter, the Commissioner may, subject to the provisions of Section 35-11-530:

(1) enter into agreements or relationships with other governmental officials or federal and state regulatory agencies and regulatory associations in order to improve

efficiencies and reduce regulatory burden by standardizing methods or procedures, and sharing resources, records, or related information obtained under this chapter;

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

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

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

Section 35-11-805. The Commissioner may not suspend or revoke a license, issue an order to cease and desist, suspend or revoke the designation of an authorized delegate, or assess a civil penalty without notice and an opportunity to be heard pursuant to Section 35-11-710. The Commissioner also shall hold a hearing when requested to do so by an applicant whose application for a license is denied.

Section 35-11-810. This chapter is administered by the Commissioner who may employ such additional assistants as he deems necessary. The Commissioner may delegate any or all of his duties pursuant to this chapter to members of his staff, as he deems necessary or appropriate.

Section 35-11-815. The Commissioner may promulgate and amend regulations or issue orders necessary to carry out the purposes of this chapter in order to provide for the protection of the public and to assist licensees in interpreting and complying with this chapter.

Section 35-11-820. The Commissioner may establish reasonable fees for filings required or permitted by regulation or order adopted pursuant to this chapter, and other miscellaneous filings for which no fees are otherwise specified by law.

Section 35-11-825. The Commissioner may retain all fees, assessments, and fines received under this chapter for the administration of this chapter.

Section 35-11-830. A person aggrieved by a final order of the Commissioner may obtain a review of the order in the Richland County Court of Common Pleas by filing in the court, within thirty days after entry of the order, a written petition praying that the order may be modified or set aside in whole or in part. The aggrieved person, upon filing a petition, may move before the court in which the petition is filed to stay the

effectiveness of the Commissioner's final order until such time as the court has reviewed the order. If the court orders a stay, the aggrieved person must post any bond set by the court in which a petition is filed. A copy of the petition must be served upon the Commissioner, and the Commissioner shall certify and file in court a copy of the filing and evidence upon which the order was entered. When these have been filed, the court has exclusive jurisdiction to affirm, modify, enforce, or set aside the order, in whole or in part. The findings of the Commissioner as to the facts, if supported by competent, material, and substantial evidence, are conclusive.

Article 9
Miscellaneous Provisions

Section 35-11-900. In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 35-11-905. (A) A person licensed in this State to engage in the business of money transmission may not be subject to the amended provisions of this chapter, to the extent that they conflict with the prior law or establish new requirements not imposed under the prior law, until the first January first after the effective date of this chapter.

(B) Notwithstanding subsection (A), a licensee only must be required to amend its authorized delegate contracts for contracts entered into or amended after the effective date of the amendments to this chapter or the completion of any transition period contemplated under subsection (A). Nothing herein may be construed as limiting an authorized delegate's obligations to operate in full compliance with this chapter as required by Section 35-11-400(C).

Savings

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Severability

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 27th day of June, 2024.

Approved the 2nd day of July, 2024. -- S.